

2013 HOUSE HUMAN SERVICES

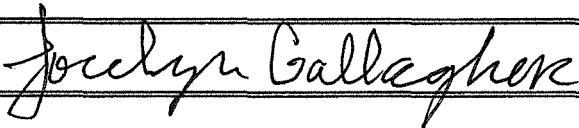
HB 1285

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1285
January 22, 2013
17531

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to physical therapy licensure and supervision of physical therapy assistance and declare an emergency.

Minutes:

attached testimony 1, 2

Chairman Weisz: Opened the hearing on HB 1285.

Jack McDonald: Appeared on behalf of the ND Board of Physical Therapy and the ND Physical Therapy Association: testified and supported the bill. (See Testimony #1)

Chairman Weisz: (2:36) Where is there any new language having to deal with assistants versus aides?

Jack McDonald: In the heading on line 3, on line 24 is where the word aide shows up.

Chairman Weisz: So you are just worried about the title?

Jack McDonald: Yes.

Rep. Fehr: I am wondering about line 24 where you changed onsite to direct supervision.

Jack McDonald: I'll defer to Professor Relling. IT is more of a terminology type of change onsite is direct right now; we want to make it clearer than what it is.

David Relling: A physical therapist, a faculty member of UND and a member of the ND Board of Physical Therapy: testified in support of the bill. (See Testimony #2) (5:10-8:14) Referring to Rep. Fehr's question. The difference between on-site and direct; direct requires the physical therapist to interact with that patient during that treatment episode. So the physical therapist has to be on site, have a direct interaction with that patient and be directly supervising the Physical Therapist aide. The two individuals that a Physical Therapist may supervise or direct patient care to would be a Physical Therapist assistant, who is a licensed practitioner and who has associates education or they may direct some of that care to the Physical Therapist aide who is just instructed by the Physical Therapist on how to perform those activities. So the direct supervision the board of Physical Therapy feels is appropriate for the individual who has less educational background.

Rep. Porter: (9:28) So each facility can have their own employment guidelines and operating procedures for how that aide functions inside of that facility, and you are taking away that flexibility with this?

David Relling: It is not taking away the ability of that individual to do other activities; the PT aide is only allowed to perform those activities that are deemed appropriate by the PT overseeing their practice. The confusion between on-site as defined in the practice act in our rules and regulations is that on-site does not require that PT to interact with that patient. A PT may delegate some aspect of treatment to the PT aide current on-site may not require that PT actually interact with that patient. The skills and training a PT aide would have, the board believes would not support that. There is a clarification in rules and regulations and also there's been posted by the board of PT that PT aides must have direct supervision. It is more of a clarification rather than removing any ability of that individual to perform things underneath their job description.

Rep. Porter: By changing it to direct, then PT aide can have no patient interaction without presence of a PT or PT assistant in the room or with the patient?

David Relling: I believe that would be incorrect. The direct supervision would be that the PT would have to be on-site immediately available and have interaction with that patient during that episode of care. The PT aide may be directed by the PT to interact with that patient in preparation activities directed by PT to provide some care but PT will need to follow up and interact with that patient on that date.

Chairman Weisz: You are saying they don't necessarily have to be in the same room.

David Relling: Correct, they do not have to be directly watching and overseeing them every minute.

Rep. Laning: Why wouldn't you want to leave the on-site there?

David Relling: From the boards perspective is that the individual could be utilized in an off-site situation where there not direct contact with a PT for that patient. So that PT aide because of their educational knowledge should not have interaction with patients unless the PT would also follow up with that care. The PT aide is not licensed. I could provide the specific definitions. Onsite supervision means the supervising PT is onsite and present in the facility where services are provided. Is immediately available to the person being supervised and maintains continued involvement and appropriate aspects of each treatment session in which supportive personnel are involved in components of care. Direct supervision means the PT is physically present on the premises and immediately available for direction and supervision. The PT will have direct contact with the patient during each visit. Telecommunications does not meet the requirements for direct supervision.

Rep. Fehr: What you just read, is that in your rules?

David Relling: The definition of on-site supervision is in Century Code 43-26.1-01 under definitions. And direct supervision is in rules and regulations Section 61.5-01-02-01 definitions. In the rules and regulation there is also Article 61.5-05, supervision of supportive personnel referring to PT aides.

Rep. Mooney: Line 8 on the first page, we keep referring to therapists aide, but here we have assistant again for consistency sake, would we not want to have aide there as well?

David Relling: The only two individuals who are licensed within the state are the PT and PT assistant, so this is correct.

Rep. Oversen: To clarify, so the only thing that is changing because previously the supervisor was present the entire time and still will be present, it's just that now at some instance even if it's for five minutes they will have contact with the patient, correct?

David Relling: You are correct. The physical therapist needs to have contact with that patient sometime during that care episode.

Rep. Oversen: No different if we are going to see a medical doctor and we assume we won't just see the nurse that day we will also see our doctor, correct?

David Relling: Correct.

Rep. Porter: By making this change are we creating a new billable situation for PT where there may not have been a bill in the past for a directed act of the aide, now that the PT has to actually see the patient?

David Relling: No, that person would have been billed for whatever services directed by that PT through the PT aide.

Rep. Porter: Is there an additional charge for seeing the PT or is it all inclusive of whatever the act the aide is performing is charged?

David Relling: The cost would be inclusive of the care provided from the physical therapist directed through either the PT assistant or PT aide. No additional cost because the patient would have seen the PT during that treatment session.

Chairman Weisz: Further support of HB 1285, any opposition of HB 1285? We will close the hearing on HB 1285.

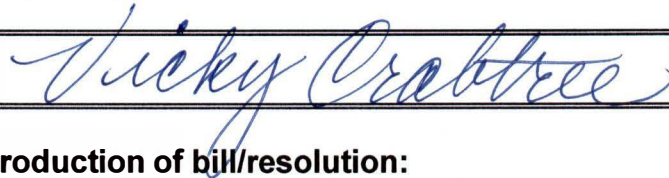
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee Fort Union Room, State Capitol

HB 1285
February 5, 2013
Job #18314

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to physical therapy licensure.

Minutes:

You may make reference to "attached testimony."

Chairman Weisz: We will look at HB 1285.

Rep. Porter: This brings does now bring the rule in line. The law cleans up the language that gave them the permission to do the rule in the first place. All of my questions and concerns got answered.

Rep. Porter: I move a Do Pass on HB 1285.

Rep. Fehr: Second.

ROLL CALL VOTE: 12 y 0 n 1 absent

Bill Carrier: Rep. Anderson

Date: 2-5-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1285

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. PORTER Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	A				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. ANDERSON

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1285: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS**
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1285 was placed on the
Eleventh order on the calendar.

2013 SENATE HUMAN SERVICES

HB 1285

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

HB 1285
3/6/2013
19502

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to physical therapy licensure and supervision of physical therapy assistance

Minutes:

See "attached testimony."

Chairwoman J. Lee opens the testimony for HB 1285

(0:00:47) Jack McDonald testifies in support of BH 1285 See Attachment #1

There is no other testimony

Sen. Dever motions for Do Pass

Sen. Larsen Seconds

Do Pass 5-0-0

Sen. Larsen will carry to the floor.

Date: 3-6-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1285

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen Dever Seconded By Sen. Larsen

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment Sen. Larsen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1285: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1285 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1285

#1

Monday, January 22, 2013

HOUSE HUMAN SERVICES COMMITTEE HB 1285

CHAIRMAN WEISZ AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of North Dakota Board of Physical Therapy and the North Dakota Physical Therapy Association. We strongly **support** HB 1285 and urge a **do pass** with just one, teensy little amendment listed below.

This bill will be explained by Prof. David Reiling from the Department of Physical Therapy at the University of North Dakota School of Medicine. The emergency clause is needed since we need to have this change in place this Spring to allow North Dakota physical therapy students from the University of North Dakota and the University of Mary to take the national examination this year without delay.

The amendment concerns the bill's heading. It inadvertently refers to physical therapy assistants instead of physical therapy aides.

We respectfully request that you amend this bill and then give it a unanimous DO PASS. If you have any questions, I will be happy to try to answer them.

THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1285

Page 1, line 3, overstrike "assistants" and insert immediately thereafter "aides"

Renumber accordingly

#2
1/22/2013

RE: HB 1285

Dear Committee Members:

My name is David Relling and I am a physical therapist, a faculty member at the University of North Dakota, a member of the North Dakota Board of Physical Therapy, and a member of the Board of Directors for the Federation of State Boards of Physical Therapy (FSBPT). I am here today to represent the North Dakota Board of Physical Therapy in regards to HB 1285. I will provide a brief overview of the proposed amendments and address any questions or concerns from the committee.

The first proposed amendment in HB 1285 allows the ND Board of Physical Therapy to receive applications and approve candidates to sit for the "examination approved by the board" prior to graduation from an accredited physical therapy educational program. It is important to note that this change does not alter the overall requirements for obtaining licensure as a physical therapist or physical therapist assistant. However, the change will provide flexibility for submission of the required materials. The examinations approved by the board of physical therapy are the National Physical Therapy Examination (NPTE) for Physical Therapists (PT) or Physical Therapist Assistants (PTA). These examinations are developed and administered by the Federation of State Boards of Physical Therapy (FSBPT), a national organization of physical therapy regulatory boards dedicated to protection of the public. During the past two years, the NPTE changed from continuously available administration to a limited testing availability of four times per year. The altered test availability and resulting examination registration deadlines have delayed licensure of PT's and PTA's given the current ND Century Code. The amended bill should neutralize the effect of decreased test availability on the licensure process without altering the requirements for licensure.

The second proposed amendment clarifies the supervision of a physical therapy aide. A physical therapy aide is a person trained under the direction of a physical therapist to perform designated and supervised routine tasks related to physical therapy. The Board of Physical Therapy convened a task force in April 2011 to share and clarify the board's interpretation of regulations related to supervision of supportive personnel. The ND Board of Physical Therapy recommends "direct" supervision for PT aides thereby providing closer supervision for the PT aide.

Wednesday, January 23, 2013

SENATE HUMAN SERVICES COMMITTEE HB 1285

SENATOR LEE AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of North Dakota Board of Physical Therapy. We strongly support HB 1285 and urge a **do pass**.

This bill does two things. First, on page one, lines 7 & 8, this change allows the Board to receive applications and approve students to take the national physical therapy examination prior to graduation. The national testing board recently decided to limit the examination times to just four times a year instead of monthly. This change allows North Dakota physical therapy students to apply for and get approved to take the test prior to graduation. They will still have to graduate before taking the exam, but this will eliminate a long delay between graduation and taking the exam.

The second change, on line 24 on page one, and line one on page two, corrects a mistake the board's counsel and lobbyist made when the practice act was substantially revised in 2005. The intent of the 2005 changes was to change the supervision of physical therapy aides to require that a physical therapist have direct contact with the patient during each visit, rather than simply be present on the premises and available for consultation. It was felt this direct supervision would be in the patient's best interests. This is reflected in the subsequent rule changes attached that show that physical therapy aides must work under the direct supervision of a physical therapist.

However, the language on page one, line 24, was inadvertently not changed in 2005. Physical therapists, physical therapy aides and all medical institutions have been following the direct supervision provisions since 2005.

The bill contains an emergency clause because the law needs to be changed by March 18th so applications can be processed and the graduates can take the exam shortly after May graduation. Otherwise, they would have to wait until next fall to take the exam.

We respectfully request that you give this bill a unanimous DO PASS. If you have any questions, I will be happy to try to answer them.

THANK YOU FOR YOUR TIME AND CONSIDERATION.

physical therapist assistant visit to the patient. The physical therapist must complete the initial evaluation.

d. At least once every sixth physical therapist assistant visit or at least once every thirty calendar days, whichever occurs first, the physical therapist must visit the patient. Following each onsite visit by a physical therapist, the medical/education record must reflect a documented conference with the physical therapist assistant outlining treatment goals and program modification. The physical therapist must make the final visit to terminate the plan of care.

e. A supervisory onsite visit must include:

(1) An onsite functional assessment.

(2) Review of activities with appropriate revisions or termination of plan of care.

(3) Assessment of utilization of outside resources.

3. Service in hospitals or other clinical settings require constant onsite supervision.

a. All duties must conform with section 61.5-05-01-01.

b. A joint treatment with the physical therapist and physical therapist assistant or after a direct treatment by the physical therapist with a conference between the physical therapist and physical therapist assistant must occur at least once per week.


History: Effective December 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(6), 43-26.1-11, 43-26.1-13(7)

61.5-05-01-03. Athletic trainers. Repealed effective July 1, 2004.

 **61.5-05-01-04. Physical therapy aides.** The physical therapy aide may assist the physical therapist in the following activities:

1. Carry out established procedures for the care of equipment and supplies.
 2. Prepare, maintain, and clean up treatment areas and maintain a supportive area.
 3. Transport patients, records, equipment, and supplies in accordance with established policies and procedures.
 4. Assemble and disassemble equipment and accessories.
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5. Under the direct supervision of a physical therapist, assist in preparation for and perform routine tasks as assigned.

History: Effective December 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(8), 43-26.1-11, 43-26.1-13(7)

61.5-05-01-05. Supervision ratios. A physical therapist, at any one time, may supervise a maximum of three supportive personnel if no more than two are physical therapist assistants.

History: Effective December 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(7), 43-26.1-11, 43-26.1-13(7)

61.5-05-01-06. Supportive personnel identification. All supportive personnel shall wear an identification badge identifying them as a physical therapist assistant or physical therapy aide, or as appropriate. Supportive personnel shall not use any term that implies they are licensed physical therapists.

History: Effective December 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(6), 43-26.1-01(8), 43-26.1-11, 43-26.1-13(7)