

SENATE BILL No. 440

AN ACT concerning health and health professions; relating to the occupational therapy practice act; authorizing occupational therapists to provide limited services to patients without a referral; amending K.S.A. 65-5401 and 65-5402 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) Except as otherwise provided in subsection (c), an occupational therapist may evaluate and initiate occupational therapy treatment on a patient without referral from a healthcare practitioner.

(1) An occupational therapist who is treating a patient without a referral from a healthcare practitioner shall obtain a referral from an appropriate healthcare practitioner prior to continuing treatment if the patient:

(A) Is not progressing toward documented treatment goals as demonstrated by objective, measurable or functional improvement, or any combination thereof, after ten patient visits or in a period of 30 calendar days from the initial treatment visits following the initial evaluation visit; or

(B) within one year from the initial treatment visits following the initial evaluation visit, returns to the occupational therapist seeking treatment for the same condition or injury.

(b) Occupational therapists may provide services without a referral to:

(1) Employees solely for the purpose of education and instruction related to workplace injury prevention;

(2) the public for the purpose of health promotion, education, and functional independence in activities of daily living; or

(3) special education students who need occupational therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

(c) Nothing in this section shall be construed to prevent a hospital or ambulatory surgical center from requiring a physician order or make a referral for occupational therapy services for a patient currently being treated in such facility.

(d) When a patient self-refers to an occupational therapist pursuant to this section, the occupational therapist, prior to commencing treatment, shall provide written notice to the patient that an occupational therapy diagnosis is not a medical diagnosis by a physician.

(f) Occupational therapists shall perform wound care management services only after approval by a person licensed to practice medicine and surgery.

(g) As used in this section, "healthcare practitioner" means: A person licensed by the state board of healing arts to practice medicine and surgery, osteopathic medicine and surgery or chiropractic; a "mid-level practitioner" as defined in K.S.A. 65-1626, and amendments thereto; or a licensed dentist or licensed optometrist in appropriately related cases.

New Sec. 2. Professional liability insurance coverage shall be maintained in effect by each licensed occupational therapist actively practicing in this state as a condition of rendering professional services as an occupational therapist in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

Sec. 3. K.S.A. 65-5401 is hereby amended to read as follows: 65-5401. K.S.A. 65-5401 to ~~65-5417, inclusive~~ through K.S.A. 65-6521, and amendments thereto, and sections 1 and 2, and amendments thereto, shall be known and may be cited as the occupational therapy practice act.

Sec. 4. K.S.A. 65-5402 is hereby amended to read as follows: 65-5402. As used in ~~K.S.A. 65-5401 to 65-5417, inclusive, and K.S.A. 65-5418 to 65-5420, inclusive, and amendments thereto~~ the occupational

*therapy practice act:*

(a) "Board" means the state board of healing arts.

(b) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful occupations (*or* goal-directed activities) to evaluate and treat, ~~pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist, a licensed physician assistant, or a licensed advanced practice registered nurse working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, or a licensed optometrist,~~ individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness.

(1) Occupational therapy intervention may include:

~~(1)~~(A) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;

~~(2)~~(B) adaptation of tasks, process, or the environment or the teaching of compensatory techniques in order to enhance performance;

~~(3)~~(C) disability prevention methods and techniques that facilitate the development or safe application of performance skills; and

~~(4)~~(D) health promotion strategies and practices that enhance performance abilities.

(2) *The "practice of occupational therapy" does not include the practice of any branch of the healing arts or making a medical diagnosis.*

(c) "Occupational therapy services" include, but are not limited to:

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;

(2) evaluating, developing, remediating, or restoring sensorimotor, cognitive or psychosocial components of performance;

(3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices;

(4) adapting environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

(6) evaluating and providing intervention in collaboration with the client, family, caregiver or others;

(7) educating the client, family, caregiver or others in carrying out appropriate nonskilled interventions; and

(8) consulting with groups, programs, organizations or communities to provide population-based services.

(d) "Occupational therapist" means a person licensed to practice occupational therapy as defined in this act.

(e) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist.

(f) "Person" means any individual, partnership, unincorporated organization or corporation.

(g) "Physician" means a person licensed to practice medicine and surgery.

(h) "Occupational therapy aide," "occupational therapy tech" or "occupational therapy paraprofessional" means a person who provides supportive services to occupational therapists and occupational therapy

assistants in accordance with K.S.A. 65-5419, and amendments thereto.

Sec. 5. K.S.A. 65-5401 and 65-5402 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the  
SENATE, and passed that body

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\_\_\_\_\_  
*President of the Senate.*

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*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*