Questionnaire B – Scope of Practice

Proposal Summary/ Overview

To be completed by proposal sponsor. (500 Word Count Limit for this page)

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Is this proposal regarding:

- *New or increased regulation of an existing profession/occupation? If so, complete this form, Questionnaire A.*
- *Increased scope of practice or decreased regulation of an existing profession? If so, complete Questionnaire B.*
- *Any other change to regulation or scope of practice? If so, please contact the Committee Administrator to discuss how to proceed.*

1) State the profession/occupation that is the subject of the proposal.
Subject to this proposal is the profession of physical therapy. Physical therapists (PT) have been regulated in MN since 1952 and are licensed under the MN Board of Physical Therapy. Physical therapist assistants (PTA) have been licensed In MN since 2007 and are licensed under the MN Board of Physical Therapy.

2) Briefly describe the proposed change.
A) Removes the arbitrary access barriers to a Physical Therapist (the 90 day limitation and the 1 year prohibition on access to PT without a referral) allowing PTs to practice at the top of their license
B) Clarifies current language to reflect the contemporary training and practice of Doctors of Physical Therapy
C) Updates current language to reflect contemporary training of the Physical Therapist Assistant and the collaborative team approach to both patient care and student supervision.
D) Provides for term and title protection within the profession and authorizes the Bard of PT to impose financial penalties on those who violate those protections.

3) If the proposal has been introduced, provide the bill number and names of House and Senate sponsors. If the proposal has not been introduced, indicate whether legislative sponsors have been identified. If the bill has been proposed in previous sessions, please list previous bill numbers and years of introduction.

The bill is in the hands of the Revisor and has not yet been introduced. Representative Liz Reyer is the author in the House and Senator Mark Koran is the author in the Senate.

Questionnaire B: Change in scope of practice or reduced regulation of a health-related profession (adapted from Mn Stat 214.002 subd 2 and MDH Scope of Practice Tools)

This questionnaire is intended to assist the House Health Finance and Policy Committee in deciding which legislative proposals for change in scope of practice or reduced regulation of health professions should receive a hearing and advance through the legislative process. It is also intended to alert the public to these proposals and to narrow the issues for hearing.

This form must be completed by the sponsor of the legislative proposal. The completed form will be posted on the committee's public web page. At any time before the bill is heard in committee, opponents may respond in writing with concerns, questions, or opposition to the information stated and these documents will also be posted. The Chair may request that the sponsor respond in writing to any concerns raised before a hearing will be scheduled.

A response is not required for questions that do not pertain to the profession/occupation (indicate "not applicable"). Please be concise. Refer to supporting evidence and provide citation to the source of the information where appropriate.

While it is often impossible to reach complete agreement with all interested parties, sponsors are advised to try to understand and to address the concerns of any opponents before submitting the form.

1) <u>Who does the proposal impact?</u>

a. Define the occupations, practices, or practitioners who are the subject of this proposal.

Subject to this proposal is the profession of physical therapy. Physical therapists have been regulated in MN since 1952 and are licensed under the MN Board of Physical Therapy. Physical therapist assistants have been licensed In MN since 2007 and are licensed under the MN Board of Physical Therapy.

b. List any associations or other groups representing the occupation seeking regulation and the approximate number of members of each in Minnesota

The Minnesota Chapter of the American Physical Therapy Association (APTA-MN) represents 2,303 physical therapy provider members including 1,651 physical therapists (PT), 145 physical therapist assistants (PTA), and 507 students of PT and PTA (as of 12/31/2021).

There are currently 6,002 PTs and 1,775 PTAs who are licensed in MN under the MN Board of Physical Therapy.

c. Describe the work settings, and conditions for practitioners of the occupation, including any special geographic areas or populations frequently served.

Physical therapists practice in a variety of healthcare and community settings including hospitals, skilled nursing facilities, home health care, emergency departments, outpatient clinics, public schools, educational environments, sports and health facilities, the military, and private practices. While most PT providers work for health care organizations directly or through contracts, many PTs

are in independent practices.

Across the entire state, Physical therapists serve populations of all ages and in the language of current statute, for the purpose of "preventing, correcting, or alleviating a physical or mental disability." Current language also includes a description of health promotion and wellness, education, and exercise. (Chapter 148.65)

d. Describe the work duties or functions typically performed by members of this occupational group and whether they are the same or similar to those performed by any other occupational groups.

Current law allows physical therapists to provide evaluation (diagnosis, prognosis, treatment planning) treatment interventions, and documentation. The work duties of a physical therapist include interpretation of orders or referrals, instruction, consultative services, and supervision of supportive personnel, including physical therapist assistants and physical therapy aides.

The work duties of PTs are similar to that of physicians and other non-physician providers trained at the doctoral level. However, physical therapists in MN are not allowed to similarly function at the top of their licenses. PTs still require a referral to provide services beyond 90 days of treatment even if the patient is benefitting from the services. Additionally, current law limits physical therapists who have met all conditions for licensure, from practicing without referral for one year after initial licensure. Both of these provisions in law are the result of compromise over years of legislative efforts to remove them.

Many of the PT work duties or functions overlap with physicians and other non-physician healthcare including physician assistants, advance practice nurses, chiropractors, occupational therapists, respiratory therapists, and athletic trainers, not all of which are trained at the doctoral level.

Our proposal does not change the work duties of PT, but instead removes the access barriers that consumers face when working with a PT.

e. Discuss the fiscal impact.

APTA-MN does not anticipate any fiscal impact. Research evidence suggests that access to PT without referral restrictions actually saves money spent on unnecessary physician visits and potentially unnecessary treatment interventions. The fiscal impact for the state could actually be a positive impact under state healthcare programs.

2) <u>Specialized training, education, or experience ("preparation") required to engage in the occupation</u>

a. What preparation is required to engage in the occupation? How have current practitioners acquired that preparation?

Since 2016, all physical therapists are educated at the Doctoral level. Typical programs are 3 years post baccalaureate, and include at least 40 weeks of full-time clinical rotations in a variety of relevant settings. Accreditation requirements for programs in physical therapy require that PTs are trained specifically in the diagnostic process with the expectation that PTs would practice without referral.

Originally, the profession was educated at the Bachelors' degree level. When it moved to the Masters' degree in the 1980s, the training also included diagnosis and other preparation for practice without referral. Since then, many of those PTs have gone on to earn their Doctoral degree through post-professional programs. Residencies and fellowships are also available and are optional.

Physical therapist assistant (PTA) education culminates in an Associate degree and many PTAs also have additional Bachelor's degrees.

The MN Department of Health (MDH) surveys licensees at the point of license renewal and has provided the following workforce data for 2021 which we were able to compare to previous years.

Percent of clinical PTs by level of Degree	**2017**	**2020**	**2021**
Bachelor's degree	18%	11%	10.8%
Post-bachelor's certificate	4%	3%	2.2%
Master's degree	27%	20%	19.1%
Post-masters' certificate	1%	1%	0.7%
Doctorate / professional	50%	64%	67%
Total	100%	100%	99.8%

The trend toward an increasing percentage of Doctors of Physical Therapy (DPT) in the clinical workforce continues. The most recent survey revealed that of those who have Bachelor's degrees, 49% intend to retire in the next 5 years, with an additional 33% who intend to retire in the next 10 years. Similarly, those with a Master's degree will decrease in number either through retirement or by earning their post-professional Doctorate. As the number of DPT programs continues to increase, the numbers of DPTs will also increase. Barring the unexpected, within the next 5-10 years we could anticipate that DPTs will entirely dominate the profession.

b. Would the proposed scope change or reduction in regulation change the way practitioners become prepared? If so, why and how? Include any change in the cost of entry to the occupation. Who would bear the increase or benefit from reduction in cost of entry? Are current practitioners required to provide evidence of preparation or pass an examination? How, if at all, would this change under the proposal?

The reduction in regulation that we request will not change the way physical therapists are educated. Instead it reflects the way PTs are prepared for diagnosis and treatment without referral. Since 2016, all graduates of accredited programs in the U.S. are awarded a Doctoral degree as the terminal degree of the profession. Physical therapists are currently required to pass the National PT Examination (NPTE) for PTs and this proposal does not change that requirement. The NPTE includes content necessary to assure competency in diagnosis of patients across the lifespan.

This legislation also does not change the way physical therapist assistants (PTA) are educated. PTAs also sit for and must pass the NPTE for PTAs, a requirement that this proposal does not change.

c. Is there an existing model of this change being implemented in another state? Please list state, originating bill and year of passage?

All 50 states, Washington DC, and the U.S. Virgin Islands enjoy a form of access without referral to a PT. Twenty states have full access without referral and the remaining jurisdictions, including MN, have some provisions and limitations that vary widely. (Source: American Physical Therapy Association, 2021)

The 20 states that have full access without referral, as our proposal allows, include:

- *Nebraska – 1957*
- *Maryland – 1979*
- *Massachusetts – 1982*
- *Arizona – 1983*
- *West Virginia – 1984*
- *Utah – 1985*
- *North Carolina – 1985*
- *Nevada – 1985*
- *South Dakota – 1986*
- *Alaska – 1986*
- *Idaho – 1987*
- *Kentucky – 1987*
- *Montana – 1987*
- *Colorado – 1988*
- *Iowa – 1988*
- *North Dakota – 1989*
- *Oregon – 1993*
- *Vermont – 2001*
- *Wyoming - 2003*
- *Hawaii – 2010*

(Source: American Physical Therapy Association, 2021)

3) <u>Supervision of practitioners</u>

a. How are practitioners of the occupation currently supervised, including any supervision within a regulated institution or by a regulated health professional? How would the proposal change the provision of supervision?

The current PT Practice Act has no requirement for supervision of the physical therapist. Independent practice by physical therapists would be unchanged by this proposal. In some institutional settings, referral may be required for various reasons, but referral is not the same as supervision.

Physical therapist assistants (PTAs) are currently supervised by a physical therapist under general supervision, meaning the PT does not have to be on-site but that the PT must be easily available by telecommunications. This proposal maintains that level of supervision and changes the manner of supervision to reflect a collaborative team approach between PTs and PTAs. Specifically, the supervising PT will be required to have a real-time, collaborative treatment session, that takes place in person or remotely via telehealth, with the physical therapist assistant. The PT must also document the continued appropriateness of the plan of care at least every six treatment visits.

b. If regulatory entity currently has authority over the occupation, what is the scope of authority of the entity? (For example, does it have authority to develop rules, determine standards for education and training, assess practitioners' competence levels?) How does the proposal change the duties or scope of authority of the regulatory entity? Has the proposal been discussed with the current regulatory authority? If so, please list participants and date.

The MN Board of Physical Therapy (BPT) has regulatory authority over the physical therapy occupation to "administer sections 148.65 to 148.78, regarding the qualifications and examination of physical therapists and physical therapist assistants." As such they are responsible for licensing, determining continued competence, complaint resolution, and rulemaking.

Neither the duties nor the scope of authority of the MN Board of PT are changed by this proposal with one exception. The Board of PT will have authority to assess fines against those who violate the term and title protection provided for in the statute. APTA-MN has met with the Legislative Committee of the MN Board of PT on 2 occasions (9/15/2021 and 12/8/2021) and with the full Licensing Board 4 times (3/11/21, 10/26/21, 11/4/21, and 1/13/22) to discuss our proposal.

c. Do provisions exist to ensure that practitioners maintain competency? Under the proposal, how would competency be ensured?

The current PT Practice Act provides for ensuring continued competency and these provisions will be unchanged under our proposal.

4) <u>Level of regulation</u> (See Mn Stat 214.001, subd. 2, declaring that "no regulations shall be imposed upon any occupation unless required for the safety and wellbeing of the citizens of the state." The harm must be "recognizable, and not remote." Ibid.)

a. Describe how the safety and wellbeing of Minnesotans can be protected under the expanded scope or reduction in regulation.

The MN Board of Physical Therapy is charged with protecting the public by ensuring that MN citizens receive quality physical therapy from competent licensees. In 2008, legislation required the BPT to deliver a report to the Legislature on any harm done by access to PT without referral for 90 days and the report came back completely negative. There was no evidence of harm. The intent was that the PT Association in MN come back the next year to clean up the 90-day restriction and it's been 14 years since then. The BPT continues to have no evidence of harm as a result of access to PT without referral.

Of note in 2021 HPSO, a primary provider of malpractice insurance for physical therapists in the U.S., issued a statement that they do not risk-adjust their premiums based on the state in which the PT practices. In other words, premiums are no higher in states like MN that have restricted access and those states who have no restrictions to access without referral. Addendum: HPSO letter.

b. Can existing civil or criminal laws or procedures be used to prevent or remedy any harm to the public?

Yes.

5) Implications for Health Care Access, Cost, Quality, and Transformation

a. Describe how the proposal will affect the availability, accessibility, cost, delivery, and quality of health care, including the impact on unmet health care needs and underserved populations. How does the proposal contribute to meeting these needs?

This proposal eliminates the remaining arbitrary barriers to accessing a physical therapist. These barriers are the result of legislative compromises over the course of 40 years despite no evidence that would have supported those compromises.

Removing barriers increases the likelihood that individuals who have unmet health needs and who are underserved will seek early care for conditions that when allowed to become chronic, are much more expensive to treat.

This proposal promotes just what healthcare reform requires of us: better care, better outcomes, lower cost. It promotes safe, effective and efficient care.

Currently, individuals who seek the conservative care of a physical therapist beyond 90 days must pause their care, take time from work or home, often needing day care, drive long distances, wait until they can get into their doctor, and pay for a visit to be authorized to continue the therapy. In many cases, the doctor may not know the patient, might not know the extent of the condition initially, and may not even know enough about the patient's condition to make a decision about continued care.

This sort of disjointed and interrupted care can and does result in higher overall costs for the patient who often undergoes unnecessary and costly interventions. Addendum: Access to PT Issue Brief

Beyond cost, primary care providers are reported to complain about filling their schedules with patients they don't need to see when their schedules are already overloaded. The administrative burden of tracking who needs a referral after 90 days, and tracking those days is unreasonable, so much so that some large healthcare systems decide not to bother and create policies that simply require a referral for everyone. That's an exceptionally unreasonable outcome.

This proposal streamlines the pathway for patients who suffer from movement conditions that limit their function and full participation in life. Low cost, conservative measures provided early and without restrictions have been shown to be both effective and safe. Beyond access to the PT, the bill also updates the methods of PTA supervision minimizing unnecessary lapses in services due to difficulties meeting the letter of current law. Telehealth supervision will be an option in addition to the current face to face supervisory visits. Especially in rural areas where clinics and facilities are often many miles apart, this remote supervision increases the efficiency in practice and increases access to the PT.

b. Describe the expected impact of the proposal on the supply of practitioners and on the cost of services or goods provided by the occupation. If possible, include the geographic availability of proposed providers/services. Cite any sources used.

We do not anticipate the supply of physical therapists in the state will be impacted by this proposal, nor would it impact the cost of services provided by PTs and PTAs.

c. Does the proposal change how and by whom the services are compensated? What costs and what savings would accrue to patients, insurers, providers, and employers?

This proposal does not mandate any change in payment policy. Payers might decide to pay, as many

have already, for evaluation and treatment by a PT without having a referral. Patients, payers and employers should expect to see a cost savings from a reduction in the unnecessary visits to physicians during an episode of care in which there is no credible argument to require them. Research using claims data supports our claim. Addendum: Access to PT Issue Brief

d. Describe any impact of the proposal on an evolving health care delivery and payment system (e.g. collaborative practice, innovations in technology, ensuring cultural competency, value based payments)?

This proposal streamlines the pathway for patients who need the services of a physical therapist and reduces inefficiencies in the system. It relieves primary care providers so they can spend their time on complex medical conditions for which they are trained rather than on movement related conditions for which they often have little training.

It also leverages technology by making permanent the use of telehealth for the supervision of physical therapist assistants that was put in place by the legislature during the domestic emergency related to COVID. It significantly reduces the drive time that PTs have when they travel from facility to facility for in-person collaboration with PTAs. That alone increases the time a PT has to treat patients and is especially true in rural areas.

e. What is the expected regulatory cost or savings to the state government? How are these amounts accounted for under the proposal? Is there an up-to-date fiscal note for the proposal?

There is no anticipated regulatory cost, however a case can be made that the state government would enjoy cost savings by not having to pay for unnecessary visits and their associated treatments for patients under state programs.

6) <u>Evaluation/Reports</u>

Describe any plans to evaluate and report on the impact of the proposal if it becomes law, including focus and timeline. List the evaluating agency and frequency of reviews.
There is no current plan for a report on the impact of this proposal. The report in 2010 by the MN Board of PT supports the safety of our proposal.

7) <u>Support for and opposition to the proposal</u>

a. What organizations are sponsoring the proposal? How many members do these organizations represent in Minnesota?

This proposal is being brought forward by the Minnesota Chapter of the American Physical Therapy Association (APTA-MN), which has 2,303 members, representing PTs, PTAs and students.

b. List organizations, including professional, regulatory boards, consumer advocacy groups, and others, who support the proposal.

To date, the Minnesota Occupational Therapy Association (MOTA) supports this proposal. APTA-MN has reached out to those who have in the past opposed our previous efforts and is willing to sit down to

discuss this year's proposal.

c. List any organizations, including professional, regulatory boards, consumer advocacy groups, and others, who have indicated concerns/opposition to the proposal or who are likely to have concerns/opposition. Explain the concerns/opposition of each, as the sponsor understands it.

In past legislative sessions, the Minnesota Medical Association (MMA), the Minnesota Podiatric Medical Association (MPMA), and the Minnesota Chiropractic Association (MCA) have all expressed concerns about public safety. They have raised issues about diagnosis and their worries that PTs might miss a serious condition. However, they have not produced any credible research or data to support their concerns and they fail to recognize that PTs have been diagnosing and treating individuals for more than 40 years.

d. What actions has the sponsor taken to minimize or resolve disagreement with those opposing or likely to oppose the proposal?

APTA-MN has reached out to these groups requesting meetings to discuss our proposal. We have provided research that supports our proposal and we hope to be able to mitigate their concerns.