

Oregon Insurance Division

Memorandum

COPY

Date: September 20, 1995

To: Joel S Ario
Manager, Consumer Protection Section

From: Mitchel D Curzon
Administrative Law Specialist
Consumer Protection Section

Subject: ORS 688.132(2)
Our File No. 61549 DK

You asked me to review the floor debates of HB 2549 §4(2), which became ORS 688.132(2), to determine whether there was any evidence that chiropractors were intended to be included in the list therein of health care providers.

I did not find any evidence of such conclusion.

However, I did find the following evidence of the opposite conclusion, substantiating the conclusion in my March 7, 1995 memo to Mary Alice Bjork.

I again listened to the tape of the hearing of HB 2549 held on June 3, 1993, before the Senate Committee on Health Care and Bio-Ethics. *See tape 96 side A, meter reading beginning @ 79.*

The Committee was considering whether to adopt the -A21 amendments to the A-Engrossed version of HB 2549. The -A21 amendments proposed to insert chiropractors in §1(1)(b)[ORS 688.130(1)(b)] and §4(1)[ORS 688.132(1)], and delete §4(3). These amendments did not propose to change §4(2). The changes to §1(1)(b) and §4(1) were proposed by the Oregon Chiropractors Association. The changes to §4(3) were proposed by Blue Cross Blue Shield and maybe also the State Farm Group of Insurance Companies.

At the request of Senator Dick Shoemaker, Chairman of the Committee, Barbara Coombs, Administrator of the Committee, reviewed the -A21 amendments. The Committee adjourned to go to a "call" of the Senate.

After the Committee reconvened, Ms Coombs resumed by stating "you [Senator Shoemaker] had asked if on page 3, line 14, if the chiropractor was specifically omitted from that list of practitioners from PIP coverage; and

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Re: ORS 688.132(2)

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yes it is specifically omitted." From the way Ms Coombs answered, it sounded to me that she had conferred with another person immediately before answering the Senator's question.

Senator Shoemaker acknowledged Ms Coomb's answer by saying "OK" and moved to adopt the -A21 amendments.

However, before voting on the motion, Senator Bill McCoy asked what do the amendments do? Senator Shoemaker answered by saying the amendments proposed to insert chiropractors in §1(1)(b) and §4(1), and delete §4(3).

Another member of the Committee asked why §4(3) was proposed to be deleted?

John Powell, representing Blue Cross Blue Shield of Oregon, said:

The deletion of sub 3 is uh necessary because current practice in health insurance is to make uh the matter contractual. And, so it is not necessary to have this provision [§4(3)] in the law [HB 2549]. And the reason for that is that the PIP statute simply refers to medical services period. And it requires the automobile insurer to pay for all medical services. And uh as a result uh the physical therapists and the automobile insurers agree that if somebody's been in an automobile accident that they should be referred by a physician. So it is necessary to have sub 2 which refers to automobile uh PIP coverages to have uh people referred by a physician to a physical therapist in that case. In the health insurance uh situation, who we pay uh is a, is a matter of, of contract and there is no statutory requirement that we pay a physical therapist.

Thus, as Mr Powell explained, §4(2) was necessary to preserve the current practice of automobile insurers determining by contract whether to exclude or limit payment for physical therapy because without it ORS 742.520 *et seq.* would require automobile insurers to pay for such treatment. See my memo to Mary Alice Bjork dated March 7, 1995, page 2.

The Committee passed the motion to adopt the -A21 amendments to the A-Engrossed version of HB 2549.

Also, I listened for the first time to the tapes of the floor debates of HB 2549 before the House, the Senate and then again the House. See *House, May 6, 1993, tape 82 side A, meter reading beginning @ 229, and tape 81 side B beginning @ 000; Senate, June 15, 1993, tape 131 side A, meter reading beginning @ 124; House, June 16, 1993, tape 126 side A, meter reading beginning @ 054.* During the first House and

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the Senate floor debates, the legislators focused on the purpose of the bill to provide patients with "direct access" to physical therapists. They did not explain the details of the bill. During the second House floor debate, Representative Ford recommended that the House concur in the Senate's -A21 amendments described above by explaining:

The amendment of the Senate adds chiropractors to the list of providers that can refer patients to physical therapists and whom physical therapists can refer patients to . This has been the current practice but was not in the bill. **It also clarifies that there is no insurance reimbursement unless it is a matter of contract.** It is just a clarifying amendment. (Emphasis added).

Representative Ford's explanation before the full House is consistent with John Powell's explanation before the Senate's committee.

The House voted to concur in the Senate's action.

In conclusion, I believe the legislative history of HB 2549 clearly indicates that the legislature intended that although patients should generally be permitted more direct access to physical therapists, insurers should be free to determine by contract if and under what conditions they will pay for such therapy. Furthermore, the legislature intended that although chiropractors could refer patients to physical therapists and physical therapists could refer patients to chiropractors, insurers did not have to pay for such therapy.

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STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

MEMORANDUM

DATE: March 7, 1995
TO: Mary Alice Bjork, CIE, CPIW, CPCU
Administrator
FROM: Mitchel D. Curzon
Administrative Law Specialist
Consumer Services and Enforcement Section
RE: ORS 688.132(2)
Our File 61549 DK

You asked me to review the legislative history of ORS 688.132(2) to determine whether an automobile insurer providing personal injury protection (PIP) benefits under ORS 742.520 et seq. may refuse to pay for physical therapy treatment to a claimant when the claimant was referred to the licensed physical therapist by a chiropractor.

The answer is yes.

ORS 688.132(2) states:

Notwithstanding any provision of ORS 742.520 to 742.542, personal injury protection benefits are not required to be paid for physical therapy treatment of a person covered by the applicable insurance policy unless the person is referred to the physical therapist by a licensed physician, podiatrist, dentist, physician's assistant or nurse practitioner.

ORS 688.132(2) was enacted in 1993 (1993 Or Laws Chapter 211 Section 4(2)) as part of House Bill 2549.

Before HB 2549, ORS 688.130 permitted a licensed physical therapist to provide physical therapy if a medical doctor, osteopathic physician, podiatrist, dentist, physician's assistant or nurse practitioner referred the patient to the physical therapist. Chiropractors were not included expressly or implicitly in the list of referring health care providers.

HB 2549 was sponsored by the Oregon Physical Therapists Association, through its lobbyist Stephen Kafoury. HB 2549 proposed to eliminate the referral requirement in all cases. However, other health care providers objected and proposed numerous amendments. The interested parties compromised by agreeing to adopt some of the amendments.

One of the amendments adopted was proposed by Representative Mary Alice Ford, Chairperson of the House Human Development Services Committee which

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was hearing the bill. The amendment was, but for a irrelevant later amendment, the same as what is now ORS 688.132(2). The purpose of the amendment was to make sure the bill did not affect PIP benefits. The result was that automobile insurers could continue to require referral from the list of specified health care providers in all cases. Again, the list did not include chiropractors.

HB 2549 A-Engrossed, as amended, generally did not require referral. However, in some circumstances, including PIP claims, referral was required from the same list of specified health care providers. Again, the list did not include chiropractors.

In the Senate, the bill was further amended by an amendment sponsored by the Oregon Chiropractors Association, through its lobbyist Chuck Bennett. The amendment ADDED chiropractors to the list in ORS 688.130(1)(b) and to the list in ORS 688.132(1) but NOT to the list in ORS 688.132(2). The purpose of the amendment was to ADD chiropractors to the list of health care providers who can refer patients to physical therapists and to whom physical therapists shall refer patients. Mr Bennett intentionally did not add chiropractors to the list of health care providers who must refer a PIP claimant to a physical therapist before the insurer is required to pay for the physical therapy. Mr Bennett did this because the insurer lobbyists said they would not support the bill if he did.

After reviewing the bill file, committee minutes and listening to selected tapes of committee hearings, I telephoned former Representative Ford, Mr Bennett and Mr Kafoury and discussed their recollection of this matter. Their recollection confirms my conclusions.

Based on my research, I believe that the Legislature did not intend the term "physician", used by itself, in ORS 688.130 and 688.132 to include chiropractic physicians.

Therefore, it is my opinion that an automobile insurer providing personal injury protection (PIP) benefits under ORS 742.520 et seq. may refuse to pay for physical therapy treatment to a claimant when the claimant was referred to the licensed physical therapist by a chiropractor.

However, whether an insurer can do this may depend on whether the insurer's policy excludes payment for physical therapy when referred by a chiropractor. In this matter, I do not know whether the insurer's policy provides such an exclusion.

INS/18103

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

MEMORANDUM

DATE: February 24, 1995
TO: File
FROM: Mitchel D. Curzon
Administrative Law Specialist
Consumer Services and Enforcement Section
RE: ORS 688.132(2)
Telephone Conversation with Mary Alice Ford

Yesterday, I called former state representative Mary Alice Ford, 6620 SW Hickman Lane, Portland OR 97223, 1-503-246-6360 and asked her about HB 2549 (1993). HB 2549 was referred to the House Human Development Services Committee of which she was the Chairman. She also proposed an amendment on February 25, 1993 (-7, Exhibit K) which was adopted on March 11, 1993 (-7, Exhibit D) which added ORS 688.132(2).

Ms Ford said that her recollection about the Bill in general is that both the sponsoring Oregon Physical Therapists Association and the Committee initially intended the Bill to exclude Chiropractors in the list of health care providers that may refer patients to a licensed Physical Therapist and the list of health care providers that a licensed Physical Therapist must refer a patient to. The Committee agreed with the Oregon Physical Therapists Association that consumers needed to have direct access to Physical Therapists but the other health care professions wanted to control such access by requiring referral. As far as I know, the Oregon Chiropractors Association participated in the hearings and even in some of the amendments proposed by other interested parties from the beginning. The Committee and interested parties compromised by permitting access without referral in some cases and permitting access with referral in other cases. The Committee did not want to "bog down" the Bill by including Chiropractors in the Bill. Thus, the Committee did not intend the term "physician" used in the Bill to include Chiropractors.

Ms Ford also said that her recollection about her amendment is that she intended that automobile insurers continue to be permitted to require a claimant be referred to a licensed Physical Therapist by a health care provider.

After the Committee and full House passed the Bill, it was referred to the Senate Health Care & Bio-Ethics Committee. Chuck Bennett, representing the Oregon Chiropractors Association, proposed an amendment on May 25, 1993 (A Engrossed -20, Exhibit I) which was adopted on June 3, 1993 (A Engrossed -21, Exhibit B). The amendment included Chiropractors in the list in ORS 688.130(1)(b) and 688.132(1) but did not include it in ORS 688.132(2). The question is why?

INS/18083

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

MEMORANDUM

DATE: February 24, 1995
TO: File
FROM: Mitchel D. Curzon
Administrative Law Specialist
Consumer Services and Enforcement Section
RE: ORS 688.132(2)
Telephone Conversation with Chuck Bennett

Today, I called Chuck Bennett, 1504B Jefferson Street NE, Salem OR 97303, 362-6617 and asked him about HB 2549 (1993). Mr Bennett, representing the Oregon Chiropractors Association, proposed an amendment to HB 2449 on May 25, 1993 (A Engrossed -20, Exhibit I) which was adopted on June 3, 1993 (A Engrossed -21, Exhibit B). The amendment included Chiropractors in the list in ORS 688.130(1)(b) and 688.132(1) but did not include it in ORS 688.132(2). The question is why?

Mr Bennett said his recollection about the amendment is that he intended not to include Chiropractors in the list in ORS 688.132(2) because the insurer lobbyists told him they would oppose the Bill if he made any changes affecting automobile insurance. Because it was late in the session and they had not reviewed such the possible change with their clients and analyzed the impact on rates and change of policy forms, the insurer lobbyists were not prepared to suport the bill if HB 2549 section 4(2) was changed.

Thus, Mr Bennett intended to not include Chiropractors in the list in ORS 688.132(2).

INS/18095

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

MEMORANDUM

DATE: February 24, 1995
TO: File
FROM: Mitchel D. Curzon
Administrative Law Specialist
Consumer Services and Enforcement Section
RE: ORS 688.132(2)
Telephone Conversation with Stephen Kafoury

Today, I called Stephen Kafoury, 1207 SW Sixth Avenue, Portland OR 97204, 1-503-223-2330 and asked him about HB 2549 (1993). Mr Kafoury, representing the Oregon Physical Therapists Association, sponsored HB 2449.

Mr Kafoury was aware of and consented to the amendments proposed by Mary Alice Ford and Chuck Bennett.

Mr Kafoury said his recollection about Ms Ford's amendment is that the automobile insurers did not want claimants to have direct access to Physical Therapists but to continue to be referred by a health care provider.

INS/18102

SIXTY-SEVENTH LEGISLATIVE ASSEMBLY - 1993 REGULAR SESSION

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MAE YIH, President Pro Tempore
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* Appointed as Majority Whip 3/22/93
** Resigned as Majority Whip 3/19/93

* Resigned as Republican Leader 8/2/93
** Elected Republican Leader 8/3/93

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KAREN BAKKEN, Calendar Composer

CATHY DAY, Journal Editor
KEVIN TOLL, Reading Clerk

* Resigned 3/5/93

CERTIFICATE OF APPROVAL

We, the undersigned, having supervised the revision of the Journal and Calendar of the Senate covering the Regular Session of the Sixty-seventh Legislative Assembly, hereby certify that such Journal and Calendar are correct to the best of our information and belief.

Dated at Salem the 15th day of January 1994.

BILL BRADBURY
President of the Senate

DONNA MERRILL
Secretary of the Senate

- 1-22(H) First reading. Referred to Speaker's desk.
 1-25 Referred to General Government with subsequent referral to Ways and Means.
 3-2 Assigned to Subcommittee on Transportation.
 8-5 In committee upon adjournment.

Appropriates moneys from General Fund to Director of Veterans' Affairs for purpose of obtaining federal moneys to establish Oregon Veterans Home.

Requires reversion of appropriation to General Fund if director certifies that facility is not feasible or that federal moneys are not available.

Requires legislative approval prior to any additional expenditure of state moneys for Oregon Veterans Home.

HB 2545 Introduced and printed pursuant to House Rule 13.01 (at the request of Byron F. Beaulieu, Detective Supervisor, Winston Police Department) -- Relating to crime.

- 1-22(H) First reading. Referred to Speaker's desk.
 1-25 Referred to Judiciary.
 2-15 Assigned to Subcommittee on Crime and Corrections.
 2-18 Public Hearing and Work Session held.
 3-3 Work Session held.
 Returned to Full Committee.
 3-15 Work Session held.
 3-19 Recommendation: Do pass with amendments and be printed A-Engrossed.
 3-23 Second reading.
 3-24 Third reading. Carried by Tarno. Passed.
 Ayes, 55 --Excused, 5--Dominy, Markham, Meek, Peterson, Shiprack.
 3-26(S) First reading. Referred to President's desk.
 3-30 Referred to Judiciary.
 6-18 Public Hearing and Work Session held.
 6-23 Recommendation: Do pass the A-Eng. bill.
 Second reading.
 6-24 Third reading. Carried by Hamby. Passed.
 Ayes, 28 --Attending Legislative Business, 2---Dukes, Roberts.
 Lim changed from nay to aye by unanimous consent.
 6-30(H) Speaker signed.
 6-30(S) President signed.
 7-8(H) Governor signed.
 (Chapter 301, 1993 Session Laws) Effective date: November 4, 1993.

Extends protection from certain evidence to victim of sexual abuse in first degree.

Adds sexual abuse in first degree to provisions for mandatory probation, mandatory post-prison supervision and mandatory blood test. Applies provisions for mandatory blood test retroactively to anyone convicted of sexual abuse in first degree on or after September 29, 1991.

Includes reference to sexual abuse in first degree in statutes relating to qualifications for certain occupations.

HB 2546 Introduced and printed pursuant to House Rule 13.01 -- Relating to public employees.

- 1-22(H) First reading. Referred to Speaker's desk.
 1-25 Referred to Commerce.
 2-4 Assigned to Subcommittee on Labor.
 8-5 In committee upon adjournment.

Limits annual percentage increase in public employer compensation to average annual increase in private sector. Requires decrease in public employer compensation if decrease in private sector compensation.

Specifies mode of calculation.

Requires Executive Department to implement reporting requirements.

Specifies Act not applicable to collective bargaining agreements in effect on effective date. Requires compliance with Act in collective bargaining agreements entered into after effective date.

HB 2547 Introduced and printed pursuant to House Rule 13.01 -- Relating to public employee retirement.

- 1-25(H) First reading. Referred to Speaker's desk.
 1-26 Referred to Commerce.
 2-4 Assigned to Subcommittee on Labor.
 8-5 In committee upon adjournment.

Allows employees of Oregon nonprofit corporation engaged solely in providing legal services to indigent defendants to elect to become members of Public Employees' Retirement System. Specifies that employee electing membership authorizes salary deduction in amount necessary to pay both employee and employer contributions on behalf of that employee. Provides that election is nonrevocable.

HB 2548 Introduced and printed pursuant to House Rule 13.01 -- Relating to certain public expenditures.

- 1-22(H) First reading. Referred to Speaker's desk.
 1-25 Referred to Legislative Rules and Reorganization.
 2-1 Public Hearing held.
 8-5 In committee upon adjournment.

Prohibits public agency from paying professional membership fees or dues for public employees unless part of written employment agreement.

HB 2549 Introduced and printed pursuant to House Rule 13.01 -- Relating to physical therapy.

- 1-25(H) First reading. Referred to Speaker's desk.
 1-26 Referred to Human Development Services.
 2-2 Public Hearing held.
 2-25 Work Session held.
 3-11 Work Session held.
 4-23 Work Session held.
 4-29 Recommendation: Do pass with amendments and be printed A-Engrossed.
 5-4 Second reading.
 5-6 Third reading. Carried by Meek. Passed.
 Ayes, 49 --Nays, 9, Edmunson, Hayden, Johnson, Jones, D.E., Josi, Norris, Shiprack, Sowa, Whitty, Excused, 1--Mannix.
 5-7(S) First reading. Referred to President's desk.
 5-11 Referred to Health Care and Bio-Ethics.
 5-25 Public Hearing held.
 6-3 Work Session held.
 6-9 Recommendation: Do pass with amendments to the A-Eng. bill. (Printed B-Eng.)
 Second reading.
 6-10 Carried over to 06-14 by unanimous consent.
 6-11 Carried over to 06-15 by unanimous consent.
 6-14 Third reading. Carried by Hamby. Passed.
 Ayes, 25 --Nays, 1, Adams, Excused, 1--McCoy, Attending Legislative Business, 3---Dwyer, Gold, Springer.
 6-16(H) House concurred in Senate amendments and repassed measure.
 Ayes, 41 --Nays, 8, Derfler, Johnson, Jones, D.E., Josi, Norris, Oakley, Repine, Shiprack, Excused, 1--Mason, Excused for business of the House, 10---Adams, Brian, Burton, Carter, Federici, Girod, Jones, D., Schoon, Shibley, Whitty.
 6-21 Speaker signed.
 6-23(S) President signed.
 7-1(H) Governor signed.
 (Chapter 211, 1993 Session Laws) Effective date: November 4, 1993.

Authorizes licensed physical therapist to administer therapy to patient after evaluation of dysfunction using recognized evaluative physical therapy tests and either diagnosis or referral by physician, physician assistant, chiropractic physician, podiatrist, nurse practitioner or dentist. Authorizes diagnosis or referral from practitioner licensed in another state. Requires therapist to refer person to physician, podiatrist, physician assistant, chiropractic physician, dentist or nurse practitioner if

Listing of Legislative Records in the
Oregon State Archives pertaining to:

House Bill 2549 , 1993
relating to physical
therapy.

HOUSE HUMAN DEVELOPMENT SERVICES COMMITTEE MINUTES:

- 3 February 2: p. 2 - 4 (Also on audio tape 23,
side A, 063 - 400; tape 24,
side A, 010 - 300; tape 23,
side B, 025 - 310; tape 24,
side B, 010 -320; tape 25,
side A, 010 - 270)
- February 25: p. 3 - 4 (Also on audio tape 56,
side A, 248 - 312; tape 55,
side B, 040 - 285; tape 56,
side B, 045 - 144; tape 57,
side A, 184 - 212)
- 4 March 11: p. 1 - 4 (Also on audio tape 84,
side A, 015 - 307; tape 85,
side A, 045 - 247; tape 84,
side B, 001 - 028)
- April 23: p. 1 - 2 (Also on audio tape 147,
side A, 001 - ?)

EXHIBIT FILE CONTAINS:

1. EXH A: Testimony of S. Kafoury (2/2). 7 pages.
2. EXH B: Testimony of S. Kafoury (2/2). 1 page.
3. EXH C: Testimony of Oregon Medical Association (2/2). 7 pages.
4. EXH D: Testimony of D. Banaitus (2/2). 13 pages.
5. EXH E: Testimony of D. Banaitus (2/2). 13 pages.
6. EXH F: Testimony of P. Anet (2/2). 3 pages.
7. EXH G: Testimony of M. Casey (2/2). 6 pages.
8. EXH H: Testimony of M. Casey (2/2). 2 pages.
9. EXH I: Testimony of J. Myers (2/2). 1 page.
10. EXH J: Testimony of P. Conklin (2/2). 57 pages.
11. EXH K: Testimony of D. Jones (2/2). 3 pages.

continued

12. EXH E: Summary of amendments - staff (2/25). 2 pages.
13. EXH F: Proposed amendments - OMA Chiro Assoc (2/25). 1 page.
14. EXH G: Proposed amendments - OMA Chiro Assoc (2/25). 2 pages.
15. EXH H: Proposed amendments - OMA Chiro Assoc (2/25). 1 page.
16. EXH I: Proposed amendments - OMA Chiro Assoc (2/25). 1 page.
17. EXH J: Proposed amendments - OMA Chiro Assoc (2/25). 1 page.
18. EXH L: Proposed amendments - ODA (2/25). 1 page.
19. EXH M: Proposed amendments - OPTA (2/25). 4 pages.
20. EXH N: Testimony - OMA (2/25). 1 page.
21. EXH O: Testimony - OMA (2/25). 2 pages.
22. EXH A: Amendments - staff (3/11). 4 pages.
23. EXH B: Amendments - staff (3/11). 1 page.
24. EXH C: Amendments - staff (3/11). 1 page.
25. EXH D: Amendments - staff (3/11). 1 page.
26. EXH E: Amendments - staff (3/11). 1 page.
27. EXH F: Amendments - staff (3/11). 1 page.
28. EXH G: Amendments - staff (3/11). 1 page.
29. EXH H: Explanation of amendments - staff (3/11). 1 page.
30. EXH I: Amer-I-Can, Brown (3/11). 2 pages.
31. EXH K: Testimony from Jim Green (3/11). 1 page.
32. EXH A: Proposed amendments - staff (4/23). 5 pages.

SENATE HEALTH CARE & BIO-ETHICS COMMITTEE MINUTES:

May 25: p. 7 - 8

(Also on audio tape 92,
side A, 087 - 271)

continued

HB 2549, 1993 continued
page 3

→ June 3: p. 2 - 3

(Also on audio tape 96,
side A, 097 - 192)

EXHIBIT FILE CONTAINS:

1. EXH I: Amendments - Bennett (5/25). 1 page.
2. EXH B: Amendments - staff (6/3). 1 page.
3. EXH C: ORS related HB 2549 - staff (6/3). 1 page.
4. EXH D: Proposed amendment - Martin (6/3). 1 page.

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Compiled by Dave Wendell, Reference Archivist
January 19, 1995

15 1991 MINUTES
152 1992 EXHIBIT

House Bill 2549

Introduced and printed pursuant to House Rule 13.01

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Authorizes licensed physical therapist to administer therapy to patient after evaluation of dysfunction using recognized evaluative physical therapy tests without physician, physician assistant, podiatrist, nurse practitioner or dentist referral. Authorizes referral from practitioner licensed in another state. Requires therapist to refer person to physician, podiatrist, physician assistant, dentist or nurse practitioner if symptoms indicate treatment beyond scope of physical therapy or after 30 days for certain patients.

A BILL FOR AN ACT

1

2 Relating to physical therapy.

3 Be It Enacted by the People of the State of Oregon:

4 **SECTION 1.** Sections 2 and 3 of this Act are added to and made a part of ORS 688.010 to
5 688.220.

6 **SECTION 2.** A licensed physical therapist may administer physical therapy to an indi-
7 vidual pursuant to:

8 (1) Prior evaluation of dysfunction of the individual by the physical therapist by the use
9 of recognized evaluative physical therapy tests and procedures.

10 (2) Referral of the individual by a physician, podiatrist or physician assistant licensed in
11 another state by an agency of that state having authority similar to the Board of Medical
12 Examiners for the State of Oregon, by a dentist licensed in another state by an agency of
13 that state having authority similar to the Oregon Board of Dentistry or by a nurse practi-
14 tioner licensed in another state by an agency of that state having authority similar to the
15 Oregon State Board of Nursing.

16 **SECTION 3.** (1) If a licensed physical therapist administers physical therapy to a person
17 as authorized in section 2 (1) of this 1993 Act, the physical therapist must refer the person
18 to a physician, podiatrist, physician assistant, dentist or nurse practitioner:

19 (a) If physical or medical symptoms are present which require treatment or diagnosis
20 by such providers or for which physical therapy is contraindicated or for which treatment
21 is outside the scope of practice of physical therapy.

22 (b) If 30 days have passed since the initial physical therapy treatment has been adminis-
23 tered, unless the individual is a child or a student eligible for special education as defined
24 by state or federal law and is being seen in the individual's individual education plan or in-
25 dividual family service plan.

26 (2) Before administering physical therapy to a person other than a child or student de-
27 scribed in subsection (1) of this section who is not referred under section 2 (2) of this 1993
28 Act, the physical therapist shall explain the scope of practice of physical therapy and any
29 limitations thereof.

30 (3) A physical therapist or person holding a temporary permit issued under ORS 688.110

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in boldfaced type.

OREGON LEGISLATIVE ASSEMBLY
STAFF MEASURE SUMMARY
House Human Development Committee

MEASURE: HB 2549-A

Working Title: Physical Therapists -- Direct Access
Meeting Dates: 2/2 (PH), 2/25 (WS), 3/11 (WS), 4/23 (WS)
Action: Do Pass as Amended
Vote: 5-0-1
Yeas: Reps. Dell, Ford, Luke, Meek, Shields
Nays: N/A
Exc.: Rep. Fisher
Carrier: Rep. Meek
Prepared By: Melanie Zermer, Committee Administrator

WHAT THE BILL DOES:

- Allows health care consumers access to physical therapists, without prior referral by another health care provider, under certain circumstances: 1) for first 30 days of treatment of anyone; 2) for students eligible for special education; 3) for student athletes; and 4) for residents in long term care facilities or group homes.
- Requires physical therapists, that treat people without prior referral, to meet continuing education requirements.
- Creates Physical Therapy Scope of Practice Review Committee under the Physical Therapist Licensing Board to recommend continuing education requirements. Provides that review committee shall consist of 2 physical therapists and 2 physicians, appointed by their respective licensing boards.
- Clarifies that reimbursement for physical therapist services, provided without prior referral, is not required under the personal injury protection, third party reimbursement, or workers compensation statutes.

ISSUES DISCUSSED:

- Quality of physical therapist care
- Physical therapists' diagnostic abilities and knowledge about pathologies
- Problems caused by not being able to access physical therapists directly

EFFECT OF COMMITTEE AMENDMENTS: Original bill would have provided consumers direct access to physical therapists with no limitations and no continuing education requirements. Amendment limited direct access to situations described in "What the Bill Does."

BACKGROUND: Many interest groups were involved in this legislation -- representatives of physical therapy, physical medicine, the insurance industry, and the workers compensation system. This bill as amended represents an agreement made among all interested parties.

This summary has not been adopted or officially endorsed by action of the committee.

A-Engrossed
House Bill 2549

Ordered by the House April 29
Including House Amendments dated April 29

Introduced and printed pursuant to House Rule 13.01

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes licensed physical therapist to administer therapy to patient after evaluation of dysfunction using recognized evaluative physical therapy tests *[without]* and either diagnosis or referral by physician, physician assistant, podiatrist, nurse practitioner or dentist *[referral]*. Authorizes diagnosis or referral from practitioner licensed in another state. Requires therapist to refer person to physician, podiatrist, physician assistant, dentist or nurse practitioner if symptoms indicate treatment beyond scope of physical therapy or after 30 days for certain patients. Requires continuing education for physical therapists treating patients without referral. Specifies that reimbursement for services is not required under personal injury protection, health insurance or workers' compensation except with prior referral.

A BILL FOR AN ACT

1 Relating to physical therapy; creating new provisions; and amending ORS 688.130 and 688.140.

2 Be It Enacted by the People of the State of Oregon:

3 SECTION 1. ORS 688.130 is amended to read:

4 688.130. (1) Unless the education and training requirements described in section 7 of this
5 1993 Act have been met, no licensed physical therapist or person who holds a temporary permit
6 issued under ORS 688.110 shall use physical therapy upon any person except where there has been:
7 *[under a diagnosis and prescription or referral:]*
8

9 (a) Prior evaluation of dysfunction of the person by the physical therapist by the use of
10 recognized evaluative physical therapy tests and procedures; and either

11 *[(a)]* (b) Diagnosis or referral by a *[medical doctor, an osteopathic]* physician or a podiatrist li-
12 censed under ORS chapter 677 by the Board of Medical Examiners for the State of Oregon, a dentist
13 licensed by the Oregon Board of Dentistry, a physician assistant registered under ORS chapter 677
14 or a nurse practitioner certified under ORS 678.375; or

15 *[(b)]* (c) Diagnosis or referral made in *[a bordering]* another state by a medical doctor,
16 osteopathic physician or podiatrist licensed by an authority of that state similar to the Board of
17 Medical Examiners for the State of Oregon or by a dentist licensed by an authority of that state
18 similar to the Oregon Board of Dentistry.

19 (2) No person shall practice as a physical therapist assistant unless the person is licensed under
20 ORS 688.090 and *[practices]* such practice is solely under the supervision and direction of a
21 physical therapist.

22 SECTION 2. ORS 688.140 is amended to read:

23 688.140. (1) The board, after notice of and hearing afforded such person as provided in ORS
24 688.145, may impose any or all of the following sanctions upon any of the grounds specified in sub-
25 section (2) of this section:

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in boldfaced type.

1 physical therapy treatment has been administered, unless:

2 (A) The individual is a child or a student eligible for special education, as defined by state
3 or federal law, and is being seen pursuant to the child's or the student's individual education
4 plan or individual family service plan;

5 (B) The individual is a student athlete at a public or private school, college or university
6 and is seeking treatment in that role as athlete; or

7 (C) The individual is a resident of a long term care facility as defined in ORS 442.015
8 (14)(b)(A) and (B), a residential facility as defined in ORS 443.400, an adult foster home as
9 defined in ORS 443.705 or an intermediate care facility for mental retardation pursuant to
10 federal regulations.

11 (2) Notwithstanding any provision of ORS 742.520 to 742.542, personal injury protection
12 benefits are not required to be paid directly to a physical therapist for treatment of a person
13 covered by the applicable insurance policy unless the person is referred to the physical
14 therapist by a licensed physician, podiatrist, dentist, physician's assistant or nurse practi-
15 tioner.

16 (3) Payment under health insurance coverage or coverage by a health service contractor
17 is not required to be paid directly to a physical therapist for treatment of the insured or
18 beneficiary unless the insured or beneficiary is referred to the physical therapist by a li-
19 censed physician, podiatrist, dentist, physician assistant or nurse practitioner.

20 SECTION 5. Section 6 of this Act is added to and made a part of ORS chapter 656.

21 SECTION 6. A physical therapist shall not provide compensable services to injured
22 workers governed by ORS chapter 656 except as allowed by a governing managed care or-
23 ganization contract or as authorized by the worker's attending physician.

24 SECTION 7. (1) The Physical Therapist Licensing Board shall establish by rule additional
25 education requirements, including requirements for continuing education, that a physical
26 therapist must meet before administering physical therapy to a person without prior referral
27 as authorized by section 4 of this 1993 Act other than to individuals described in section 4
28 (1)(b) of this 1993 Act where no prior referral is required.

29 (2) The additional education requirements described in subsection (1) of this section shall
30 be developed by a Physical Therapy Scope of Practice Review Committee established under
31 the Physical Therapist Licensing Board. Recommendations of the committee shall require
32 three affirmative votes by the committee prior to being forwarded to the Physical Therapist
33 Licensing Board for adoption into rule.

34 (3) The Physical Therapy Scope of Practice Review Committee shall consist of two phys-
35 ical therapists licensed to practice in Oregon, and two physicians licensed under ORS chapter
36 677, one of whom shall be a specialist in physical medicine. Members of the committee shall
37 be appointed by their respective licensing boards and shall serve terms of four years. In case
38 of a vacancy for any cause, the appointing authority shall make an appointment of a person
39 possessing the same qualifications as the retiring member.

40

B
A-Engrossed

House Bill 2549

Ordered by the House ~~April 29~~ ^{Senate June 9}
Including House Amendments dated April 29 and *Senate Amendments dated June 9*

Introduced and printed pursuant to House Rule 13.01

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes licensed physical therapist to administer therapy to patient after evaluation of dysfunction using recognized evaluative physical therapy tests *[without]* and either diagnosis or referral by physician, physician assistant, podiatrist, nurse practitioner or dentist *[referral]*. Authorizes diagnosis or referral from practitioner licensed in another state. Requires therapist to refer person to physician, podiatrist, physician assistant, dentist or nurse practitioner if symptoms indicate treatment beyond scope of physical therapy or after 30 days for certain patients. Requires continuing education for physical therapists treating patients without referral. Specifies that reimbursement for services is not required under personal injury protection, health insurance or workers' compensation except with prior referral.

A BILL FOR AN ACT

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2 Relating to physical therapy; creating new provisions; and amending ORS 688.130 and 688.140.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 688.130 is amended to read:

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7 issued under ORS 688.110 shall use physical therapy upon any person except where there has been:
8 *[under a diagnosis and prescription or referral.]*

9 (a) Prior evaluation of dysfunction of the person by the physical therapist by the use of
10 recognized evaluative physical therapy tests and procedures; and either

11 *[(a)]* (b) Diagnosis or referral by a *[medical doctor, an osteopathic]* physician or a podiatrist li-
12 censed under ORS chapter 677 by the Board of Medical Examiners for the State of Oregon, a dentist
13 licensed by the Oregon Board of Dentistry, a physician assistant registered under ORS chapter 677
14 *or* a nurse practitioner certified under ORS 678.375; or *a*

15 chiropractic physician licensed under ORS chapter 684 by the State Board
16 of Chiropractic Examiners *1*

17 similar to the Oregon Board of Dentistry.

18 (2) No person shall practice as a physical therapist assistant unless the person is licensed under
19 ORS 688.090 and *[practices]* such practice is solely under the supervision and direction of a
20 physical therapist.
21

22 **SECTION 2.** ORS 688.140 is amended to read:

23 688.140. (1) The board, after notice of and hearing afforded such person as provided in ORS
24 688.145, may impose any or all of the following sanctions upon any of the grounds specified in sub-
25 section (2) of this section:

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in boldfaced type.

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1 physical therapy treatment has been administered, unless:

2 (A) The individual is a child or a student eligible for special education, as defined by state
3 or federal law, and is being seen pursuant to the child's or the student's individual education
4 plan or individual family service plan;

5 (B) The individual is a student athlete at a public or private school, college or university
6 and is seeking treatment in that role as athlete; or

7 (C) The individual is a resident of a long term care facility as defined in ORS 442.015
8 (14)(b)(A) and (B), a residential facility as defined in ORS 443.400, an adult foster home as
9 defined in ORS 443.705 or an intermediate care facility for mental retardation pursuant to
10 federal regulations.

11 (2) Notwithstanding any provision of ORS 742.520 to 742.542, personal injury protection
12 benefits are not required to be paid directly to a physical therapist for ^{physical therapy} treatment of a person
13 covered by the applicable insurance policy unless the person is referred to the physical
14 therapist by a licensed physician, podiatrist, dentist, physician's assistant or nurse practi-
15 tioner.

16 ~~—(3) Payment under health insurance coverage or coverage by a health service contractor~~
17 ~~is not required to be paid directly to a physical therapist for treatment of the insured or~~
18 ~~beneficiary unless the insured or beneficiary is referred to the physical therapist by a li-~~
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21 SECTION 6. A physical therapist shall not provide compensable services to injured
22 workers governed by ORS chapter 656 except as allowed by a governing managed care or-
23 ganization contract or as authorized by the worker's attending physician.

24 SECTION 7. (1) The Physical Therapist Licensing Board shall establish by rule additional
25 education requirements, including requirements for continuing education, that a physical
26 therapist must meet before administering physical therapy to a person without prior referral
27 as authorized by section 4 of this 1993 Act other than to individuals described in section 4
28 (1)(b) of this 1993 Act where no prior referral is required.

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30 be developed by a Physical Therapy Scope of Practice Review Committee established under
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36 677, one of whom shall be a specialist in physical medicine. Members of the committee shall
37 be appointed by their respective licensing boards and shall serve terms of four years. In case
38 of a vacancy for any cause, the appointing authority shall make an appointment of a person
39 possessing the same qualifications as the retiring member.

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**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2549**

By COMMITTEE ON HEALTH CARE AND BIO-ETHICS

June 9

- 1 On page 1 of the printed A-engrossed bill, line 13, after "677" insert ", a chiropractic physician
 - 2 licensed under ORS chapter 684 by the State Board of Chiropractic Examiners".
 - 3 On page 2, line 40, after the second comma insert "chiropractic physician,".
 - 4 On page 3, line 12, delete "directly to a physical therapist for" and insert "for physical
 - 5 therapy".
 - 6 Delete lines 16 through 19.
 - 7
-

OREGON LEGISLATIVE ASSEMBLY
STAFF MEASURE SUMMARY
Senate Health Care & Bioethics

MEASURE: HB 2549-B

Working Title: Physical Therapists
Meeting Dates: 5/25/93, 6/3/93
Action: Do Pass with Amendments
Vote: 4-0-1
Yeas: Hamby, McCoy, Shoemaker, Smith, G.
Nays: 0
Exc.: Cohen
Carrier: Sen. Hamby
Prepared By: Dick Shoemaker, Committee Administrator

WHAT THE BILL DOES: Allows health care consumers access to physical therapists, without referral by another health care provider, under certain circumstances: 1) first 30 days of treatment for anyone; 2) students eligible for special education; 3) student athletes; 4) residents of long term care facilities or group homes.

Requires physical therapists that treat people without referral to meet continuing education requirements.

Creates Physical Therapy Scope of Practice Review Committee under the Physical Therapist Licensing Board to recommend continuing education requirements; provides that review committee shall consist of 2 physical therapists and 2 physicians, appointed by their respective licensing boards.

Clarifies that reimbursement for physical therapist services, provided without prior referral, is not required under the personal injury protection, third party reimbursement, or workers compensation statutes.

ISSUES DISCUSSED: In the House Human Development Committee, there was extensive discussion about the quality of physical therapist care, diagnostic abilities and knowledge about pathologies, and problems caused by not being able to access physical therapists directly. Through amendments, consensus was reached regarding the concerns of all interested parties, and extensive testimony was not presented in Senate Committee.

EFFECT OF COMMITTEE AMENDMENTS: Included chiropractic physicians among the health care providers who can refer to physical therapists, and to whom physical therapists shall refer. Clarify that which health care providers insurers reimburse is a matter of contract, and there should not be a statutory requirement that insurers reimburse physical therapists.

BACKGROUND: Many interest groups were involved in forming this legislation: representatives of physical therapy, physical medicine, chiropractic care, the insurance industry, and the workers compensation system. This bill as amended represents an agreement among all interested parties.

This summary has not been adopted or officially endorsed by action of the committee.

**SENATE COMMITTEE ON
HEALTH CARE AND BIO-ETHICS**

June 3, 1993
3:00 p.m.

Hearing Room C
Tapes 96

MEMBERS PRESENT: Senator Bob Shoemaker, Chair
Senator Jeannette Hamby, Vice Chair
Senator Joyce Cohen
Senator Bill McCoy
Senator Gordon Smith

STAFF PRESENT: Barbara Coombs, Administrator
Dick Shoemaker, Administrator/Assistant
Joan Green, Assistant

MEASURES HEARD: SB 597 relating to pharmacies, WS
HB 2549 relating to physical therapy, WS

WITNESSES: Chuck Gress, Oregon State Pharmacy Association
Cindy Ziel, Physicians Association of Clackamas County
John Powell, Blue Shield Blue Cross

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 96, SIDE A

006 Chair Shoemaker: Meeting called to order at 4:37 p.m.

WORK SESSION

SB 597 RELATING TO PHARMACIES

- 015 Barbara Coombs, Administrator: Reviews the SB 597-A3 amendments, Exhibit A.
- 027 Chuck Gress, Oregon State Pharmacy Association: Speaks in support of the amendments.
- 044 Chair Shoemaker: The amendment seems to be implicit in that the insurer would, in every case, be receptive to offers. Is that necessarily true?
- 065 Coombs: The notification would have to precede the letting of the contract, as addressed in §5, pg. 2, ln. 8.
- 070 Sen. Hamby: Should there be language that speaks to the timeliness or can we assume everyone will act in good faith?
- 072 Chair Shoemaker: Responds.
- 074 Coombs: A time line after offers are received and before a contract is let?

- 081 Chair Shoemaker: I would prefer that it not interfere with the process anymore.
- 076 **MOTION: CHAIR SHOEMAKER MOVED THAT THE AMENDMENTS, AS SHOWN IN THE HAND-ENGROSSED SB 597-3 AMENDMENTS, EXHIBIT A, BE ADOPTED.**
- 077 **VOTE: HEARING NO OBJECTION, SO ORDERED.**
- 079 **MOTION: CHAIR SHOEMAKER MOVED THAT THE SB 597-3 AMENDMENTS, EXHIBIT A, BE ADOPTED.**
- 080 **VOTE: HEARING NO OBJECTION, SO ORDERED.**
- 082 **MOTION: CHAIR SHOEMAKER MOVED SB 597-A, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.**
- 090 **VOTE: MOTION CARRIED, 3-0. (EXCUSED: SEN. COHEN, SEN. McCOY). CHAIR SHOEMAKER WILL LEAD THE FLOOR DISCUSSION.**

HB 2549 RELATING TO PHYSICAL THERAPY

- 097 Barbara Coombs: Reviews the HB 2549-A21 amendments, Exhibit B. Distributes ORS 443.410, Exhibit C. There was one other proposed amendment that would have inserted on pg. 3, ln. 7, after "facility" the words "or home". Legislative Counsel informed us that "home care setting" is included in the definition of "residential facility".

Recessed at 4:48 p.m.

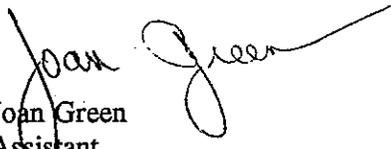
Reconvened at 5:16 p.m.

- 132 Coombs: You had asked if on pg. 3, ln. 14, the chiropractic was specifically omitted from that list of practitioners to PIP coverage; the answer is yes.
- 133 **MOTION: CHAIR SHOEMAKER MOVED THAT THE HB 2549-A21 AMENDMENTS, EXHIBIT B, BE ADOPTED.**
- 140 Sen. McCoy: What do the amendments do?
- 142 Chair Shoemaker: Responds.
- 150 John Powell, Blue Shield Blue Cross: Explains reason for the deletion on pg. 3, §4 (3) and the necessity for the automobile PIP coverage, as shown in (2). It is not necessary for the health insurance industry to have that language.
- 168 **VOTE: HEARING NO OBJECTION, SO ORDERED.**
- 170 **MOTION: CHAIR SHOEMAKER MOVED HB 2549, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.**

- 174 Sen. Smith: Roger Martin had requested we consider an amendment; has that been discussed?
- 177 Cindy Ziel, Physicians Association of Clackamas County: Presents amendment, Exhibit D.
- 187 Chair Shoemaker: Are others who are concerned with the bill familiar with the amendments?
- 188 Ziel: Responds.
- 189 Chair Shoemaker: I'm not comfortable with the amendments.
- 192 **VOTE: MOTION CARRIED, 4-0. (EXCUSED: SEN. COHEN). SEN. HAMBY WILL LEAD THE FLOOR DISCUSSION.**

Meeting adjourned at 5:24 p.m.

Submitted by:


Joan Green
Assistant

Reviewed by:


Dick Shoemaker
Administrator

EXHIBIT LOG:

- A - SB 597-A3 amendments - Staff - 4 pages
- B - HB 2549-A21 amendments - Staff - 1 page
- C - ORS relating to HB 2549 - Staff - 1 page
- D - Proposed amendment to HB 2549 - Martin - 1 page

SECTION 21. ORS 293.761 is amended to read: 293.761. The investment officer shall report monthly to the officer or body having control and administration of each fund included in the investment funds the changes in investments made during the preceding month for the fund. If requested by the officer or body, the investment officer shall furnish to the officer or body the details on the investment transactions for any fund. **This section does not apply to the Oregon Resource and Technology Development Fund or its board of directors.**

SECTION 22. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

Approved by the Governor July 1, 1993
Filed in the office of Secretary of State July 1, 1993
Effective date July 1, 1993

CHAPTER 211

AN ACT

HB 2549

Relating to physical therapy; creating new provisions; and amending ORS 688.130 and 688.140.
Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 688.130 is amended to read: 688.130. (1) **Unless the education and training requirements described in section 7 of this 1993 Act have been met, no licensed physical therapist or person who holds a temporary permit issued under ORS 688.110 shall use physical therapy upon any person except where there has been:** *[under a diagnosis and prescription or referral:]*

(a) **Prior evaluation of dysfunction of the person by the physical therapist by the use of recognized evaluative physical therapy tests and procedures; and either**

[(a)] (b) **Diagnosis or referral by a [medical doctor, an osteopathic] physician or a podiatrist licensed under ORS chapter 677 by the Board of Medical Examiners for the State of Oregon, a dentist licensed by the Oregon Board of Dentistry, a physician assistant registered under ORS chapter 677, a chiropractic physician licensed under ORS chapter 684 by the State Board of Chiropractic Examiners or a nurse practitioner certified under ORS 678.375; or**

[(b)] (c) **Diagnosis or referral made in [a bordering] another state by a medical doctor, osteopathic physician or podiatrist licensed by an authority of that state similar to the Board of Medical Examiners for the State of Oregon or by a dentist licensed by an authority of that state similar to the Oregon Board of Dentistry.**

(2) **No person shall practice as a physical therapist assistant unless the person is licensed under ORS 688.090 and [practices] such practice is solely**

under the supervision and direction of a physical therapist.

SECTION 2. ORS 688.140 is amended to read: 688.140. (1) The board, after notice of and hearing afforded such person as provided in ORS 688.145, may impose any or all of the following sanctions upon any of the grounds specified in subsection (2) of this section:

- (a) Refuse to license any applicant.
- (b) Refuse to renew the license of any physical therapist or physical therapist assistant.
- (c) Suspend or revoke the license of any physical therapist or physical therapist assistant or a permit issued under ORS 688.110.
- (d) Impose a civil penalty not to exceed \$1,000.
- (e) Impose probation with authority to limit or restrict a license.

(f) Issue letters of reprimand.
(2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section when a person:

- (a) Is habitually under the influence of intoxicating liquors.
- (b) Is habitually under the influence of controlled substances.
- (c) Has been convicted of violating any federal narcotic law or state law relating to controlled substances.

(d) In the judgment of the board and pursuant to ethical and professional standards adopted by rule of the board, is guilty of unethical or unprofessional conduct.

(e) Subject to a finding consistent with ORS 670.280, has been convicted of a crime that is a felony or misdemeanor under the laws of any state or of the United States.

(f) In the judgment of the board, is guilty of gross negligence in practice as a physical therapist or physical therapist assistant.

(g) Has been adjudged mentally ill by a court of competent jurisdiction or has been voluntarily committed to an institution for treatment of mental illness, and thereafter has not been lawfully declared competent.

(h) Has treated or undertaken to treat ailments of persons otherwise than by physical therapy.

[(i)] **As a licensed physical therapist has undertaken to act as a physical therapist independently of the diagnosis and prescription or referral of a medical doctor, osteopathic physician or podiatrist licensed by the Board of Medical Examiners for the State of Oregon, a dentist licensed by the Oregon Board of Dentistry or a physician assistant registered under ORS chapter 677 or made in a bordering state by a medical doctor, osteopathic physician or podiatrist licensed by an authority of that state similar to the Board of Medical Examiners for the State of Oregon or by a dentist licensed by an authority of that state similar to the Oregon Board of Dentistry.]**

(i) **Has violated ORS 688.130.**

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(j) Has obtained or attempted to obtain a license or a permit under ORS 688.010 to 688.220 by fraud or material misrepresentation.

(k) As a physical therapist assistant has undertaken to practice as a physical therapist.

(L) Has violated section 4 of this 1993 Act.

SECTION 3. Sections 4 and 7 of this Act are added to and made a part of ORS 688.010 to 688.220.

SECTION 4. (1) If a licensed physical therapist administers physical therapy to a person as authorized in ORS 688.130 (1)(a), the physical therapist must immediately refer the person to a medical doctor, osteopathic physician, chiropractic physician, podiatrist, dentist, physician assistant or nurse practitioner if:

(a) Signs and symptoms are present that require treatment or diagnosis by such providers or for which physical therapy is contraindicated or for which treatment is outside the knowledge of the physical therapist or scope of practice of physical therapy; or

(b) The physical therapist continues therapy and 30 days have passed since the initial physical therapy treatment has been administered, unless:

(A) The individual is a child or a student eligible for special education, as defined by state or federal law, and is being seen pursuant to the child's or the student's individual education plan or individual family service plan;

(B) The individual is a student athlete at a public or private school, college or university and is seeking treatment in that role as athlete; or

(C) The individual is a resident of a long term care facility as defined in ORS 442.015 (14)(b)(A) and (B), a residential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705 or an intermediate care facility for mental retardation pursuant to federal regulations.

(2) Notwithstanding any provision of ORS 742.520 to 742.542, personal injury protection benefits are not required to be paid for physical therapy treatment of a person covered by the applicable insurance policy unless the person is referred to the physical therapist by a licensed physician, podiatrist, dentist, physician's assistant or nurse practitioner.

SECTION 5. Section 6 of this Act is added to and made a part of ORS chapter 656.

SECTION 6. A physical therapist shall not provide compensable services to injured workers governed by ORS chapter 656 except as allowed by a governing managed care organization contract or as authorized by the worker's attending physician.

SECTION 7. (1) The Physical Therapist Licensing Board shall establish by rule additional education requirements, including requirements for continuing education, that a physical therapist must meet before administering physical therapy to a person without prior referral as authorized by section 4 of this 1993 Act other than to individuals described in section 4 (1)(b) of this 1993 Act where no prior referral is required.

(2) The additional education requirements described in subsection (1) of this section shall be developed by a Physical Therapy Scope of Practice Review Committee established under the Physical Therapist Licensing Board. Recommendations of the committee shall require three affirmative votes by the committee prior to being forwarded to the Physical Therapist Licensing Board for adoption into rule.

(3) The Physical Therapy Scope of Practice Review Committee shall consist of two physical therapists licensed to practice in Oregon, and two physicians licensed under ORS chapter 677, one of whom shall be a specialist in physical medicine. Members of the committee shall be appointed by their respective licensing boards and shall serve terms of four years. In case of a vacancy for any cause, the appointing authority shall make an appointment of a person possessing the same qualifications as the retiring member.

Approved by the Governor July 1, 1993
 Filed in the office of Secretary of State July 1, 1993
 Effective date - Regular effective date

CHAPTER 212

AN ACT

SB 46

Relating to health insurance; amending ORS 735.615. Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 735.615 is amended to read: 735.615. (1) Except as provided in subsection (3) of this section, any individual person who is a resident of this state shall be eligible for pool coverage if:

(a) An insurer, or an insurance company with a certificate of authority in any other state, has made an adverse underwriting decision, as defined in ORS 746.600 (1), on medical insurance for health reasons while the person was a resident;

(b) The person has a history of any medical or health conditions on the list adopted by the board under subsection (2) of this section; or

(c) The person is a spouse or dependent of a person described in this subsection.

(2) The board may adopt a list of medical or health conditions for which a person is eligible for pool coverage without applying for medical insurance pursuant to this section.