

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

LRB-0750/P2dn  
MDK:kmg:kjf

January 14, 2001

Senator Chvala:

Please review this version of the draft, which is based on instructions received from Ron Hermes, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. This draft does not require a physical therapist or physical therapist assistant to use the initials "P.T." or "P.T.A." in connection with the person's name or place of business. I understand that you want to create a consistent nationwide standard, but the draft accomplishes that purpose by allowing only persons who are licensed to use the designated initials. The same is true for nurses, physicians, and doctors of osteopathy. Under current law, a registered nurse, physician or osteopath is not required to append the initials "R.N.," "M.D.," or "D.O." to his or her name. Instead, only a registered nurse, physician, or osteopath is allowed to do so. See ss. 441.06 (2) and 448.03 (3) (a) and (b), stats. In addition, the command to require using the initials in connection with a name is incredibly broad. Do you really want to require use of the initials every time that a physical therapist uses his or her name? Perhaps your concerns may be satisfied by requiring the affiliated credentialing board to promulgate rules that specify the work-related instances in which the initials must be used.

2. I understand that you want to prohibit persons, such as athletic trainers, from claiming to provide physical therapy. This is already prohibited under current law. Under s. 448.51 (2) (b), stats., no person, except, under certain conditions, a chiropractor, may claim to render physical therapy or physiotherapy services without a physical therapist license. Therefore, I don't think any changes are necessary to accomplish your purpose. Nevertheless, if you have concerns about athletic trainers, you may want to consider adding language that specifically prohibits an athletic trainer who is licensed under subch. VI of ch. 448 from claiming to render physical therapy. Alternatively, if the problem is that athletic trainers or others are arguing that they are practicing physical therapy, but not treating the sick, you may want to consider deleting from the definition of physical therapy the component that it is a branch or system of treating the sick. However, because it seems to be such a basic component, I am reluctant to eliminate it without further guidance from you.

3. Proposed s. 448.56 (6) is revised to require that a physical therapist assistant assist under the "general supervision" of a physical therapist. Note also that, as under

current law, the affiliated credentialing board must promulgate rules defining “general supervision.” Is this okay?

4. Proposed s. 448.55 (3) requires, instead of allows, the affiliated credentialing board to promulgate rules on demonstrating continuing competence. You may also want to consider adding a deadline on submitting the rules to the legislative council staff, or requiring the affiliated credentialing board to promulgate emergency rules that may go into effect while rule making is proceeding on the proposed rules.

5. I included the additional requested initials in proposed s. 448.51 (1e), as well as the titles for which the initials stand. Without the titles, the draft would be confusing because I don’t think the average reader would know what the initials mean.

6. Please advise whether you want to add any physical therapist assistants to the affiliated credentialing board. (The instructions indicate a need to do more research on this point.)

7. I did not delete “only” from s. 448.56 (1), stats., because I don’t know what you are trying to accomplish. If you want to delete “only,” then you should instead repeal the provision in its entirety. By deleting “only,” the provision allows, but does not require, a written referral for a person to practice. Therefore, a person could also practice without a written referral, and the rest of the provision doesn’t make any sense.

8. It would create confusion to refer to clients, in addition to patients, in the following provisions, so I have not referred to clients in them: s. 448.50 (4) (a), which defines “testing” to include gathering information about a patient, s. 448.50 (4) (b), which refers to instructing patients, ss. 448.50 (5) and 448.57 (2) (fm), which prohibit sexual misconduct with a patient, s. 448.56 (1) (a), which refers to providing services to a patient in a nursing home pursuant to the patient’s plan of care, s. 448.56 (1) (b), which refers to referring a patient to an appropriate health care practitioner if physical therapy is contraindicated, etc., s. 448.56 (4), which makes a physical therapist responsible for managing all aspects of the physical therapy care of each patient, s. 448.56 (5), which requires a physical therapist to maintain records for each patient examined or treated. Unless you can explain why, it doesn’t make sense to me to also refer to clients in the foregoing provisions.

9. I didn’t refer to clients in s. 448.51 (2) (c) 2. b., because it refers to patients and prospective patients of chiropractors.

10. It isn’t necessary to refer to clients in s. 448.50 (6), which refers to individuals involved in a patient’s care, which I assume refers to the same type of individuals as clients.

11. I did add a reference to “client” in s. 448.51 (2) (a), which is amended to exclude from the definition of “advertisement” material mailed to a patient, client, or prospective patient or client.

12. Other than the references described above, there are no other references to patients in subch. III of ch. 448.

13. Please review the “grandfather” provision in the nonstatutory section of the draft. Under this provision, a person who has practiced for 2 out of the last 5 years as a

physical therapist assistant can get a license without satisfying the arrest or conviction requirement and without passing an examination. (I'm assuming that the education requirement under the draft is comparable to that under current law.) Of course, you can structure this provision differently, depending on your intent. What I need to know is: 1) what requirements do you want to waive for people who are currently acting as physical therapist assistants; and 2) what evidence must they submit to show that they are currently acting as physical therapist assistants? For example, how long must they have acted as a physical therapist assistant?

14. I think a delayed effective date is necessary if you are going to use a grandfather provision. The reason is that you need some lag time to allow people to come into compliance with the draft's new requirements. Otherwise, you could potentially immediately prohibit a person from earning a livelihood as a physical therapist assistant. Please let me know whether the delayed effective date is okay.

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