Senate Counsel, Research, and Fiscal Analysis

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 637 - Physical Therapy (Delete-Everything Amendment)

Author: Senator Yvonne Prettner Solon

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) KTC

Date: March 31, 2006

S.F. No. 637 modifies the physical therapy licensure statutes.

Section 1 (148.65, subdivision 8) adds the definition of "licensed health care professional."

Section 2 (148.75) permits a physical therapist to continue to treat a patient beyond the initial 30-day period of treatment without an order or referral from a physician, chiropractor, podiatrist, or dentist. This section also allows a physical therapist to treat a patient without referral without first having practiced for a year under a physician's order. This section also removes the requirement that the therapist consult with the patient's health care provider who prescribed the treatment if the treatment is altered. This section also clarifies that a therapist is required to refer a patient to a health care professional if the patient's medical condition, at any time, is beyond the scope of practice of a physical therapist, and that the physical therapist may not be disciplined by the Board if the patient refuses to comply with a referral if the referral is documented in the physical therapy record.

(Currently, after the initial 30 days of treatment, the physical therapist is required to have a referral from a health care professional to continue treating the patient unless there is a previous diagnosis indicating an ongoing condition warranting therapy. If the therapist has not practiced for a year, then the therapist cannot provide treatment without a referral.)

Section 3 (148.76, subdivision 2) makes conforming changes in this section to the changes made in section 2.

Section 4 repeals Minnesota Rules, parts 5601.0100, subparts 5, 6, 7, and 8 (definitions for licensed health care professional or licensed health care provider, initiation of treatment, previously diagnosed condition, and clinical experience); 5601.1200 (reports); 5601.1800 (initiation of treatment for a condition not previously diagnosed); 5601.1900 (initiation of treatment for a previously diagnosed condition); and 5601.2000 (limitation on practice).

KC:ph

Senators Lourey, Solon, Higgins, Foley and Nienow introduced--
S.F. No. 637: Referred to the Committee on Health and Family Security.

A bill for an act

relating to health occupations; eliminating the prohibition against providing physical therapy after 30 days without a physician's order or without practicing for one year; amending Minnesota Statutes 2004, sections 148.75; 148.76, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 148.75, is amended to read:

148.75 [LICENSES; DENIAL, SUSPENSION, REVOCATION.]

(a) The state Board of Physical Therapy may refuse to grant a license to any physical therapist, or may suspend or revoke the license of any physical therapist for any of the following grounds:

(1) using drugs or intoxicating liquors to an extent which affects professional competence;

(2) conviction of a felony;

(3) conviction for violating any state or federal narcotic law;

(4) obtaining a license or attempting to obtain a license by fraud or deception;

(5) conduct unbecoming a person licensed as a physical therapist or conduct detrimental to the best interests of the public;

(6) gross negligence in the practice of physical therapy as a physical therapist;

~~(7) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state in the practice of medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing, or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of physical therapy rule;~~

~~(8) treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;~~

~~(9) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders to "evaluate and treat";~~

~~(10)~~ treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

~~(11)~~ (8) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of either level of supportive personnel;

~~(12)~~ (9) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

~~(13)~~ (10) failing to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions that would interfere with the ability to practice physical therapy, and that may be potentially harmful to patients;

~~(14)~~ (11) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the

physical therapist for treatment;

~~(15)~~ (12) engaging in an incentive payment arrangement, other than that prohibited by clause ~~(14)~~ (11), that tends to promote physical therapy overuse, that allows the referring person or person who controls the availability of physical therapy services to a client to profit unreasonably as a result of patient treatment;

~~(16)~~ (13) practicing physical therapy and failing to refer to a licensed health care professional a patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; and

~~(17)~~ (14) failing to report to the board other licensed physical therapists who violate this section.

(b) A license to practice as a physical therapist is suspended if (1) a guardian of the physical therapist is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a court pursuant to chapter 253B. The license remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the Board of Physical Therapy after a hearing.

Sec. 2. Minnesota Statutes 2004, section 148.76, subdivision 2, is amended to read:

Subd. 2. [PROHIBITIONS.] No physical therapist may:

(1) ~~treat-human-ailments-by-physical-therapy-after-an initial-30-day-period-of-patient-admittance-to-treatment-has lapsed,-except-by-the-order-or-referral-of-a-person-licensed-in this-state-to-practice-medicine-as-defined-in-section-147.081, the-practice-of-chiropractic-as-defined-in-section-148.01,-the practice-of-podiatry-as-defined-in-section-153.01,-the-practice of-dentistry-as-defined-in-section-150A.05,-or-the-practice-of advanced-practice-nursing-as-defined-in-section-62A.15, subdivision-3a,-when-orders-or-referrals-are-made-in~~

~~collaboration with a physician, chiropractor, podiatrist, or dentist, and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by Board of Physical Therapy rule;~~

~~(2) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;~~

~~(3)~~ use any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body; and

~~(4)~~ (2) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

Senator ..... moves to amend S.F. No. 637 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

Subd. 8. **Licensed health care professional.** "Licensed health care professional" means a person licensed in good standing in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, dentistry, or advanced practice nursing.

Sec. 2. Minnesota Statutes 2005 Supplement, section 148.75, is amended to read:

148.75 LICENSES; DENIAL, SUSPENSION, REVOCATION.

(a) The state Board of Physical Therapy may refuse to grant a license to any physical therapist, or may suspend or revoke the license of any physical therapist for any of the following grounds:

(1) using drugs or intoxicating liquors to an extent which affects professional competence;

(2) conviction of a felony;

(3) conviction for violating any state or federal narcotic law;

(4) obtaining a license or attempting to obtain a license by fraud or deception;

(5) conduct unbecoming a person licensed as a physical therapist or conduct detrimental to the best interests of the public;

(6) gross negligence in the practice of physical therapy as a physical therapist;

(7) ~~treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state in the practice of medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of physical therapy rule;~~

~~(8) treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;~~

~~(9) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders to "evaluate and treat";~~

~~(10)~~ treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

~~(11)~~ (8) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of a student physical therapist, physical therapist assistant, student physical therapist assistant, or a physical therapy aide;

~~(12)~~ (9) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

~~(13)~~ (10) failing to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions that would interfere with the ability to practice physical therapy, and that may be potentially harmful to patients;

~~(14)~~ (11) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

~~(15)~~ (12) engaging in an incentive payment arrangement, other than that prohibited by clause ~~(14)~~ (11), that tends to promote physical therapy overuse, that allows the referring person or person who controls the availability of physical therapy services to a client to profit unreasonably as a result of patient treatment;

~~(16)~~ (13) practicing physical therapy and failing to refer to a licensed health care professional a patient whose medical condition ~~at the time of evaluation~~ has been determined by the physical therapist to be beyond the scope of practice of a physical therapist;

~~(17)~~ (14) failing to report to the board other licensed physical therapists who violate this section; and

~~(18)~~ (15) practice of physical therapy under lapsed or nonrenewed credentials.

(b) A license to practice as a physical therapist is suspended if (1) a guardian of the physical therapist is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a court pursuant to chapter 253B. The license remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the Board of Physical Therapy after a hearing.

(c) No physical therapist shall be subject to disciplinary action by the state Board of Physical Therapy for a patient's refusal to comply with a referral, as required under paragraph (a), clause (13), when the referral is documented in the physical therapy record.

Sec. 3. Minnesota Statutes 2004, section 148.76, subdivision 2, is amended to read:

Subd. 2. **Prohibitions.** No physical therapist may:

(1) ~~treat human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, the practice of dentistry as defined in section 150A.05, or the practice of advanced practice nursing as defined in section 62A.15, subdivision 3a, when orders or referrals are made in collaboration with a physician, chiropractor, podiatrist, or dentist, and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by Board of Physical Therapy rule;~~

~~(2) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;~~

~~(3)~~ use any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body; and

~~(4)~~ (2) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

Sec. 4. **REPEALER.**

Minnesota Rules , parts 5601.0100, subparts 5, 6, 7 and 8; 5601.1200; 5601.1800; 5601.1900; and 5601.2000, are repealed."

The motion prevailed. #did not prevail. So the amendment was #not adopted.

Senator ..... moves to amend the delete-everything amendment (SCS0637A-1) to S.F. No. 637 as follows:

Page 1, delete lines 29 to 34 and insert:"

~~(8)~~ treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

~~(9)~~ (8) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders to "evaluate and treat";"

Page 1, line 35, before "treating" insert "(9)"

Page 2, line 1, delete "(8)" and insert "(10)"

Page 2, line 4, delete "(9)" and insert "(11)"

Page 2, line 7, delete "(10)" and insert "(12)"

Page 2, line 10, delete "(11)" and insert "(13)"

Page 2, line 13, delete "(12)" and insert "(14)"

Page 2, line 14, delete "(11)" and insert "(13)"

Page 2, line 17, delete "(13)" and insert "(15)"

Page 2, line 21, delete "(14)" and insert "(16)"

Page 2, line 23, delete "(15)" and insert "(17)"

Page 3, line 11, reinstate everything after the stricken "(2)"

Page 3, line 12, reinstate the stricken language

Page 3, line 13, before "use" insert "(2)"

Page 3, line 15, delete "(2)" and insert "(3)"

Senator ..... moves to amend the delete-everything amendment (SCS0637A-1) to S.F. No. 637 as follows:

Page 2, delete lines 21 and 22 and insert:"

~~(17)~~ (14) failing to advise the patient that the patient should consult with a licensed health care professional when the patient has been treated by physical therapy for more than 90 days and there was no referral or order by a licensed health care professional;

(15) failing to report to the board other licensed physical therapists who violate this section; and"

Page 2, line 23, delete "(15)" and insert "(16)"

Page 2, line 33, delete "clause (13)" and insert "clauses (13) and (14)"

SF 637 – PT Open Access Bill

I am Bill Roberts. I am a physician residing in Mahtomedi, MN and I currently practice on the eastside of St Paul at the Phalen Village Clinic where I see patients and teach family medicine residents and medical students. I have been a licensed physician in MN since 1979. I am Board Certified in Family Medicine and Sports Medicine. I was in private practice in White Bear Lake, MN for 22 years and I am currently with UMN DFMCH as an Associate Professor in the Medical School. I am also the Immediate past President ACSM and a previous Medical Director of the HealthEast St Johns Physical Therapy and Fitness Center.

In the spirit of full disclosure, I am married to a PT with 30 years of practice in MN and my daughter is a DPT candidate who will graduate next month from the College of St Catherines.

I am familiar with both the practice and the current training of physical therapists. PTs are competent, safe, and knowledgeable. They work as part of the health care team and collaborate with physicians and others in the field. I trust PTs to evaluate and treat patients within the scope of their license and none of my 28 years of working with PT leads me to believe that open access would be a safety issue for patients or that their training is not adequate for entering practice after graduation. However, open access will be cost effective for patients and increase patient choice.

The main concern for this bill is patient safety and there is data supporting the safety of open access for patients. The medical and chiropractic associations spoke against the bill at the House sub committee hearing, citing examples of potential problems from open access, but presented no data to support their concerns. While the "gee whiz" examples create an emotional reaction, I would suggest that there are plenty of bad outcomes in all the areas of medicine. Everyone here is familiar with the Institute of Medicine report on physician medical errors. Living with a PT, I have witnessed the missed diagnoses by physicians in PT patients picked up in a physical therapy evaluation and reported back to the physician by my wife, a PT. I have also discussed missed physician diagnoses recognized by my daughter who is still in training.

I think decisions like open access should be based on group data and not anecdotes of perceived potential problems. The data that is available regarding open access for physical therapy is favorable and shows no problems with patient safety. Two publications that look at direct access and show no risk to patients are first **Moore et al.** ***Journal or Orthopedic Sports Phys Therapy,*** **2005 titled "Risk determination for patients with direct access to physical therapy in military health care facilities."** a 40 month data collection with no reported adverse events resulting from the PT's diagnoses or management, regardless of how patients accessed physical therapy services. And second **Overman et al.** ***Physical Therapy,*** **1988 titled "Physical therapy care for low back pain: Monitored program of first-contact nonphysician care"** *found no adverse outcomes that could be attributed to physical therapist first-contact care*." In addition, a letter from the **Federation of State Boards of Physical Therapy (the umbrella**

organization of 53 physical therapy licensing jurisdictions within the United States) dated January 27, 2006 states "The Federation has found no increase in number or severity of either malpractice or disciplinary cases in jurisdictions that have direct access to physical therapy when compared with those jurisdictions that do not have any form of direct access."

The second area of contention seems to be the 1 year requirement to practice under a physician's orders. Physical therapy as a profession has determined the optimal educational program and clinical training based on their needs as practitioners with the intention that therapists will be able to practice independently upon graduation and passage of national licensure examination. The accreditation standards for PT programs require instruction for independent decision making and the Federation of State Licensing Boards develops and administers national exams that test the PT students on ability and knowledge to practice independently at graduation. PT graduates have demonstrated in studies a higher level of knowledge in managing musculoskeletal conditions than medical students, physician interns and residents, and many physicians other than seasoned orthopedists. I am comfortable that a new PT graduate can evaluate and manage physical therapy problems without a year of physician supervision.

Physical therapists are trained and competent to develop a plan of care for patients. Physical therapy standards of practice require a physical therapist to perform a physical therapy evaluation on every patient and determine the best treatment based on that evaluation and the therapist's knowledge of evidence for treatment. Physical therapists have a professional responsibility to provide the most beneficial and efficacious treatment based on their independent evaluation and physical therapists are the experts in physical therapy and musculoskeletal conditions. While American Medical Schools are struggling to beef up or even offer required courses in musculoskeletal medicine by 2010, physical therapy is already there.

I speak in favor of SF 637 to grant open access to physical therapists for the citizens of MN and find no safety risk from searches of the current literature. In response to objections based on potential safety issues, I hark back to the Wendy's commercial that was popular several years ago and ask "Where's the beef?" Open access will be safe and save patients time and money, and it will be safe for the medical system. Physical therapists will remain as they have always been a part of the health care team that promotes health and looks after patient well being. Physical therapists are well trained within their scope of practice to treat muscular skeletal conditions and will refer patients back to their physicians when the patients do not respond to therapy, do not fit the usual physical therapy patterns of care, or fall outside their scope of practice.

Thank you.

Testimony of Jim House, M.D., M.S.
Senate Health and Family Security Committee
April 4, 2006
S.F. 637

Mr. Chair and members, my name is Dr. Jim House. I am an orthopedic surgeon and Professor Emeritus at the University of Minnesota. I am testifying today on behalf of the Minnesota Orthopedic Society and the Minnesota Medical Association.

Let me begin by saying that I have worked with physical therapists for more than 35 years as an orthopedic surgeon. I respect PTs and enjoy working with them as a part of the health care team in the treatment of many musculo-skeletal injuries, countless disorders and disease. I am not here today to protect my own practice or that of a colleague but am concerned about patient welfare.

This bill removes important patient safety mechanisms that are intended to ensure coordination of care between health care providers. First, it eliminates the requirement that patients obtain a physician's referral following the first 30 days of treatment. Second, it scales back the PT training regiment by eliminating the requirement that they practice their first year in coordination with a physician. And finally, the bill removes the requirement that PTs coordinate with a patient's health care provider following a referral if treatment is modified.

First, regarding unlimited direct access, we believe that to allow patients to go directly to physical therapists for an unlimited amount of time, without receiving a medical diagnosis, raises patient safety concerns that have not been addressed.

While physical therapists are well trained within their scope of treating muscular skeletal conditions, they are not trained to perform medical diagnoses or order diagnostic x-rays. In fact, they are prohibited in statute from performing medical diagnoses.

It is important to understand that there are many, many causes of back pain that must be diagnosed in advance of physical therapy treatment. For example, malignancies that spread to the spinal column; kidney tumors and other kidney disease; abdominal problems arising from the pancreas; hip pain; or vascular problems, like abdominal aortic aneurysms, could all present as back pain.

If not seen by a physician, these conditions may be missed and the patient will continue treatment causing dangerous, sometimes life-threatening, delays in diagnoses and proper treatment.

You don't have to simply take my word for it. In 2004, Congress asked the Medicare Payment Advisory Commission to "study the feasibility and advisability of allowing Medicare fee-for-service beneficiaries to have "direct access" to outpatient physical therapy services…." The Commission concluded that physician referral was necessary to ensure appropriate physical therapy services for Medicare beneficiaries. Their report said, "Beneficiaries often have multiple medical conditions and physicians can consider their broad medical care needs."

Even more concerning is the removal of the current requirement that a physical therapist practice their first year under a physician's orders. Licensed practitioners in any number of professional fields are required to practice under supervision as part of the completion of their training. In addition to being a

safeguard for comprehensive training, this first year is critical to establishing systematic coordination between PTs and other health care providers.

Finally, the bill further jeopardizes patient safety and stands in the way of coordination of patient care by removing the requirement that PTs coordinate with the patient's health care provider when treatment is modified from an original referral if one exists.

This coordination is critical, particularly during post operative care and rehabilitation after undergoing a surgical procedure. Post operative care and rehabilitation are some of the most valuable functions of physical therapy, yet it is an absolute necessity that the prescribing surgeon oversee the therapists actions because the surgeon has unique knowledge of what type of surgical techniques and reconstructive devices were used during the operation.

I must ask you, "What is the problem we are trying to solve with this bill?" Current law allows a patient to go directly to physical therapists for up to 30 days. If an injury or ailment is not improving within 30 days, then a physician should see that patient to perform a complete medical diagnosis. Coordination of care is critical – especially for complicated medical conditions.

In conclusion, as a constituent and member of the MMA and the Board of Directors of the Minnesota Orthopedic Society, I respectfully request that you do not remove mechanisms that ensure patient safety and coordination between health care providers. Minnesota has an outstanding reputation for health care and we must maintain high quality care for our citizens.

Thank you for you time. I would be happy to try to answer any questions you may have.

Consumer Access to Physical Therapy Bill - SF 637/HF 854

Problem Statement

Health care in Minnesota has changed from the gatekeeper model of the 1980s to a consumer-driven model. The physical therapy statute has not kept up with these changes. Consumers are informed and responsible for an increasing amount of out-of-pocket medical expenses. Consumers are seeking direct access to Physical Therapy only to find arbitrary and unnecessary regulatory barriers to that access.

In 1988, when the Minnesota Legislature allowed consumers direct access to Physical Therapy, restrictions were put in place as a compromise with groups that opposed the legislation. These restrictions were not based on data or evidence, are still in effect today, and include:

- Requiring an order or referral to treat beyond an initial 30-day period of time, even when the patient's condition is improving
- Requiring one year of practice under a physician's orders before being able to practice under direct access
- Requiring consultation with the prescribing health professional when changes are made in the prescribed treatment

These restrictions add unnecessary costs (money and time) for the consumer and often result in an interruption of services while the patient waits to secure the referral. Evidence from studies on direct access demonstrates that patient safety is not compromised by direct access; no difference in disciplinary cases and no difference in risk determination for malpractice insurance for states with or without direct access.

Consumers who are paying more for their medical expenses are frustrated by the arbitrary government mandate that limits their choice in provider and that requires unnecessary medical expenditures.

Physical therapy practice has moved from a Bachelors-level education to a post-baccalaureate level. Direct access has been studied for over 20 years and it has been demonstrated that it does not increase risk for patient safety, health or welfare.

APTA
American Physical Therapy Association
MINNESOTA CHAPTER

MN APTA
1711 W. County Rd B
Suite 102-S
Roseville, MN 55113
651-635-0902

How does this legislation address the problem?

This legislation DOES:

- Remove the arbitrary access barriers to Physical Therapy in Minnesota. Consumers who are paying more for their health care services will have the right to seek services from Physical Therapists without the additional costs and delays associated with securing a referral
- Place the responsibility for patient care with the physical therapist instead of deferring it to another provider
- Preserve the patient's right to seek physician services at any time

This legislation DOES NOT:

- Expand physical therapy scope of practice.
- Affect the current statute that requires referral to a healthcare professional for conditions outside of the scope of practice of a physical therapist.
- Mandate insurance reimbursement for direct access services, nor does it mandate how companies and institutions determine how their customers access their services.

Who is affected if this legislation is passed?

- Consumers are primarily affected—they will be allowed to take a more active role in decisions regarding their health because arbitrary and unnecessary access barriers have been removed. MN APTA received nearly 500 letters of support for this legislation from consumers
- The Minnesota marketplace will be affected because it will take an additional step toward a consumer-driven model of health care, by allowing consumers access to safe and cost effective services by a highly qualified provider of their choice. Costs to the health care system will be reduced because unnecessary physician referral costs have been eliminated

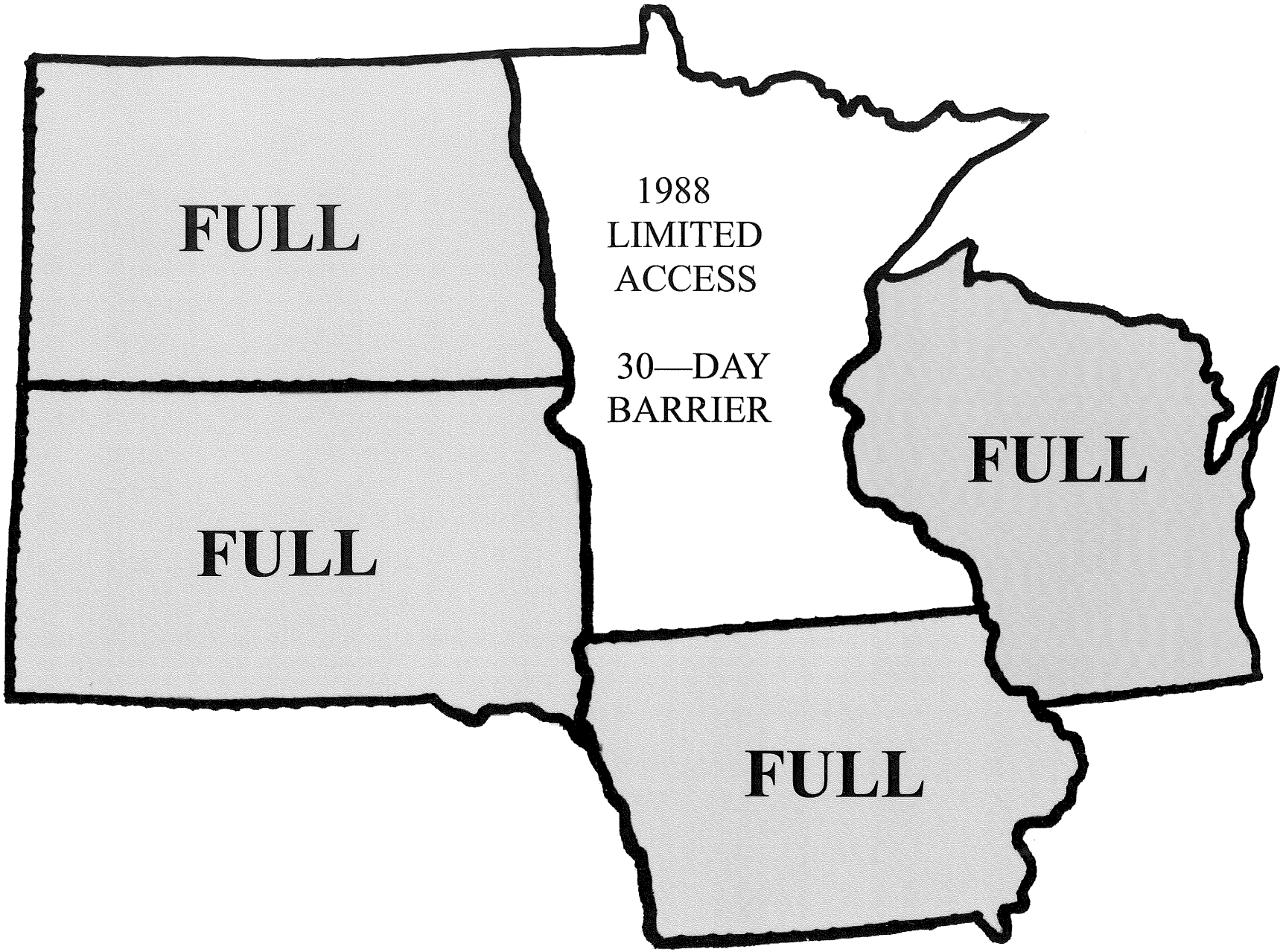
The MN Medical Assoc., the MN Chiropractic Assoc., and the MN Podiatric Association are opposed to this legislation, though there are individual physicians, chiropractors and podiatrists who are very supportive.

What are the consequences if this legislation does not pass?

An important chance at health care reform improvement will be lost. Consumers will continue to be subject to arbitrary government mandated access barriers that limit access, that continue to result in higher and unnecessary health care costs, and limit personal freedom of choice.

CONSUMER ACCESS TO PHYSICAL THERAPY

02/21/06



Joan Bolment

Progression of the Physical Therapy Profession in Minnesota

Evaluation Only
1980
Recognized the Value of PT

⇨

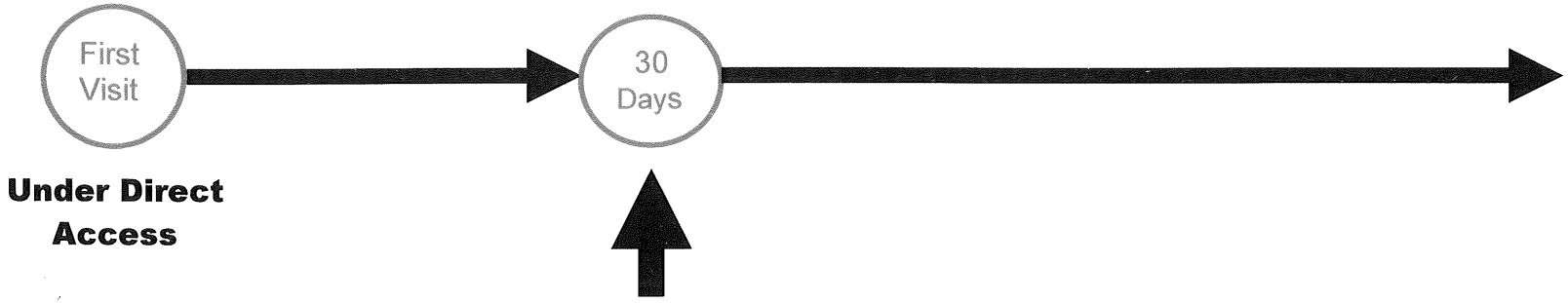
Limited Direct Access
1988
Recognized Safety and Competence

⇨

Licensure & Independent Board
1999
Recognized the ability to Self-govern

⇨

Ethics & Discipline
2002 – 2005
Increasing Professionalism



Under Direct Access

SF637 / HF 854
Focuses Here!

Value, Safety and Competence within the first 30 days were recognized in the 1980's.
Since then, safety has not been a substantiated risk.

Facts About Physical Therapists

Who We Are

Physical therapists (PTs) are licensed health care Professionals who diagnose and manage movement dysfunction and enhance physical and functional status in all age populations. Following an examination of individuals with impairments, functional limitations, and disabilities or other health-related conditions, physical therapists design individualized plans of physical therapy care and services for each patient. Choosing from a broad array of physical therapy interventions, PTs alleviate impairments and functional limitations as well as promote and maintain optimal fitness, physical function, and quality of life as it relates to movement and health. PTs also implement services to reduce risk and prevent the onset and progression of impairments, functional limitations, and disabilities that may result from injury, diseases, disorders, and health conditions.

What We Do

Physical therapists provide care to people of all ages who have functional problems resulting from, for example, back and neck injuries, sprains/strains and fractures, arthritis, burns, amputations, stroke, multiple sclerosis, birth defects such as cerebral palsy and spina bifida, an injuries related to work and sports. Physical therapy care and services are provided by physical therapists and physical therapist assistants who work under the direction and supervision of a physical therapist. Physical therapists evaluate and diagnose movement dysfunction and use interventions to treat patients/clients. Interventions may include therapeutic exercise, functional training, manual therapy techniques, assistive and adaptive devices and equipment, and physical agents and electrotherapeutic modalities.

Where We Practice

Physical therapists practice in hospitals, outpatient clinics or offices; inpatient rehabilitation facilities; skilled nursing, extended care, or sub-acute facilities; home health settings; education or research centers; schools; hospices; industrial workplaces or other occupational environments; fitness centers; and sports training facilities.

Education & Licensure

The minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. Minnesota programs all offer the Doctor of Physical Therapy (DPT) degree. After graduation, candidates must pass a state-administered national examination for licensure. State licensure is required in each state in which a physical therapist practices.

MN Chapter American Physical Therapy Association

The American Physical Therapy Association (APTA) is a national professional organization representing more than 63,000 members throughout the United States. The MN Chapter consists of over 1,500 members. It is the principal membership organization that represents and promotes the profession of physical therapy and furthers the profession's role in the prevention, diagnosis and treatment of movement dysfunctions in order to enhance and promote health and functional abilities of its members and public.

Physical Therapist Qualifications

Physical therapy, as a profession, dates from the beginning of the century, when the advances in health care made possible the survival of people affected by poliomyelitis and war injuries. Physical therapy has continued to evolve and to respond to the needs of society with physical therapists now practicing in a variety of clinical settings with unprecedented levels of professional responsibility. Physical therapists are integral members of the primary care team and are involved in prevention of disability and promotion of positive health, as well as acting as consultants in restorative care. Physical therapy practice today is based on a well-developed body of scientific and clinical knowledge.

Physical Therapist Educational Standards:
According to the Commission on Accreditation in Physical Therapy Education (CAPTE), an accredited physical therapist curriculum prepares the graduate for contemporary and future physical therapy practice in an ever-changing health care system that includes patient and client direct access to physical therapy services. Course work within the professional curriculum includes:

Foundational Sciences include: Anatomy, Histology, Physiology, Applied Physiology, Pathophysiology, Behavioral Sciences, Biomechanics and Kinesiology, Neuroscience, Pathology and Pharmacology.

Clinical Sciences include: content about the cardiovascular/pulmonary, endocrine, gastrointestinal, genitourinary, integumentary, musculoskeletal and neuromuscular systems and the medical and surgical conditions frequently seen by physical therapists. The clinical sciences also include content for individual systems related to the specific responsibilities of patient screening, examination, evaluation, diagnosis, prognosis, plan of care, intervention and outcome assessment, and evaluation.

Screening: Determine the need for further examination or consultation by a physical therapist or for referral to another health care professional.

Evaluation: Synthesize examination data to complete the physical therapy evaluation.

Diagnosis: Engage in the diagnostic process in an efficient manner consistent with the policies and procedures of the practice setting. Engage in the diagnostic process to establish differential diagnoses for patients across the lifespan based on evaluation of results of examinations and medical and psychosocial information. Take responsibility for communication or discussion of diagnoses or clinical impressions with other practitioners.

Communication: Expressively and receptively communicate with all individuals when engaged in physical therapy practice, research, and education, including patients, clients, families, care givers, practitioners, consumers, payers, and policy makers.

In MN, all 4 Physical Therapist Educational Programs (College of St. Catherine, University of Minnesota, College of St. Scholastica, Mayo School of Health Related Sciences) award the professional doctorate (DPT) degree, a post-baccelaureate degree taking at least three academic years to complete. Nationally, 82% of programs indicate that they will be enrolling students at the clinical doctorate level by Jan. 1 2006. (*Evaluative Criteria for Accreditation of Physical Therapists Programs, Oct. 2005. www.apta.org, accessed 3/3/06,4:05 pm*)
For all DPT programs in the United States:

Number of Didactic Hours: 1815 ± 352.8
Number of Clinical hours: Full time 1,435 ± 263.1; Part time 86.9 ± 170.0
Total Contact Hours (didactic and clinical): 3,337 ± 487.8

APTA Fact Sheet on Physical Therapist Education Programs, June 2005. www.apta.org, accessed on 3/3/06 at 3:37 pm

Based on Physical Therapists' extensive training, they are viewed as experts in movement disorders related to neuromusculoskeletal conditions.

- Studies report that Physicians routinely issue non-specific "evaluate and treat" orders requiring physical therapists to make a diagnosis prior to initiating treatment.

  Liu H et al. N Amer J Sports Physical Therapy. 2006;1:10-15; Miller et al, J Geriatric Physical Therapy 2005 28(1):20-7; Davenport TE et al. JOSPT 2005;35:572-579; Clawson et al. Physical Therapy 1994;74:356-60

- A study that examined knowledge in managing musculoskeletal conditions revealed that "both physical therapist students and licensed physical therapists tend to have higher levels of knowledge in managing musculoskeletal conditions than medical students, physician interns and residents, and all physician specialists other than orthopedists."

  Childs JD et al. BMC Musculoskeletal Disorders 2005, 6:32.

FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY

509 WYTHE STREET ALEXANDRIA, VA 22304

Members of the Minnesota Legislature **31 March 2006**

HR854/ SF 637 Removing the Restrictions to Direct Access to Physical Therapy in the state of Minnesota.

Professional Doctorate Degree
During the 1980's, when MN's state licensing laws were passed that restricted access to physical therapy, physical therapists were educated at primarily a Bachelors degree. The standards of Physical Therapy education have increased substantially in the last 20 years, in order to keep up with the significant increase in the scientific research related to physical therapy.

MN Physical Therapy Programs
Graduates of all four Physical Therapy educational programs in MN earn a professional doctorate degree. Those programs are:

- Program in Physical Therapy at Mayo School of Health Related Sciences
- College of St. Catherine Doctor of Physical Therapy Program
- College of St. Scholastica Program in Physical Therapy
- University of Minnesota Program in Physical Therapy

National Licensure Exam Based on Practice Without Referral
The national licensure exam is structured to meet the needs of those states where practitioners are able to practice without a physician referral. At graduation, physical therapists are expected to be able to practice in a direct access model of care. It is expected that graduates practice independent decision-making. Physical therapists must be fully responsible for the physical therapy care of their patient/client.

The National Licensure Exam Covers:

- Physical Therapy Evaluation
- Differential Diagnosis
- Medical Screening
- Evidence-based Practice

Sincerely,

Christine A. Larson, PT
Christine A. Larson, PT
Director of Professional Standards

MINNESOTA BOARD OF PHYSICAL THERAPY

University Park Plaza • 2829 University Avenue SE • Suite 420 • Minneapolis, MN 55414-3245
Telephone (612) 627-5406 • Fax (612) 627-5403 • www.physicaltherapy.state.mn.us
physical.therapy@state.mn.us • MN Relay Service for Hearing Impaired (800) 627-3529

March 3, 2006

Ms. Judy Hawley, PT, Executive Director
Minnesota Chapter of the American Physical Therapy Association
1711 West County Road B, Suite 102 South
Roseville, MN 55113-4036

Dear Ms. Hawley:

In response to your letter of February 13, 2006, the Minnesota Board of Physical Therapy provides the following summary of activities:

The Legislation Committee of the Minnesota Board of Physical Therapy met on October 19, 2005 and January 12, 2006. Their agenda included review and discussion of the Minnesota Chapter of the American Physical Therapy Association (MN APTA) proposed legislation (HF854/SF637) and a proposed delete all amendment. Legislation Committee meetings are open to the public and members of MN APTA were present at both meetings.

The Board observed that the initial proposed language for HF854/SF637

- did not include the advanced practice nurse as a licensed health care professional
- did not extend the grounds for discipline in MS 148.75 (a) (16) the failure by a physical therapist to refer to a licensed health care professional a patient whose medical condition has been determined to be beyond the scope of practice of a physical therapist from "at the time of evaluation" (existing statute language) to cover the entire episode of physical therapy care.
- did not specify that a referral to a licensed health care professional must be documented in the patient's physical therapy record.
- would have required rulemaking.

The Legislation Committee of the Board of Physical Therapy observed that the proposed H0854DE1 version addressed the above identified issues.

Sincerely,

Stephanie Lunning

Stephanie Lunning
Executive Director

Members of the Minnesota Legislature 27 January 2006

HF854/ SF 637 Removing the Restrictions to Direct Access to Physical Therapy in the state of Minnesota.

Judy A. Hawley, PT, the Executive Director of the Minnesota Chapter of the American Physical Therapy Association has brought to my attention the concerns that the Minnesota Legislature may have regarding the potential for increased violations of the physical therapy practice act and increased malpractice litigation as a result of allowing physical therapists in Minnesota to practice without first obtaining a referral from a physician.

The Federation of State Boards of Physical Therapy is an organization made up of the 53 physical therapy licensing jurisdictions within the United States. The Federation monitors and polls its member jurisdictions on a regular basis and serves as the HIPDB reporting agency for the majority of jurisdictions.

The Federation has found no increase in number or severity of either malpractice or disciplinary cases in jurisdictions that have direct access to physical therapy when compared with those jurisdictions that do not have any form of direct access.

Please do not hesitate to contact to me if you have any questions regarding regulatory issues as they relate to direct access to physical therapy services.

Sincerely,

Christine A. Larson, PT
Director of Professional Standards

FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY
509 WYTHE STREET, ALEXANDRIA, VIRGINIA 22314 | 703.299.3100 PHONE | 703.299.3110 FAX
http://www.fsbpt.org

Minnesota
Chiropractic Association

12445 River Ridge Blvd.,
Suite 100
Burnsville, MN 55337
952.882.9411
1.800.864.3769
Fax 952.882.9397
Www.mnchiro.com

April 4, 2006

Testimony House File 854 to Senator Becky Lourey and Members of the Committee

Chair and Committee Members:

My name is Dr. John Hynan, I am the president of the Minnesota Chiropractic Association and am here today to submit testimony in opposition to House File 854. We represent nearly 2500 practicing chiropractors across the State.

The public needs to have addressed the concerns of diagnosis, differential diagnosis, clinical experience, coordination of care and reporting requirements.

We have been opposed to SF 637 for the reasons Dr. House stated earlier. We have listened to the arguments and information the P.T. association has put forward. We express our concerns to the P.T. association and they asked us to give them a written solution to our concerns so they can respond to them. The concerns are addressed in the three amendments. We could support this bill in an amended form and would be happy to work with the P.T.'s

I appreciate their question "where's the beef". My response is it is all documented in the Medicare Payment Advisory Report cited in Dr. House's testimony. It clearly highlights the problems with the P.T. proposal. The report cites over 29 studies related to the issues surrounding this legislation including the studies that the P. T. association cited in their testimony.

I would like to close my testimony by presenting a living patient as an example of what happens when the proper steps of diagnosis, differential diagnosis, clinical experience and coordination of care are followed for what appeared to be a minor complaint when the patient presented for follow-up of a different problem.

Thank you for your consideration.

Respectfully,

John J. Hynan D.C.
President of the Minnesota Chiropractic Association

MINNESOTA
PODIATRIC
MEDICAL
ASSOCIATION

LEGAL COUNSEL-LEGISLATIVE LOBBYIST
MICHELLE M. BARRETTE
BARRISTER BUILDING
1465 ARCADE STREET
ST. PAUL, MN 55106
(651) 778-0575
FAX (651) 778-1149

GERARD BUSCH, D.P.M.
SUITE 111
6550 YORK AVENUE
EDINA, MN 55435
OFFICE: (952) 926-3566
FACSIMILE: (952) 929-3358

March 28, 2006

TO: Members of the Senate Health and Family Security Committee and Senate Health and Human Services and Corrections Budget Division

FROM: Gerard Busch, D.P.M.

DATED: March 28, 2006

RE: Senate File 637 / House File 854
Scope of Practice of Physical Therapists

I am the Immediate Past-President of the Minnesota Podiatric Medical Association (MPMA) which represent over 150 Podiatric Physicians and Surgeons in Minnesota. The MPMA requests that SF 637 be studied further before advancing the bill out of this committee. The MPMA has requested that the Physical Therapy Association delay the bill so that further meetings and study on our issues of concern can be addressed but it is their desire to proceed.

Given this position the MPMA must oppose Senate File 637. The Podiatric Physicians and Surgeons are concerned that the bill as currently presented has a number of patient safety and education and qualification issues that first need to be addressed prior to the passage of legislation that authorizes direct access to physical therapy services.

A Podiatric Physician and Surgeon is authorized to diagnose and treat aliments, injuries and medical conditions of the foot and ankle. This is based upon Podiatrist's extensive education and training. Physical Therapists, however, do not have authority to medical diagnoses. The following are four examples of where direct access to a patient could cause harm to the patient that would not have been examined first by a Podiatric Physician/Surgeon, Medical Physician or a Chiropractor:

1) A patient could have a partial tendon rupture which may go undetected or not diagnosed and would be treated as a sprain. If physical therapy would be commenced without a proper diagnosis first being made the patient may end up with a complete rupture which could result in further harm to the patient, increased disability and necessity of more costly and involved treatment.

2) A patient could have complex pain syndrome/reflex sympathetic dystrophy syndrome. This is a condition which is difficult to diagnose. If this condition is not properly diagnosed there would be a delay in treatment which would be devastating to a patient resulting in chronic pain and permanent disability.

MINNESOTA
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LEGAL COUNSEL-LEGISLATIVE LOBBYIST
MICHELLE M. BARRETTE
BARRISTER BUILDING
1465 ARCADE STREET
ST. PAUL, MN 55106
(651) 778-0575
FAX (651) 778-1149

3) A patient could have a lisfranc dislocation which is another difficult condition to diagnose and often is only determined through further testing such as x-rays or other radiologic scans. If the correct diagnosis is not made prior to treatment, it could result in a longer and more difficult course of treatment for the patient.

4) Lastly, a patient that may have direct access to a physical therapist without having first been examined by a Podiatrist who would have ordered radiologic tests for the patient who demonstrated foot pain which gave the appearance of a foot sprain with a small lump on the foot. Further tests ordered by a Podiatrist would have shown that the small foot lump was actually metestatic bone cancer.

These are just a few example of problems that could develop for a patient with foot ailments, injuries or medical conditions who would have direct access to a patient without first seeing a Podiatric Physician, Medical Physician or Chiropractor.

Thank you for this opportunity to express the MPMA's concerns with the proposed legislation.

Respectfully Submitted

Gerard Busch /MMB

Gerard Busch, D.P.M.
Immediate Past President
MINNESOTA PODIATRIC MEDICAL ASSOCIATION (MPMA)

MMB:pmc

Sister Kenny Rehabilitation Institute
Abbott Northwestern Hospital
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Minneapolis, MN 55407-3731
612-863-4400
www.sisterkennyinstitute.com

SISTER KENNY™
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Allina Hospitals & Clinics

March 12, 2006

Re: HF 854 / SF 637

To Member of the Minnesota State Legislature:

I would like to convey my support for the legislation which will allow unrestricted access to licensed physical therapists in the state of Minnesota. As I understand it, this legislation will remove the requirement for physical therapists to obtain a referral from a physician to continue treatment after 30 days from the initiation of physical therapy. I believe this change will benefit patients and reduce the cost of treatment for musculoskeletal and other conditions. Physical therapists will have the unrestricted access that comparable caregivers such as chiropractors, massage therapists and athletic trainers already have.

Physical therapists in Minnesota are licensed to evaluate and treat a wide variety of neuromuscular conditions. They have been treating patients under the current regulations for fifteen years with no evidence of harm to the public. There has been no adverse impact on liability insurance rates. The existing 30 day limitation to direct access for physical therapy seems to me to be arbitrary and to offer no greater protection to patients. The important issue is that the physical therapist has the licensure and training to provide safe and quality care no matter the time. Further, the therapist must know when to refer to a physician or when a condition is beyond the scope of their care regardless of the amount of time they have been providing care. I think physical therapists licensed in the state of Minnesota have already demonstrated this ability.

In the past, I worked as a licensed physical therapist in the state of Minnesota. Subsequently and for twenty years, I have worked as a board certified specialist in Physical Medicine and Rehabilitation. This specialty has permitted me to work closely with physical therapists and to participate in their education. I am confident in their ability to assess and treat patients with neuromuscular conditions as well as to know when they are beyond their scope of practice. Adoption of this legislation will, I believe, provide safe, efficient, qualified care to patients while contributing to a substantial savings of health care dollars.

Sincerely,

Marilyn Thompson MD

Marilyn A. Thompson, MD
Medical Director of Program in Spinal Cord Injury
Sister Kenny Institute

61A

February 18, 2006

Re: HF 854 / SF 637

To Members of the Minnesota State Legislature:

I am writing in support of the legislation to allow unrestricted access to licensed physical therapists in the state of Minnesota. Essentially this would lift the requirement to obtain a referral from a physician 30 days after the onset of physical therapy. This will be good for patients and for many decrease the overall costs of musculoskeletal care. It will put physical therapy on par with other health care providers, like chiropractors, massage therapists, and athletic trainers, who have unrestricted access for patients.

I think physical therapists licensed in Minnesota are qualified to see patients beyond the current 30 day limit without physician intervention and I trust that a physical therapist would refer any patient who is not making appropriate progress to another qualified HC provider before 30 days if physical therapy was not an appropriate venue for that patient's health. I do not anticipate that there will be any safety issues for patients. I am confident that physical therapists will not provide services outside their legally defined scope of practice, and that their knowledge and training in medical screening and differential diagnosis will lead to a referral to a physician for those patients who are not appropriate for physical therapy treatment.

I have worked with physical therapists for nearly 30 years and I value the knowledge and expertise in the areas of movement (neuro-musculo-skeletal) dysfunction and musculoskeletal injury. I rely on physical therapists to determine the best rehabilitation programs for the impairments, and truly appreciate the added expertise. I look forward to continued collaboration with the physical therapy profession and I do not see this bill as either isolating the profession or decreasing communication between the health care professions.

As we have an increasing population living with chronic disease (including movement issues) and an even greater population that needs physical activity in ever increasing doses, I believe that allowing patients full access to physical therapists will provide a highly qualified, safe resource to help patients manage their problems and maintain the highest possible quality of life.

Sincerely,

William O Roberts MD

William O Roberts MD, MS, FACSM
Associate Professor
Division of Sports Medicine
Department of Family Medicine and Community Health
University of Minnesota Medical School
and
Immediate Past President
American College of Sports Medicine

59B

Duluth Clinic
An affiliate of SMDC Health System

400 East Third Street, Duluth, MN 55805
Phone: (218) 786-8364, (800) 342-1388

March 8, 2006

REP THOMAS HUNTLEY
335 STATE OFFICE BLDG 100
REV DR MARTIN LUTHER KING JR BLVD
ST PAUL MN 55155

RE: HF854/SF637

Dear Representative Huntley:

I am writing in support of legislation allowing direct access by patients to licensed physical therapists in the state of Minnesota. I recommend eliminating the requirement for physician referral after 30 days of physical therapy. Physical therapists are highly skilled professionals. The current restrictions appear to serve no one's interest.

I have worked closely with physical therapists my entire professional career. I am confident physical therapists are qualified to see patients safely beyond 30 days without physician referral. In my experience, physical therapists have consistently requested further medical evaluation when patients are not responding as expected to treatments.

I appreciate your consideration of this issue and would welcome any specific questions you might have.

Sincerely,

Stephen C. Harrington, MD
Duluth Clinic
Orthopedics
218-786-8364

SCH/lak

cc:
xc:

D: 03/08/2006

07A.

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Park Nicollet

Park Nicollet Clinic—Wayzata

Wayzata Internal Medicine
Suite 220
250 N. Central Ave.
Wayzata, MN 55391
952-993-8250 tel
www.parknicollet.com

Internal Medicine
William H. Anderson, MD
Christina Boryczka, MD
Loren D. Bosmans, MD
Reuben Lubka, MD
Steven D. Oppel, PA-C
Desde Palmer, PA-C
Kamal K. Sahgal, MD
William S. Tiede, MD

The

To: The members of the Minnesota State legislature,

I am writing to you to urge you support Bill # SF 637/HF 854.

In my 15 years of practice I worked with multiple physical therapists and have the highest respect for these practitioners and for their field. I have been impressed with their level of clinical knowledge and their ability to apply this to patient directed therapies. I have been impressed that they routinely will contact me when treatments are not going as planned or if they feel the diagnosis the patient is "labeled" with does not fit the correct clinical picture on their examination. In my experience the duration of treatments are always limited to the therapist's ability to move the patient forward clinically. When patients have reached a stable plateau they have always been discontinued from therapy. I have never seen a case of ongoing "maintenance " therapy. This is likely because there guidelines within their own field do not allow this.

Therefore I feel the 30 day referral for renewal of physical therapy orders is nothing more than a barrier to good medical care. I have full confidence that the therapist that I work with will continue to contact me directly or send the patient back to me when therapy is not going as planned. I have this confidence as they have already done this on a routine basis which is nothing to do with the standard 30 day renewal requirement.

From a different standpoint, the 30 day mandatory revisiting is a waste of the patient's co-pays, insurance payments, and a tying up of my office visits with an appointment that truly was not needed.

Please support Bill Number SF 637/HF854

Sincerely,

William H. Anderson MD.

33B

Minnesota Department of **Human Services**

February 16, 2006

RE: Bill SF637/HF854

To Whom It May Concern:

I am a rehabilitation physician who regularly prescribes physical therapy services in both inpatient and outpatient situations.

It is my belief that licensed Physical Therapists should be allowed more latitude with regard to payment for services that are necessary in patients' rehabilitation.

Such freedom to independently extend services beyond a 30-day timeframe without physician prescription would allow greater access of patients to needed physical therapy services and in some ways would be more cost effective to them.

Again, I am in support of Bill SF637/HF854 which would remove restrictions to direct access to physical therapy.

Respectfully,

Donald T. Starzinski, M.D., Ph.D.
Clinical Director
Minnesota Neurorehabilitation Hospital

:dls

12A

2-22-06

To Whom It May Concern:

This is a letter of support for SF 637 and HF 854 regarding consumer direct access to physical therapy services.

This bill will help remove some of the arbitrary and unnecessary restrictions placed on consumers to access our physical therapy services. In many cases, it is not necessary to have to client seen after 30 days of treatment, just to continue physical therapy. This added cost to the health care system is not needed. Our therapists communicate with me if they have concerns that the client is not responding as anticipated.

I also have clients with a known diagnosis that becomes problematic and need physical therapy and would not need to be evaluated prior to the referral to physical therapy. They should be able to access these services directly to get treatment started sooner. The therapist would send them back for further evaluation if they saw concerns or new problems.

There has not been any concern on my part that the therapist would pose a safety risk to a client. There has not been any liability issues during treatment nor do I see any concern for those issues under a direct access situation. The therapists have always practiced in a safe manner and would continue to practice that way under direct access. I see no concerns with public safety. Our clients have the option to go to other non-Physical Therapist providers who do not have consistent educational standards and who are also largely unregulated.

I value the relationships that I have with our Physical Therapists and would not expect any change in our collaborative efforts in patient care. I know that they will send clients back for further evaluation, if what they see during their evaluation, is outside their scope of practice. Most of my orders are for evaluate and treat. I trust their professional judgement.

I encourage you vote in support of this legislation.

Sincerely,

Signature

Rene Eldridge

Print Name

(Physician - Family Practice)
Long Prairie Medical Clinic

2-24-06

Dear Legislator:

I support SF 637/HF 854, Minnesota Consumer Access to Physical Therapy, the removal of the arbitrary restrictions on Physical Therapists after 30 days.

I prefer the public to see a Physical Therapist, rather than see those who are unlicensed and unregulated but are not limited by this 30 day restriction. I have referred patients to PT, and I believe Physical Therapists are safe and effective in their practice of rehabilitation.

Sincerely,

Rajiv Shah MD
952 920 2070 (w) - Work Phone
InterMed Consultants

3/8/2006

To Whom It May Concern:

I am writing to express my opinion regarding the regulations regarding Physical Therapists' ability to treat patients for more than 30 days. In my experience I have worked closely with Physical Therapists and find they are qualified to evaluate and treat patients appropriately. I trust their ability to determine the success of treatments and to refer patients for further evaluation by a physician when they are not improving.

I believe the current 30-day rule is arbitrary and not needed. I have always relied on the professional judgment of the therapist and trust their ability to make timely and appropriate referrals when needed.

Sincerely,

M.D.

Michael Mesick M.D.
1033 John and Mary Drive SE
Chatfield, MN 55923

31B

Olmsted Medical Center

Prechel, Mary

From: Hepler, Sharon M. (M.D.)
Sent: Monday, March 20, 2006 8:46 AM
To: Prechel, Mary
Subject: RE: PT needs your help

I would like to offer my support to the Physical Therapists in regard to HF854/SF637. I agree that direct access to physical therapy should be allowed. They are highly educated and skill practioners in their field and, much like Clinical Nurse Practioners and Physician Assistants, should be able to see patients directly without recommendation from a physician. They work under the direction of a medical doctor and in my experience have been very good about referring patients back to physicians when appropriate. I do not expect overt fraud and abuse if patients were allowed direct access and it would be more efficient from a time and monetary standpoint. Thank you very much for your consideration.

Sharon Hepler MD
Dept of Urology
Park Nicollet Clinic
St Louis Park, MN
952-993-3190

55416

44A

DATE:

To: Members of the MN Legislature

Regarding: Support SF 637 / HF 854-- Unrestricted Direct Access to Physical Therapy

As your constituent and as a person who values Physical Therapy as an important part of my health care, I am writing to urge you to support SF 637 / HF 854, A Bill for Consumers in Minnesota, which will remove the remaining access restrictions to Physical Therapy so that consumers can have full, unrestricted direct access to Physical Therapy. SF 637 / HF 854 would remove the physician referral that is now required after 30 days, in order for patients to continue their Physical Therapy. This 30-day referral requirement provision is arbitrary, unnecessary, and limits my choice in deciding how to spend my health care dollars.

I am increasingly paying more out-of-pocket expenses for my health care. My premiums are rising each year, and I am paying larger co-pays. Many of my medical treatments, including physical therapy already have arbitrary dollar limits each year imposed by my insurer. Because of all of this, I want to be more involved in making health care decisions that affect me, and I want to be able to choose where my dollars are spent.

I have a problem that my Physical Therapist is helping me with, and I am making steady progress! I should not have to stop Physical Therapy just to get a physician referral after 30 days when my condition is improving. Often, I have to wait to get an appointment to see the physician—this disrupts the progress I have been making in Physical Therapy. This physician visit at the 30-day mark is arbitrary and an unnecessary cost since I am making progress.

I appreciate the expertise my Physical Therapist brings to the treatment of my condition. My Physical Therapist is well educated in the practice of Physical Therapy and is licensed by the Minnesota Board of Physical Therapy. The requirement of getting a physician's referral after 30 days just does not seem necessary.

I urge you to support SF 637 / HF 854. It will allow me to choose how and where I spend my health care dollars.

Sincerely,

NAME: Bruce Garbrick, MD

ADDRESS: 0747 Hwy 35

CITY, STATE, ZIP: Cook, Mn. 55723

As a family physician who has worked with physical therapists for over 25 years, I am well aware of their competence and professionalism. I strongly support their efforts to obtain legislation allowing patients full, unrestricted, and ongoing access to therapy without MD referral.

6A

2/26/06

Dear Legislator:

I support SF 637/HF 854, Minnesota Consumer Access to Physical Therapy, the removal of the arbitrary restrictions on Physical Therapists after 30 days.

I prefer the public to see a Physical Therapist, rather than see those who are unlicensed and unregulated but are not limited by this 30 day restriction. I have referred patients to PT, and I believe Physical Therapists are safe and effective in their practice of rehabilitation.

Sincerely,

Bradley Moser MD
Edina Sports Medicine - Minnesota Sports Medicine
Family Practice/Sports Medicine

42B

DATE: 2/13/06

To: Members of the MN Legislature

Regarding: Support SF 637 / HF 854– Unrestricted Direct Access to Physical Therapy

As your constituent and as a person who values Physical Therapy as an important part of my health care, I am writing to urge you to support SF 637 / HF 854, A Bill for Consumers in Minnesota, which will remove the remaining access restrictions to Physical Therapy so that consumers can have full, unrestricted direct access to Physical Therapy. SF 637 / HF 854 would remove the physician referral that is now required after 30 days, in order for patients to continue their Physical Therapy. This 30-day referral requirement provision is arbitrary, unnecessary, and limits my choice in deciding how to spend my health care dollars.

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I have a problem that my Physical Therapist is helping me with, and I am making steady progress! I should not have to stop Physical Therapy just to get a physician referral after 30 days when my condition is improving. Often, I have to wait to get an appointment to see the physician—this disrupts the progress I have been making in Physical Therapy. This physician visit at the 30-day mark is arbitrary and an unnecessary cost since I am making progress.

I appreciate the expertise my Physical Therapist brings to the treatment of my condition. My Physical Therapist is well educated in the practice of Physical Therapy and is licensed by the Minnesota Board of Physical Therapy. The requirement of getting a physician's referral after 30 days just does not seem necessary.

I urge you to support SF 637 / HF 854. It will allow me to choose how and where I spend my health care dollars.

Sincerely,

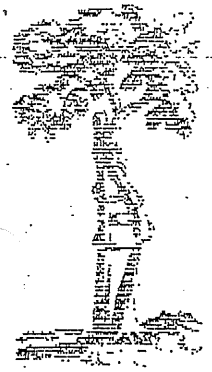
Versich

NAME: MARK A. VERSICH M.D.
DIPLOMATE OF AMERICAN BOARD OF FAMILY PRACTICE

ADDRESS: 3605 MAYFAIR AVE
HIBBING MN 55746

CITY, STATE, ZIP:

5B



LITTLE FALLS ORTHOPEDICS, P.A.

1108 First Street Southeast ▫ Little Falls, MN 56345
Phone (320) 632-3671 ▫ Fax (320) 632-3728 ▫ 1-888-550-3671

January 27, 2006

RE: SF637/HF854

Dear Legislation:

I am in support of SF637/HF854, which is a bill that will remove the restrictions to direct access to physical therapy. The 30-day restriction is restrictive to patients and their treatment. The consumer should have equal access to a licensed physical therapist.

Sincerely,

Daniel V. Enderlin, D.P.M.

DVE/vk/av

Virgil J. Meyer, D.O.
Board Certified
American Osteopathic Board of
Orthopedic Surgery

Philip L. Prosapio, M.D.
Board Certified
American Board of
Orthopaedic Surgery

David R. Jorgensen, M.D.
Board Certified
American Board of
Orthopaedic Surgery

...na J. Harms, M.D.
Board Certified
American Board of
Orthopaedic Surgery

Kristin L. Jackson, D.P.M.
Licensed Podiatrist
State of Minnesota

Daniel V. Enderlin, D.P.M.
Surgical Podiatrist
State of Minnesota

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320-532-3154

Form # 2124

17.B

LITTLE FALLS ORTHOPEDICS, P.A.

1108 First Street Southeast • Little Falls, MN 56345
Phone (320) 632-3671 • Fax (320) 632-3728 • 1-888-550-3671

February 13, 2006

To: Members of the MN Legislature

Regarding: SF 637 / HF 854 Unrestricted Direct Access to Physical Therapy

As a physician I am writing on behalf of the Physical Therapy profession and the patients treated by them to support SF 637 / HF 854. The current 30-day restriction is an arbitrary and unnecessary limit that restricts patient care.

Unrestricted direct access does not change the current requirement to refer to a licensed health care professional a patient whose medical condition is beyond the scope of practice of a Physical Therapist. I feel that Physical Therapists serve a valuable role in the field of health care. Patients will benefit from this bill by having greater freedom in treatment choice.

Removing the 30-day provision reduces unnecessary costs while preserving the consumer's right to see his/her physician at any time.

Sincerely,

David R. Jorgensen, MD

Virgil J. Meyer, D.O.
Board Certified
American Osteopathic Board of
Orthopedic Surgery

Philip L. Prosapio, M.D.
Board Certified
American Board of
Orthopaedic Surgery

David R. Jorgensen, M.D.
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Dana J. Harms, M.D.
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Kristin L. Jackson, D.P.M.
Licensed Podiatrist
State of Minnesota

Daniel V. Enderlin, D.P.M.
Surgical Podiatrist
State of Minnesota

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Long Prairie
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320-352-6591

Onamia
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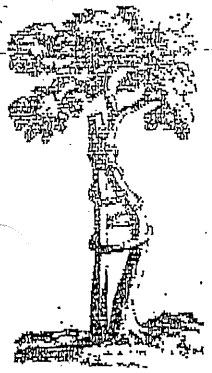

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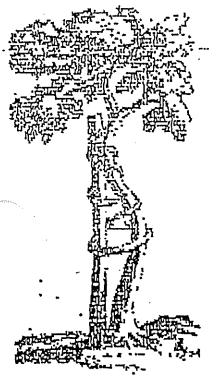

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March 2, 2006

To the Minnesota Legislature:

RE: Physical Therapy unrestricted direct access

This letter is to serve as a vehicle for my support of the physical therapy profession to gain unrestricted direct access. I have practiced chiropractic in the state of Minnesota for 15 years and worked as a chiropractor within the Fairview Health System at the Institute for Athletic Medicine (IAM) side-by-side with Physical Therapists since September 1998.
It is my opinion, based upon my experiences working at IAM, that Physical Therapists have the capabilities within their scope of practice to serve the public with unrestricted direct access.

Sincerely,

Richard Branson, DC
Doctor of Chiropractic
Director of Chiropractic Services
Institute for Athletic Medicine
Fairview Health Systems
Eagan, MN
651-688-7857

42B

FISHER CHIROPRACTIC CLINIC, Ltd.

DAVID W. FISHER, D.C., C.C.S.T., D.A.C.R.B.
RICHARD V. FISHER, D.C.
GREGORY S. ASH, D.C.

1118 E. Superior St.
Duluth, MN 55802
Telephone: (218) 728-3639
Fax: (218) 728-2603

February 6, 2006

RE: Bill SF 637 / HF 854

To Whom It May Concern:

As a physician I routinely make referrals to physical therapy. It is my opinion that Physical Therapists are qualified to evaluate the difference between musculoskeletal problems and more systemic problems. I find that Physical Therapists work together with physicians through updates and actual speaking to them in regards to the patient's condition on a regular basis. Many patients have chronic conditions that require treatment beyond 30 days however do not have conditions that require a physician's evaluation through a 30 day window.

Sincerely,

David W. Fisher, D.C., C.C.S.T., D.A.C.R.B.

DWF:srm

To whom it may concern:

I am a chiropractor who uses physical therapy both personally and professionally. Their knowledge of movement disorders has unequivocally helped to manage various conditions.

In my opinion, physical therapists are qualified in the screening of musculo-skeletal disorders. Referring back to me for re-evaluation after only a 30 day period, simply increases medical costs for conditions they are trained to treat. If a condition presents in which they are unable to manage, communication and referral back should be implemented.

Skyrocketing medical costs could be influenced if we could modify some of the rules and regulations imposed on physical therapists and their patients. Keeping in mind that the well being of the patient **is always** the main objective.

Sincerely,

Jodi Sampson, DC

Dow Chiropractic
152 Pearl St.
Owatonna, MN 55060

26A

CONSUMER ACCESS

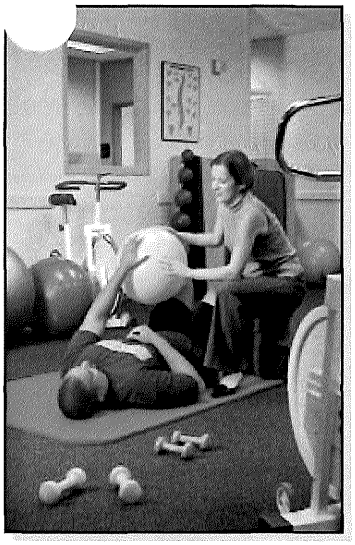
SF 637 HF 854

A Bill for Minnesota Consumers, Removing the Access Restrictions to Physical Therapy

Consumer CHOICE

Consumers should have the right to choose Physical Therapy without arbitrary and unnecessary government restrictions.

In 1988, the gatekeeper/primary care model drove the market. Today, in 2006, the market is more consumer-driven. A rapidly increasing number of consumers are paying out of pocket for their medical expenses. Some health plans in Minnesota are already offering direct access plans. As consumers are paying more out of pocket, they are demanding more involvement and choice in their own health care. They want choice in the services they seek, and where and when these services can be accessed. Consumers who recognize the benefits of Physical Therapy are seeking direct access only to find arbitrary and unnecessary limits placed on that access.



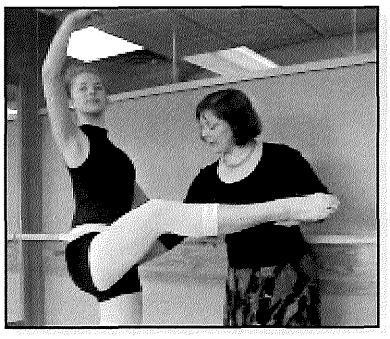
Consumer COST

Consumers should be able to avoid the cost of unnecessary medical care.

Consumers paying out of pocket for their therapy, and who are getting better at 30 days should not be required to obtain a referral to continue services from which they benefit. The 30-day provision requires, in many instances, a potentially unnecessary physician visit, which is costly in terms of money and time from work, family or school. Furthermore, a delay in delivery of service can result as a patient waits to attend his or her doctor visit. This delay can prolong a patient's overall episode of care, again costing the patient more in money, time and diminished quality of life. Additionally, clients of wellness and prevention services have no compelling reason to seek a referral by a physician for ongoing services.

Removing the 30-day provision reduces unnecessary costs while preserving the consumer's right to see his/her physician at any time.

Consumer ACCESS

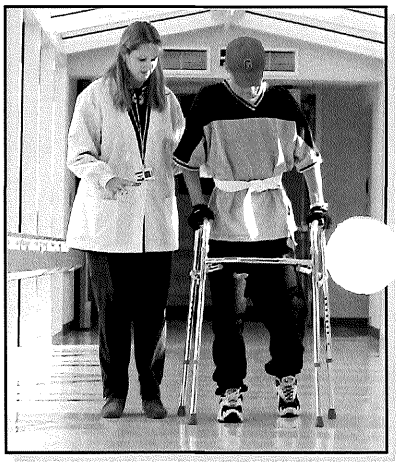


Consumers should have equal access to licensed Physical Therapists, as they do to non-licensed and unregulated providers.

A rapidly increasing amount of money is being spent on services provided by unlicensed providers who provide injury management in health clubs and spas. Consumers face arbitrary barriers in accessing Physical Therapists who are educated and regulated to evaluate and treat all musculoskeletal conditions. Meanwhile, there are no regulatory barriers to the services provided by some non-Physical Therapist providers who do not have consistent educational standards and who are largely unregulated.

The 30-day referral requirement is arbitrary compromise language that forces consumers to obtain a referral for safe and effective services that continue beyond 30 days even when they are progressing well and their condition is improving.

PUBLIC SAFETY



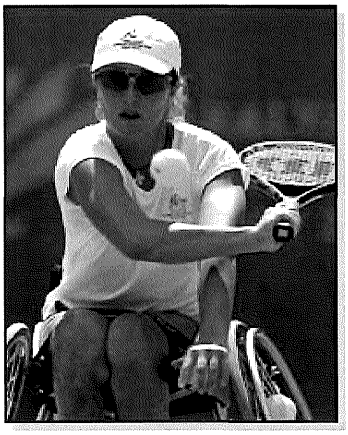
Public safety is not at risk under full and unrestricted direct access.

In 1985, when the legislature allowed consumers to have direct access to Physical Therapy, it acknowledged the education and qualifications of Physical Therapists. The legislature recognized the value of Physical Therapy, the competence of Physical Therapists and the safety in direct access to Physical Therapy. The restrictions that were placed on direct access were a compromise with groups that opposed the legislation.

Removing the arbitrary restrictions to direct access does not change a Physical Therapist's legal and ethical obligation to refer patients whose medical condition is beyond his or her scope of practice. Current statute addresses the need for a Physical Therapist to consider a patient's safety every day, not just after 30 days of care. Since 1988, when direct access was implemented in Minnesota, there has been no evidence of harm to the public relating to direct access.

The four states adjacent to Minnesota currently allow direct access to Physical Therapy without restriction to their citizens. The leading national provider of professional liability coverage to the Physical Therapy profession reports that they "currently have no specific underwriting concerns with respect to direct access for physical therapists."

Removing the 30 day referral requirement will still allow individual providers or institutions to continue to determine how their customers access their services. **Direct access will not be mandated.**



UTILIZATION

The government should not determine utilization.

The gatekeeper model of health care has been ineffective in controlling overall health care costs. Evidence shows that in many cases, the overall cost-per-case is more in referral-driven episodes of care than in direct access episodes. The current statutory code of ethical practice requires that Physical Therapists "safeguard the public from underutilization or over-utilization of physical therapy services."

This bill preserves the rights of health plans and insurance companies to determine their own payment policy. Self-paying consumers should not have arbitrary mandates imposed upon their right to choose services.

Direct Access in Minnesota

Minnesota consumers obtained limited direct access to Physical Therapy services in 1988. Restrictions were put in place as a compromise with groups that opposed the legislation. These restrictions are still in effect today, and include:

- **Requiring an order or referral to treat beyond an initial 30-day period**
- **Requiring one year of practice under a physician's orders before being able to practice under direct access**

These restrictions have been in place for nearly 20 years.

It is time to remove the arbitrary access barriers to Physical Therapy.

Feel free to copy this fact sheet and distribute it to anyone interested in this public policy.
For more information, contact MN APTA at info@mnapta.org or 651-635-0902.

APTA
American Physical Therapy Association
The Science of Healing. The Art of Caring.
MINNESOTA CHAPTER

Evidence Supporting
Consumer Access to Physical Therapy

Consumer Safety

"The Federation has found no increase in number or severity of either malpractice or disciplinary cases in jurisdictions that have direct access to physical therapy when compared with those jurisdictions that do not have any form of direct access."
Federation of State Boards of Physical Therapy (umbrella organization of 53 physical therapy licensing jurisdictions within the United States) Letter January 27, 2006

"Direct access is not a risk factor that we specifically screen for in the underwriting of our program, not do we charge a premium differential for physical therapists in direct access states. We current have no specific underwriting concerns with respect to direct access for physical therapists."
Letter dated 1/3/06 from Michael Loughran, Executive Vice President- Healthcare for AON Health Professional Services (the leading provider of professional liability/malpractice insurance for physical therapists in the US)

"Throughout the 40 month data collection period, there were no reported adverse events resulting from the PT's diagnoses or management, regardless of how patients accessed physical therapy services. Additionally, none of the PTs had their credentials or state licenses modified or revoked for disciplinary action. There also had been no litigation cases filed against the US government involving PTs during the same period."
Moore JH, et al. Risk determination for patients with direct access to physical therapy in military health care facilities. *J Ortho Sports Phys Ther.* 2005;35:674-678.

The Kaiser Permanente system: "recognized the diagnostic and treatment expertise of physical therapists in managing patients with musculoskeletal conditions/impairments and the potential benefit of making more time available for physicians and nurse practitioners to focus on the management of patients with nonmusculoskeletal conditions."
Murphy BP, et al. Primary care physical therapy practice models. *J Ortho Sports Phys Ther.* 2005;35:699-707.

"Physical therapist-managed patients expressed greater satisfaction than physician-managed patients with several aspects of their care. The percentage of functional improvement for highly dysfunctional patients was significantly greater for the physical therapist-managed patients than for the physician-managed patients." "We found no adverse outcomes in our study that could be attributed to physical therapist first-contact care."
Overman SS et al. Physical therapy care for low back pain: Monitored program of first-contact nonphysician care. *Physical Therapy.* 1988;68:199-207.

Cost Effectiveness

"We heard from many individuals with chronic diseases or disabilities and their family members that a lot of money is wasted by care that is delivered at the wrong time, place, or manner."
Minnesota Citizens Forum on Health Care Costs, 2/23/04

In a review of claims from Blue-Cross of Maryland 1989-mid1993 (3yrs after initiation of reimbursement for direct access): "Direct access episodes were shorter, encompassed fewer numbers of services, and were less costly than those classed as physician referral."
Mitchel JM, de Lissovoy. A comparison of resource use and cost in direct access versus Physician Referral Episodes of Physical Therapy. Physical Therapy 1997.77:10-18.

Consumer Choice

"The health care system should be transformed to one in which individuals have greater choice and control over decisions about their health coverage and their health care services."
Minnesota Citizens Forum on Health Care Costs, 2/23/04

"Many patients do not support policies that require their primary care physician to authorize all visits to specialists."
Ferris TG, Yuchiao C, Blumenthal D, Pearson SD. Leaving gatekeeping behind – Effects of Opening Access to Specialists for Adults in a Health Maintenance Organization. ***New England Journal of Medicine.*** **2001;345:1312-1317.**

"There is no evidence that consumer direction compromises safety—in fact, the opposite appears to be true."
Consumer Directed Health-Care: How well does it work? National Council on Disability October 26, 2004

Recommendations: "Put Minnesotans in the drivers seat. Minnesotans should make decisions about healthcare, individually and collectively. …
Minnesota Citizens Forum on Health Care Costs, 2/23/04

Consumer Access

"When barriers exist, whether financial, geographical, cultural, linguistic or informational, needed care is often delayed until our conditions further deteriorate and, as a result, the cost of treatment ends up being greater."
Minnesota Citizens Forum on Health Care Costs, 2/23/04

"It appears that practicing physicians do not appreciate fully the importance of common musculoskeletal conditions. As a result, patients who are afflicted with one of those conditions often receive inadequate treatment."
Association of American Medical Colleges, Report VII: Contemporary Issues in Medicine: Musculoskeletal Medicine Education. Medical Schools Objectives Project, Sept 2005.

"… Results indicate that there is significant variation in physicians' referral to PT for musculoskeletal conditions… Variation in PT referral may be indicative of problems with access and/or inappropriate referral and may ultimately affect the quality and cost of care for patients with musculoskeletal conditions."
Freburger JK, Holmes GM, and Carey TS. Physician referrals to physical therapy for treatment of musculoskeletal conditions. Archives of Physical Medicine and Rehabilitation. 2003;84:1839-1849.

"Health professionals should work with state legislators and regulators to ensure that regulation is… flexible to support optimal access to a competent workforce…"
Pew Health Professions Commission, Critical Challenges: Revitalizing the Health Professions for the 21st Century. December 1995.

"For allied health professionals to respond to these recommendations, some historical barriers must be overcome….
2) allied health providers generally are assigned inflexible roles in which they are underutilized…"
Pew Health Professions Commission, Critical Challenges: Revitalizing the Health Professions for the 21st Century. December 1995.

(MN APTA 3/1/06)

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

Model Legislation

Jeffersonian Principles in Action

Resolution on Patient Access to Physical Therapists' Services Without Current Professional Practice Restrictions Regarding Referral

WHEREAS, physical therapy is the care and services provided by or under the direction and supervision of a licensed physical therapist as authorized by state law. Physical therapists provide services to patients who have impairments, functional limitations, disabilities, or changes in physical function and health status resulting from injury, disease, disorders or other causes. Physical therapy restores, maintains, and promotes optimal fitness, wellness, and quality of life as it relates to movement and health. Physical therapists' services include examination, evaluation, prognosis, and interventions, including consultation and education, regarding impairments, functional limitations, and disabilities. Physical therapy does not include medical diagnosis or the diagnosis of disease.

WHEREAS, several states still prohibit, within the professional practice act, an individual from obtaining physical therapists' services without a referral from another licensed health care provider.

WHEREAS, a majority of states and the United States uniformed services, the U.S. Army, the U.S. Navy, the U.S. Air Force, and the U.S. Public Health Service, have eliminated the professional practice restriction regarding referral.

WHEREAS, patient access to physical therapists' services is not a mandate for reimbursement or payment.

WHEREAS, patient access to physical therapists' services without current professional practice restrictions regarding referral promotes free-market health care and gives individuals the liberty to obtain treatment from a licensed physical therapist as the patient best sees fit.

WHEREAS, if the physical therapist's evaluation process reveals findings that are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall so inform the patient/client and refer to an appropriate practitioner.

WHEREAS, patients should have the ability to access physical therapists' services without current professional practice restrictions regarding referral.

THERFORE, BE IT RESOLVED, that the American Legislative Exchange Council (ALEC) recognizes the benefits that access to physical therapists' services, without current professional practice restrictions regarding referral, provides to a free-market health care environment.

BE IT FURTHER RESOLVED, that [insert state] seek to enact legislation facilitating patient access to physical therapists' services by eliminating the professional practice restriction regarding referral.

Approved by the ALEC Board of Directors May 30, 2001.

AON

Healthcare Professional Services

Michael J. Loughran
Executive Vice President

January 3, 2006

Justin Elliott
Associate Director, State Government Affairs
American Physical Therapy Association
1111 North Fairfax Street
Alexandria, VA 22314-1488

Dear Mr. Elliott:

The American Physical Therapy Association awarded its exclusive endorsement to the professional liability insurance program marketed by Healthcare Providers Service Organization (HPSO) and underwritten by American Casualty Company of Reading PA in 1992. Since that time, this nationwide program has become a leading provider of professional liability coverage to the physical therapy profession.

We are aware that 39 states currently allow physical therapists direct access to patients without a physician referral. We regularly monitor trends to be sure that we are adequately accounting for all risks and have not noted any trends relative to the practice of physical therapy in direct access states.

Direct access is not a risk factor that we specifically screen for in the underwriting of our program nor do we charge a premium differential for physical therapists in direct access states. We currently have no specific underwriting concerns with respect to direct access for physical therapists.

Sincerely,

Michael Loughran
Executive Vice President-Healthcare

cc: J. Baker – APTA
J. Moore – APTA
M. Scott – CNA

Affinity Insurance Services, Inc.
159 East County Line Road • Hatboro, PA 19040-1218
tel: 215.773.4600 • fax: 215.773.4651 • www.aon.com

Physical Therapy Statutes and Rules Relevant to Direct Access

(bolding added for emphasis)

Relevant Physical Therapy Statutes

148.65 Definitions.

Subdivision 1. **Physical therapy.** As used in sections 148.65 to 148.78 the term "physical therapy" means the **evaluation or treatment** or both of any person by the employment 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. Physical measures shall include but shall not be limited to heat or cold, air, light, water, electricity and sound. Physical therapy includes evaluation other than medical diagnosis, treatment planning, treatment, documentation, performance of appropriate tests and measurement, **interpretation of orders or referrals**, instruction, consultative services, and supervision of supportive personnel. "Physical therapy" does not include the practice of **medicine** as defined in section 147.081, or the practice of **chiropractic** as defined in section 148.01.

148.66 State Board of Physical Therapy, duties.

The state Board of Physical Therapy established under section 148.67 shall administer sections 148.65 to 148.78. As used in sections 148.65 to 148.78, "board" means the state Board of Physical Therapy.

The board shall:

(6) **investigate** persons engaging in practices that **violate** sections 148.65 to 148.78;

148.75 Licenses; denial, suspension, revocation.

(a) The state Board of Physical Therapy may refuse to grant a license to any physical therapist, or may suspend or revoke the license of any physical therapist for any of the following grounds:

(5) **conduct unbecoming** a person licensed as a physical therapist or conduct detrimental to the best interests of the public;

(6) gross **negligence** in the practice of physical therapy as a physical therapist;

(10) treating human ailments **other than by physical therapy** unless duly licensed or registered to do so under the laws of this state;

(12) practicing as a physical therapist performing **medical diagnosis**, the practice of **medicine** as defined in section 147.081, or the practice of **chiropractic** as defined in section 148.01;

(16) practicing physical therapy and **failing to refer** to a licensed health care professional a patient whose medical condition at the time of evaluation has been determined by the physical therapist to be **beyond the scope of practice** of a physical therapist;

148.76 Prohibited conduct.

Subd. 2. **Prohibitions.** No physical therapist may:

(3) use any **chiropractic manipulative technique** whose end is the chiropractic adjustment of an abnormal articulation of the body; and

(4) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

Relevant Physical Therapy Rules

5601.3200 CODE OF ETHICAL PRACTICE.

Subp. 2. **Prohibited activities.**

D. A physical therapist, unless otherwise allowed by law, shall not provide patient care without disclosing **benefits** and substantial **risks**, if any, of the recommended examination, intervention, and the alternatives to the patient or patient's legal representative.

Subp. 5. **Ethical integrity.**

B. A physical therapist shall exercise **sound judgment** and act in a **trustworthy** manner toward patients and in all other aspects of physical therapy practice. Regardless of practice setting, physical therapists shall maintain the ability to make **independent judgments**. A physical therapist shall strive to effect changes that benefit patients.

C. A physical therapist shall maintain professional **competence** and promote high **standards** for physical therapy **practice**, education, and research. Physical therapists shall participate in educational activities that enhance their basic knowledge and provide new knowledge.

D. A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services performed and shall **never place the therapist's own financial interest** above the welfare of patients under the therapist's care.

E. A physical therapist shall endeavor to address the health needs of **society**.

F. A physical therapist shall **respect the rights, knowledge, and skills of colleagues** and other health care professionals.

G. A physical therapist shall **safeguard** the public from **underutilization** or **overutilization** of physical therapy services.

H. A physical therapist shall **provide** and make **available** accurate and relevant information to patients about their care and to the public about physical therapy services.

NATIONAL MULTIPLE SCLEROSIS SOCIETY
Minnesota Chapter

National Multiple Sclerosis Society
Minnesota Chapter
200 12th Ave. South
Minneapolis, MN 55415-1255

Tel 612 335 7900
1 800 FIGHT MS
Fax 612 335 7997
E-Mail: info@mssociety.org
www.mssociety.org

March 17, 2006

To: Members of the Minnesota Legislature
Re: SF637 / HF 854- Consumer Access to Physical Therapy bill

I am asking that you support SF637 / HF 854- Consumer Access to Physical Therapy bill on behalf of the National Multiple Sclerosis Society, Minnesota Chapter. Having worked closely with the Fairview Multiple Sclerosis Achievement Center, a day habilitation program for people with MS, I have seen first hand how well physicians and physical therapists work together in establishing a total health care plan for people affected by this disease. This legislation will do nothing to diminish this relationship. This bill will help people with a chronic illness to have direct access to physical therapy without unneeded doctor visits.

Our chapter represents an estimated 7,500 people in Minnesota and western Wisconsin living with multiple sclerosis. As a patient-advocacy group, the chapter serves as a resource for people with MS and others affected by the disease by offering programs to maintain and increase people's independence in their community and by helping fund important research projects that will one day lead to a cure for the disease.

Multiple sclerosis is a chronic, often disabling disease of the central nervous system. Symptoms may be mild, such as numbness in the limbs, or severe, such as paralysis or impaired vision. Most people with MS are diagnosed between the ages of 20 and 40 and the unpredictable physical and emotional effects last a lifetime.

I strongly urge you to support this bill.

Sincerely,

Joel Ulland
Vice President of Public Affairs

ARTHRITIS FOUNDATION®
Take Control. We Can Help.™

NORTH CENTRAL CHAPTER
1902 Minnehaha Avenue West
St. Paul, MN 55104-1029
tel (651) 644-4108
fax (651)644-4219
toll free 1-800-333-1380

March 10, 2006

TO: The Minnesota Legislature

"Re: SF 637 / HF 854- Consumer Access to Physical Therapy bill

As a patient-advocacy group, The Arthritis Foundation North Central Chapter serves people affected by the over 100 forms of arthritis. Some of the forms of this disease include: osteoarthirtis, rheumatoid arthritis, psoriatic arthritis, lupus, osteoporosis, juvenile arthritis and ankylosing spondylitis. There are more than 1.8 million Minnesotans (one in three adults, one in three over the age of 65 and 300,000 children) who are affected this devastating disease. Many of our constituents are in constant pain and seek many kinds of treatment for relief including physical therapy treatments.

We support SF 637 / HF 854-- Consumer Access to Physical Therapy bill. We believe the 30-day barrier is arbitrary and unnecessary. Physical therapists have sound professional judgment and we value their expertise in working with people with arthritis. We have witnessed how well physicians and physical therapists work together-- to the benefit of the patients and clients they serve. The 30-day rule is unnecessary.

We would appreciate your support of this bill. Thank you.

Sincerely,

Deborah Sales Maysack, CAE
President & CEO

Minnesota Stroke Association
Chapter of the National Stroke Association NSA

Community Health Charities Minnesota

main (763) 553-0088
(800) 647-4123
fax (763) 553-1058

March 16, 2006

Judy Hawley
Executive Director
Minnesota Chapter, American Physical Therapy Association
1711 W. County Road B, Suite 102-S
Roseville, MN 55113

Dear Judy,

The Minnesota Chapter of the National Stroke Association is glad to endorse the removal of restrictions to direct access to Physical Therapy for consumers as outlined in bill SF 637/HF 854.

Stroke survivors often require intensive and ongoing physical therapy to regain function resulting from a stroke. These people often require more than 30 days of treatment, but under the current scenario, they must see their physician before additional treatments can be obtained. This approach adds cost, places unnecessary restrictions on their treatment, and creates a delay in receiving services.

Health care continues to evolve to a consumer-driven model, and the benefit to stroke survivors is that they are able to be more involved in decisions about their own health. Direct access to Physical Therapy provides the consumer the freedom to select the provider they prefer to work with, not necessarily the one that their physician suggests.

Physical Therapists are experts in helping survivors regaining physical function following stroke, and are highly capable of providing appropriate and effective care and information to stroke survivors during a very difficult time in their lives. Each milestone reached after stroke moves a survivor toward self sufficiency and reduces long term family and caregiver burden.

Sincerely,

Kathleen Miller
Executive Director

Brian Siska
Board President

courage

WHERE ABILITIES AND DISABILITIES BECOME POSSIBILITIES

March 20, 2006

Members,

Courage Center strongly supports **HF854/SF657**, which would improve health outcomes for people with physical disabilities in need of physical therapy services.

At Courage we serve more than 16,000 individuals with disabilities each year. Most of these clients come to us with comprehensive rehabilitation needs, with physical therapy the most common among them. In FY2005, the equivalent of 30 FTEs provided a combined 130,000 units of physical therapy at our Burnsville, Forest Lake, Golden Valley and Stillwater clinic locations.. Our outcomes data confirms the effectiveness of this vital service as a means toward improved physical functioning and independent living.

However, there are times when an optimal treatment regimen is compromised – and interrupted – so that additional service authorization and insurance approval can be secured.

A strong relationship between a physician and an individual's physical therapist is critical. Today this bond is a strong and valued link within our organization. But we believe our clients will be better served if the decision to provide physical therapy services is decided at the point of service, where critical evaluations of need and progress are now taking place. Our goal is to provide needed and effective physical therapy that is consistent with the rehabilitation goals of each individual with a disability that comes to Courage Center. **HF854/SF657** would improve our ability to do this, while honoring the essential physician-therapist bond that exists today.

We thank you for your ongoing consideration of **HF854/SF657**.

Sincerely,

John Tschida
Vice President, Public Affairs & Research

Senate Counsel, Research, and Fiscal Analysis

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 2827 - Clarifying Certain Rate Adjustments

Author: Senator Becky Lourey

Prepared by: David Giel, Senate Research (296-7178)

Date: April 3, 2006

S.F. No. 2827 modifies the rate adjustments approved in 2005 for intermediate care facilities for persons with mental retardation (ICFs/MR) and community services providers.

Section 1 (256B.5012, subdivision 6) modifies the ICF/MR rate adjustment. It deletes the requirement that all employees must receive part of the adjustment. It allows wage increases for eligible employees to vary based on merit, seniority, or other factors determined by the provider. This section requires the ICF/MR adjustment to be determined based on the number of occupied beds, with any variable rate to be included in the payment rate for the purpose of determining the adjustment.

Section 2 modifies the rate adjustment for community services providers. It applies the rate increase to consumer-directed community supports provided under waivered services programs. It states that, for services funded through Minnesota disability health options, the rate increase applies to all Medical Assistance payments, including former Group Residential Housing supplementary rates. It also deletes the requirement that all employees must receive part of the adjustment and allows wage increases for eligible employees to vary based on merit, seniority, or other factors determined by the provider.

This legislation is effective the day following final enactment.

DG:rdr

Senators Lourey, Koering and Berglin introduced–

S.F. No. 2827: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; clarifying certain rate adjustments; amending Minnesota Statutes 2005 Supplement, section 256B.5012, subdivision 6; Laws 2005, First Special Session chapter 4, article 7, section 55.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2005 Supplement, section 256B.5012, subdivision 6, is amended to read:

Subd. 6. **ICF/MR rate increases October 1, 2005, and October 1, 2006.** (a) For the rate periods beginning October 1, 2005, and October 1, 2006, the commissioner shall make available to each facility reimbursed under this section an adjustment to the total operating payment rate of 2.2553 percent.

(b) 75 percent of the money resulting from the rate adjustment under paragraph (a) must be used to increase wages and benefits and pay associated costs for ~~all~~ employees, except for administrative and central office employees. 75 percent of the money received by a facility as a result of the rate adjustment provided in paragraph (a) must be used only for wage, benefit, and staff increases implemented on or after the effective date of the rate increase each year, and must not be used for increases implemented prior to that date. The wage adjustment eligible employees may receive may vary based on merit, seniority, or other factors determined by the provider.

(c) For each facility, the commissioner shall make available an adjustment, based on occupied beds, using the percentage specified in paragraph (a) multiplied by the total payment rate, including variable rate but excluding the property-related payment rate, in effect on the preceding day. The total payment rate shall include the adjustment provided in section 256B.501, subdivision 12.

(d) A facility whose payment rates are governed by closure agreements, receivership agreements, or Minnesota Rules, part 9553.0075, is not eligible for an adjustment otherwise granted under this subdivision.

(e) A facility may apply for the portion of the payment rate adjustment provided under paragraph (a) for employee wages and benefits and associated costs. The application must be made to the commissioner and contain a plan by which the facility will distribute the funds according to paragraph (b). For facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan. A negotiated agreement may constitute the plan only if the agreement is finalized after the date of enactment of all rate increases for the rate year. The commissioner shall review the plan to ensure that the payment rate adjustment per diem is used as provided in this subdivision. To be eligible, a facility must submit its plan by March 31, 2006, and December 31, 2006, respectively. If a facility's plan is effective for its employees after the first day of the applicable rate period that the funds are available, the payment rate adjustment per diem is effective the same date as its plan.

(f) A copy of the approved distribution plan must be made available to all employees by giving each employee a copy or by posting it in an area of the facility to which all employees have access. If an employee does not receive the wage and benefit adjustment described in the facility's approved plan and is unable to resolve the problem with the facility's management or through the employee's union representative, the employee may contact the commissioner at an address or telephone number provided by the commissioner and included in the approved plan.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Laws 2005, First Special Session chapter 4, article 7, section 55, is amended to read:

Sec. 55. **COMMUNITY SERVICES PROVIDER RATE INCREASES**

(a) The commissioner of human services shall increase reimbursement rates or rate limits, as applicable, by 2.2553 percent for the rate period beginning October 1, 2005, and the rate period beginning October 1, 2006, effective for services rendered on or after those dates.

(b) The 2.2553 percent annual rate increase described in this section must be provided to:

(1) home and community-based waivered services for persons with mental retardation or related conditions, including consumer directed community supports, under Minnesota Statutes, section 256B.501;

(2) home and community-based waivered services for the elderly under Minnesota Statutes, section 256B.0915;

(3) waivered services under community alternatives for disabled individuals under Minnesota Statutes, section 256B.49;

(4) community alternative care waivered services, including consumer directed community supports, under Minnesota Statutes, section 256B.49;

(5) traumatic brain injury waivered services, including consumer directed community supports, under Minnesota Statutes, section 256B.49;

(6) nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a;

(7) personal care services and nursing supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivision 19a;

(8) private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7;

(9) day training and habilitation services for adults with mental retardation or related conditions under Minnesota Statutes, sections 252.40 to 252.46;

(10) alternative care services under Minnesota Statutes, section 256B.0913;

(11) adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000;

(12) adult and family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760;

(13) the group residential housing supplementary service rate under Minnesota Statutes, section 256I.05, subdivision 1a;

(14) adult mental health integrated fund grants under Minnesota Statutes, section 245.4661;

(15) semi-independent living services under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter 256I;

(16) community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication;

(17) living skills training programs for persons with intractable epilepsy who need assistance in the transition to independent living;

(18) physical therapy services under sections 256B.0625, subdivision 8, and 256D.03, subdivision 4;

(19) occupational therapy services under sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4;

(20) speech-language therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0390; and

(21) respiratory therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295.

(c) For services funded through Minnesota disability health options, the rate increase under this section shall apply to all medical assistance payments, including former group residential housing supplementary rates under Minnesota Statutes, chapter 256I.

~~(c)~~ (d) Providers that receive a rate increase under this section shall use 75 percent of the additional revenue to increase wages and benefits and pay associated costs for ~~all~~ employees, except for management fees, the administrator, and central office staffs. The

wage adjustment eligible employees may receive may vary based on merit, seniority, or other factors determined by the provider.

~~(d)~~ (e) For public employees, the increase for wages and benefits for certain staff is available and pay rates shall be increased only to the extent that they comply with laws governing public employees collective bargaining. Money received by a provider for pay increases under this section may be used only for increases implemented on or after the first day of the rate period in which the increase is available and must not be used for increases implemented prior to that date.

~~(e)~~ (f) A copy of the provider's plan for complying with paragraph ~~(c)~~ (d) must be made available to all employees by giving each employee a copy or by posting a copy in an area of the provider's operation to which all employees have access. If an employee does not receive the adjustment, if any, described in the plan and is unable to resolve the problem with the provider, the employee may contact the employee's union representative. If the employee is not covered by a collective bargaining agreement, the employee may contact the commissioner at a telephone number provided by the commissioner and included in the provider's plan.

EFFECTIVE DATE. This section is effective the day following final enactment.

Senate Counsel, Research, and Fiscal Analysis

G-17 State Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
Jo Anne Zoff Sellner
Director

Senate

State of Minnesota

S.F. No. 2828 - Planning for Future of ICF/MR Services

Author: Senator Becky Lourey

Prepared by: David Giel, Senate Research (296-7178)

Date: April 3, 2006

S.F. No. 2828 requires the Department of Human Services (DHS), in consultation with various stakeholders, to develop a plan for future services for persons served in intermediate care facilities for persons with mental retardation (ICFs/MR).

The plan must be reported to the Legislature in 2007. In preparing the plan DHS must consider:

- consumer choice;
- consumers' service needs;
- the total cost of providing services in ICFs/MR and through alternative delivery methods;
- the impact of the payment shift to counties for ICFs/MR with more than six beds; and
- whether it is the policy of the state to maintain the ICF/MR system.

If alternative services are recommended, the plan must provide for transition planning and ensure adequate state and federal financial resources are available to meet the needs of ICF/MR residents.

DG:rdr

Senators Lourey, Koering, LeClair and Berglin introduced–

S.F. No. 2828: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; requiring an ICF/MR plan to develop a plan for future services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **ICF/MR PLAN.**

The commissioner of human services shall consult with ICF/MR providers, advocates, counties, and consumer families to develop a stakeholder plan and legislation concerning the future services provided to people served in ICFs/MR. The plan shall be reported to the house and senate committees with jurisdiction over health and human services policy and finance issues by January 15, 2007. In preparing the plan, the commissioner shall consider:

(1) consumer choice of services;

(2) consumers' service needs, including, but not limited to, active treatment;

(3) the total cost of providing services in ICFs/MR and alternative delivery systems for individuals currently residing in ICFs/MR;

(4) the impact of the payment shift to counties for ICFs/MR with more than six beds;

(5) whether it is the policy of the state to maintain an ICF/MR system and, if so, the plan shall:

(i) define the purpose, types of services, and intended recipients of ICF/MR services;

(ii) define the capacity needed to maintain ICF/MR services for designated populations;

(iii) evaluate incentives for counties to maintain ICF/MR services;

(iv) assure that mechanisms are provided to adequately fund the transition to the defined services, maintain the designated capacity, and are adjustable to meet increased service demands; and

(v) address the extent to which there is consensus among stakeholders; and

(6) if alternative services are recommended to support the people now receiving services in an ICF/MR, the plan shall provide for transition planning and ensure adequate state and federal financial resources are available to meet the needs of ICF/MR recipients.

EFFECTIVE DATE. This section is effective the day following final enactment.