

BILL ANALYSIS

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S.B. 728
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, an individual is prohibited from directly accessing a physical therapist. An individual may only access physical therapy through the referral of a physician, chiropractor, dentist, or podiatrist. Texas was ranked 47th in access to physician services in 2015. Average wait times to see a family practitioner in some areas, including urban settings like Houston, can be over two weeks. Forty-seven other states, including all of the states that border Texas, and the United States military, allow direct patient access to physical therapy services. Delays in access to physical therapy services delay patient recovery times and increase costs.

S.B. 728 allows physical therapists who have been licensed by the Texas Board of Physical Therapy Examiners (TBPTE) for at least one year, who are covered by professional liability insurance, and who possess a doctoral degree in physical therapy or have completed at least 30 hours of differential diagnosis training, to treat a patient for 30 days without a referral. Treatment exceeding the 30-day threshold would require a referral, and physical therapists treating outside of their scope of practice would be sanctioned by TBPTE. This change would allow Texans a physical health alternative that would lower costs, improve recovery times for low back pain and other musculoskeletal conditions, and reduce patient risk.

As proposed, S.B. 728 amends current law relating to the regulation of the practice of physical therapy.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Physical Therapy Examiners in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 453.301, Occupations Code, as follows:

Sec. 453.301. New heading: PRACTICE BY PHYSICAL THERAPIST. (a) Authorizes a physical therapist to treat a patient for an injury or condition in a manner described by Section 453.005 (Practice of Physical Therapy) without a referral, rather than for an injury or condition that was the subject of a prior referral, if the physical therapist:

- (1) makes no changes to this subdivision;
- (2) is covered by professional liability insurance in the minimum amount required by Texas Board of Physical Therapy Examiners (TBPTE) rule, rather than notifies the referring practitioner of the therapy not later than the fifth business day after the date therapy is begun; and
- (3) either:
 - (A) possess a doctoral degree in physical therapy from a program that is accredited by the Commission on Accreditation in Physical Therapy Education or from an institution that is accredited by an

agency or association recognized by the United States secretary of education; or

(B) has completed at least 30 hours of continuing competence activities in the area of differential diagnosis.

(a-1) Authorizes a physical therapist to treat a patient under Subsection (a) for not more than 30 consecutive calendar days, rather than begins any episode of treatment before the first anniversary of the referral by the referring practitioner. Deletes existing text authorizing a physical therapist to treat a patient under certain conditions if the physical therapist, for physical therapy episodes subsequent to the episode which was initiated by the referral, treats the patient for not more than 20 consecutive sessions or 30 consecutive calendar days, whichever is first. Deletes existing Subdivision (4).

(b) Requires the physical therapist to obtain a referral from a referring practitioner, rather than confer with the referring practitioner, before the physical therapist may continue treatment that exceeds treatment authorized under Subsection (a-1), rather than Subsection (a)(4).

SECTION 2. Amends Section 453.351(a), Occupations Code, as follows:

(a) Authorizes TBPTE to deny a license or suspend or revoke a license, place a license holder on probation, reprimand a license holder, impose an administrative penalty, or otherwise discipline a license holder if the applicant or license holder has:

(1) except as provided by Section 453.302 (Treating Patient Without Referral), provided care to a person outside the scope of the physical therapist's practice, rather than except as provided by Section 453.301 (Treating Patient Under Prior Referral) or 453.302, provided physical therapy to a person without a referral from a referring practitioner;

(2) to (10) Makes no changes to these subdivisions.

SECTION 3. Requires TBPTE, not later than November 1, 2017, to adopt rules necessary to implement Section 453.301, Occupations Code, as amended by this Act.

SECTION 4. Effective date: September 1, 2017.