

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2483

By Committee on Health and Human Services

2-8

14 AN ACT concerning ~~physical therapy~~ ***health care; relating to physi-***
15 ***cal therapy and department of health and environment***]; amend-
16 ing K.S.A. 2006 Supp. ***[65-180,]*** 65-2901 **and 65-2912** and repealing
17 the existing ~~section~~ **sections**.

18

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

20 Section 1. K.S.A. 2006 Supp. 65-2901 is hereby amended to read as
21 follows: 65-2901. As used in article 29 of chapter 65 of the Kansas Statutes
22 Annotated and acts amendatory of the provisions thereof or supplemental
23 thereto:

24 (a) "Physical therapy" means examining, evaluating and testing indi-
25 viduals with mechanical, anatomical, physiological and developmental im-
26 pairments, functional limitations and disabilities or other health and
27 movement-related conditions in order to determine a diagnosis solely for
28 physical therapy, prognosis, plan of therapeutic intervention and to assess
29 the ongoing effects of physical therapy intervention. Physical therapy also
30 includes alleviating impairments, functional limitations and disabilities by
31 designing, implementing and modifying therapeutic interventions that
32 may include, but are not limited to, therapeutic exercise; functional train-
33 ing in community or work integration or reintegration; manual therapy;
34 therapeutic massage; prescription, application and, as appropriate, fab-
35 rication of assistive, adaptive, orthotic, prosthetic, protective and suppor-
36 tive devices and equipment; airway clearance techniques; integumentary
37 protection and repair techniques; debridement and wound care; physical
38 agents or modalities; mechanical and electrotherapeutic modalities; pa-
39 tient-related instruction; reducing the risk of injury, impairments, func-
40 tional limitations and disability, including the promotion and maintenance
41 of fitness, health and quality of life in all age populations and engaging in
42 administration, consultation, education and research. Physical therapy
43 also includes the care and services provided by a physical therapist or a

1 physical therapist assistant under the direction and supervision of a phys-
2 ical therapist that is licensed pursuant to this act. Physical therapy does
3 not include the use of roentgen rays and radium for diagnostic and ther-
4 apeutic purposes, the use of electricity for surgical purposes, including
5 cauterization, the practice of any branch of the healing arts and the mak-
6 ing of a medical diagnosis.

7 (b) ~~(1)~~ “Physical therapist” means a person who is licensed to prac-
8 tice physical therapy pursuant to this act. Any person who successfully
9 meets the requirements of K.S.A. 65-2906 and amendments thereto shall
10 be known and designated as a physical therapist and may designate or
11 describe oneself as a physical therapist, physiotherapist, licensed physical
12 therapist, P.T., Ph. T., M.P.T., D.P.T. or L.P.T.

13 ~~(2) Except as otherwise provided in this section subsection (b)(3),~~
14 ~~(b)(4) and (b)(5) physical therapists may evaluate patients without phy-~~
15 ~~sician referral but may initiate treatment only after consultation with and~~
16 ~~approval by a licensed physician licensed to practice medicine and sur-~~
17 ~~gery, a licensed podiatrist, a licensed physician assistant or an advanced~~
18 ~~registered nurse practitioner working pursuant to the order or direction~~
19 ~~of a person licensed to practice medicine and surgery **physician**, a li-~~
20 ~~icensed chiropractor or a licensed dentist in appropriately related cases or~~
21 ~~a therapeutic licensed **an** optometrist pursuant to subsection (c) of K.S.A.~~
22 ~~65-1501, and amendments thereto, **provided that any such approval**~~
23 ~~**was made by a person with the appropriate license, registration or**~~
24 ~~**certification required for the respective practice in the jurisdiction**~~
25 ~~**regulating such practice.**~~

26 ~~(3) Physical therapists may evaluate and treat a patient for no more~~
27 ~~than 30 consecutive calendar days without a referral under the following~~
28 ~~conditions: (A) The patient has previously been referred to a physical~~
29 ~~therapist for physical therapy services by a licensed physician, a licensed~~
30 ~~podiatrist, a licensed physician assistant or an advanced registered nurse~~
31 ~~practitioner working pursuant to the order, direction or practice protocol~~
32 ~~of a person licensed to practice medicine and surgery **physician**, a li-~~
33 ~~icensed chiropractor or a licensed dentist in appropriately related cases or~~
34 ~~a therapeutic licensed **an** optometrist pursuant to subsection (c) of K.S.A.~~
35 ~~65-1501 and amendments thereto, **provided that any such approval**~~
36 ~~**was made by a person with the appropriate license, registration or**~~
37 ~~**certification required for the respective practice in the jurisdiction**~~
38 ~~**regulating such practice;** (B) the patient’s referral for physical therapy~~
39 ~~was made within one year from the date a physical therapist implements~~
40 ~~a program of physical therapy treatment without referral; (C) the physical~~
41 ~~therapy being provided to the patient without referral is for the same~~
42 ~~injury, disease or condition as indicated in the referral for such previous~~
43 ~~injury, disease or condition, and (D) the physical therapist transmits to~~

1 ~~the physician or other practitioner identified by the patient a copy of the~~
 2 ~~initial evaluation no later than five business days after treatment com-~~
 3 ~~mences. Treatment for more than 30 consecutive calendar days of such~~
 4 ~~patient shall only be upon the approval of a licensed physician, a licensed~~
 5 ~~podiatrist, a licensed physician assistant or an advanced registered nurse~~
 6 ~~practitioner working pursuant to the order, direction or practice protocol~~
 7 ~~of a person licensed to practice medicine and surgery physician, a li-~~
 8 ~~icensed chiropractor or a licensed dentist in appropriately related cases or~~
 9 ~~a therapeutic licensed an optometrist pursuant to subsection (e) of K.S.A.~~
 10 ~~65-1501 and amendments thereto.~~

11 ~~(4) Physical therapists may provide, without a referral, physical~~
 12 ~~therapy services which do not constitute treatment for a specific~~
 13 ~~condition, disease or injury to: (A) Employees solely for the purpose~~
 14 ~~of education and instruction related to workplace injury preven-~~
 15 ~~tion; or (B) the public for the purpose of fitness, health promotion~~
 16 ~~and education.~~

17 ~~(5) Physical therapists may provide physical therapy services~~
 18 ~~without a referral to special education students who need physical~~
 19 ~~therapy services to fulfill the provisions of their individualized ed-~~
 20 ~~ucation plan (IEP) or individualized family service plan (IFSP).~~

21 (c) “Physical therapist assistant” means a person who is certified pur-
 22 pursuant to this act and who works under the direction of a physical therapist,
 23 and who assists the physical therapist in selected components of physical
 24 therapy intervention. Any person who successfully meets the require-
 25 ments of K.S.A. 65-2906 and amendments thereto shall be known and
 26 designated as a physical therapist assistant, and may designate or describe
 27 oneself as a physical therapist assistant, certified physical therapist assis-
 28 tant, P.T.A., C.P.T.A. or P.T. Asst.

29 (d) “Board” means the state board of healing arts.

30 (e) “Council” means the physical therapy advisory council.

31 (f) “Physician” means a person licensed to practice medicine and sur-
 32 gery ~~by the board.~~

33 **Sec. 2. K.S.A. 2006 Supp. 65-2912 is hereby amended to read**
 34 **as follows: 65-2912. (a) The board may refuse to grant a license to**
 35 **any physical therapist or a certificate to any physical therapist as-**
 36 **stant, or may suspend or revoke the license of any licensed phys-**
 37 **ical therapist or certificate of any certified physical therapist as-**
 38 **stant, or may limit the license of any licensed physical therapist**
 39 **or certificate of any certified physical therapist assistant or may**
 40 **censure a licensed physical therapist or certified physical therapist**
 41 **assistant for any of the following grounds:**

42 (1) **Addiction to or distribution of intoxicating liquors or drugs**
 43 **for other than lawful purposes;**

- 1 **(2) conviction of a felony if the board determines, after inves-**
2 **tigation, that the physical therapist or physical therapist assistant**
3 **has not been sufficiently rehabilitated to warrant the public trust;**
4 **(3) obtaining or attempting to obtain licensure or certification**
5 **by fraud or deception;**
6 **(4) finding by a court of competent jurisdiction that the phys-**
7 **ical therapist or physical therapist assistant is a disabled person**
8 **and has not thereafter been restored to legal capacity;**
9 **(5) unprofessional conduct as defined by rules and regulations**
10 **adopted by the board;**
11 **(6) the treatment or attempt to treat ailments or other health**
12 **conditions of human beings other than by physical therapy and as**
13 **authorized by this act;**
14 **(7) failure to refer patients to other health care providers if**
15 **symptoms are present for which physical therapy treatment is in-**
16 **advisable or if symptoms indicate conditions for which treatment**
17 **is outside the scope of knowledge of the licensed physical**
18 **therapist;**
19 ~~(8) initiating treatment without prior consultation and approval by a~~
20 ~~physician licensed to practice medicine and surgery, by a licensed podi-~~
21 ~~atrist, by a licensed physician assistant or by an advanced registered nurse~~
22 ~~practitioner working pursuant to the order or direction of a person li-~~
23 ~~censed to practice medicine and surgery, by a licensed chiropractor, by~~
24 ~~a licensed dentist or by a therapeutic licensed optometrist pursuant to~~
25 ~~subsection (c) of K.S.A. 65-1501, and amendments thereto [(8)] *evalu-*~~
26 ~~*ating or treating patients in a manner not consistent with subsection*~~
27 ~~*(b)(2) or (b)(3), or both (b)(4) or (b)(5), of K.S.A. 65-2901, [section 3]*~~
28 ~~and amendments thereto; and~~
29 **(9) knowingly submitting any misleading, deceptive, untrue or**
30 **fraudulent misrepresentation on a claim form, bill or statement.**
31 **(b) All proceedings pursuant to article 29 of chapter 65 of the**
32 **Kansas Statutes Annotated, and acts amendatory of the provisions**
33 **thereof or supplemental thereto, shall be conducted in accordance**
34 **with the provisions of the Kansas administrative procedure act and**
35 **shall be reviewable in accordance with the act for judicial review**
36 **and civil enforcement of agency actions.**
37 *[New Sec. 3. (a) Except as otherwise provided in subsection (b),*
38 *(c) or (d), a physical therapist may evaluate patients without phy-*
39 *sician referral but may initiate treatment only after approval by a*
40 *licensed physician, a licensed podiatrist, a licensed physician assis-*
41 *tant or an advanced registered nurse practitioner working pursuant*
42 *to the order or direction of a licensed physician, a licensed chiro-*
43 *practor, a licensed dentist or licensed optometrist in appropriately*

1 *related cases. Physical therapists may initiate treatment with the*
2 *approval by a practitioner of the healing arts duly licensed under*
3 *the laws of another state if K.S.A. 65-2872, and amendments thereto,*
4 *authorize professional services to be performed based upon an or-*
5 *der by such practitioner.*

6 *[(b) Physical therapists may evaluate and treat a patient for no*
7 *more than 30 consecutive calendar days without a referral under*
8 *the following conditions: (1) The patient has previously been re-*
9 *ferred to a physical therapist for physical therapy services by a*
10 *person authorized by this section to approve treatment; (2) the pa-*
11 *tient's referral for physical therapy was made within one year from*
12 *the date a physical therapist implements a program of physical ther-*
13 *apy treatment without a referral; (3) the physical therapy being*
14 *provided to the patient without referral is for the same injury, dis-*
15 *ease or condition as indicated in the referral for such previous in-*
16 *jury, disease or condition; and (4) the physical therapist transmits*
17 *to the physician or other practitioner identified by the patient a*
18 *copy of the initial evaluation no later than five business days after*
19 *treatment commences. Treatment for more than 30 consecutive cal-*
20 *endar days of such patient shall only be upon the approval of a*
21 *person authorized by this section to approve treatment.*

22 *[(c) Physical therapists may provide, without a referral, phys-*
23 *ical therapy services which do not constitute treatment for a specific*
24 *condition, disease or injury to: (1) Employees solely for the purpose*
25 *of education and instruction related to workplace injury preven-*
26 *tion; or (2) the public for the purpose of fitness, health promotion*
27 *and education.*

28 *[(d) Physical therapists may provide physical therapy services*
29 *without a referral to special education students who need physical*
30 *therapy services to fulfill the provisions of their individualized ed-*
31 *ucation plan (IEP) or individualized family service plan (IFSP).]*

32 *[Sec. 4. K.S.A. 2006 Supp. 65-180 is hereby amended to read*
33 *as follows: 65-180. The secretary of health and environment shall:*

34 *[(a) Institute and carry on an intensive educational program*
35 *among physicians, hospitals, public health nurses and the public*
36 *concerning congenital hypothyroidism, galactosemia, phenylketo-*
37 *nuria and other genetic diseases detectable with the same specimen.*
38 *This educational program shall include information about the na-*
39 *ture of such conditions and examinations for the detection thereof*
40 *in early infancy in order that measures may be taken to prevent the*
41 *mental retardation or morbidity resulting from such conditions.*

42 *[(b) Provide recognized screening tests for phenylketonuria, ga-*
43 *lactosemia, hypothyroidism and such other diseases as may be ap-*

1 *appropriately detected with the same specimen. The initial laboratory*
2 *screening tests for these diseases shall be performed by the depart-*
3 *ment of health and environment or its designee for all infants born*
4 *in the state. Such services shall be performed* ~~without charge for a fee~~
5 ~~of not more than \$30 per newborn~~ *without charge.*

6 *[(c) Provide a follow-up program by providing test results and*
7 *other information to identified physicians; locate infants with ab-*
8 *normal newborn screening test results; with parental consent, mon-*
9 *itor infants to assure appropriate testing to either confirm or not*
10 *confirm the disease suggested by the screening test results; with*
11 *parental consent, monitor therapy and treatment for infants with*
12 *confirmed diagnosis of congenital hypothyroidism, galactosemia,*
13 *phenylketonuria or other genetic diseases being screened under this*
14 *statute; and establish ongoing education and support activities for*
15 *individuals with confirmed diagnosis of congenital hypothyroidism,*
16 *galactosemia, phenylketonuria and other genetic diseases being*
17 *screened under this statute and for the families of such individuals.*

18 *[(d) Maintain a registry of cases including information of im-*
19 *portance for the purpose of follow-up services to prevent mental*
20 *retardation or morbidity.*

21 *[(e) Provide, within the limits of appropriations available there-*
22 *for, the necessary treatment product for diagnosed cases for as long*
23 *as medically indicated, when the product is not available through*
24 *other state agencies. In addition to diagnosed cases under this sec-*
25 *tion, diagnosed cases of maple syrup urine disease shall be included*
26 *as a diagnosed case under this subsection. Where the applicable*
27 *income of the person or persons who have legal responsibility for*
28 *the diagnosed individual meets medicaid eligibility, such individ-*
29 *uals' needs shall be covered under the medicaid state plan. Where*
30 *the applicable income of the person or persons who have legal re-*
31 *sponsibility for the diagnosed individual is not medicaid eligible,*
32 *but is below 300% of the federal poverty level established under*
33 *the most recent poverty guidelines issued by the United States de-*
34 *partment of health and human services, the department of health*
35 *and environment shall provide reimbursement of between 50% to*
36 *100% of the product cost in accordance with rules and regulations*
37 *adopted by the secretary of health and environment. Where the ap-*
38 *plicable income of the person or persons who have legal responsi-*
39 *bility for the diagnosed individual exceeds 300% of the federal pov-*
40 *erty level established under the most recent poverty guidelines*
41 *issued by the United States department of health and human serv-*
42 *ices, the department of health and environment shall provide re-*
43 *imbursement of an amount not to exceed 50% of the product cost*

1 *in accordance with rules and regulations adopted by the secretary*
2 *of health and environment.*

3 *[(f) Provide state assistance to an applicant pursuant to subsec-*
4 *tion (e) only after it has been shown that the applicant has ex-*
5 *hausted all benefits from private third-party payers, medicare, med-*
6 *icaid and other government assistance programs and after*
7 *consideration of the applicant's income and assets. The secretary of*
8 *health and environment shall adopt rules and regulations establish-*
9 *ing standards for determining eligibility for state assistance under*
10 *this section.*

11 *[(g) (1) Except for treatment products provided under subsec-*
12 *tion (e), if the medically necessary food treatment product for di-*
13 *agnosed cases must be purchased, the purchaser shall be reim-*
14 *bursed by the department of health and environment for costs*
15 *incurred up to \$1,500 per year per diagnosed child age 18 or*
16 *younger at 100% of the product cost upon submission of a receipt*
17 *of purchase identifying the company from which the product was*
18 *purchased. For a purchaser to be eligible for reimbursement under*
19 *this subsection (g)(1), the applicable income of the person or per-*
20 *sons who have legal responsibility for the diagnosed child shall not*
21 *exceed 300% of the poverty level established under the most recent*
22 *poverty guidelines issued by the federal department of health and*
23 *human services.*

24 *[(2) As an option to reimbursement authorized under subsec-*
25 *tion (g)(1), the department of health and environment may purchase*
26 *food treatment products for distribution to diagnosed children in*
27 *an amount not to exceed \$1,500 per year per diagnosed child age*
28 *18 or younger. For a diagnosed child to be eligible for the distri-*
29 *bution of food treatment products under this subsection (g)(2), the*
30 *applicable income of the person or persons who have legal respon-*
31 *sibility for the diagnosed child shall not exceed 300% of the poverty*
32 *level established under the most recent poverty guidelines issued*
33 *by the federal department of health and human services.*

34 *[(3) In addition to diagnosed cases under this section, diagnosed*
35 *cases of maple syrup urine disease shall be included as a diagnosed*
36 *case under this subsection (g).*

37 *[(h) The department of health and environment shall continue*
38 *to receive orders for both necessary treatment products and nec-*
39 *essary food treatment products, purchase such products, and shall*
40 *deliver the products to an address prescribed by the diagnosed in-*
41 *dividual. The department of health and environment shall bill the*
42 *person or persons who have legal responsibility for the diagnosed*
43 *patient for a pro-rata share of the total costs, in accordance with*

1 ***the rules and regulations adopted pursuant to this section.*** The de-
2 partment of health and environment and the Kansas health policy au-
3 thority shall combine the purchasing resources for the purpose of this
4 subsection and shall enter into a joint contract for the purchase of all
5 products for both medicaid and nonmedicaid eligible clients.

6 *[(i) Not later than July 1, 2008, the secretary of health and environ-*
7 *ment shall adopt rules and regulations as needed to require, to the extent*
8 *of available funding, newborn screening tests to screen for disorders listed*
9 *in the 2005 report by the American college of medical genetics entitled*
10 *“Newborn Screening: Toward a Uniform Screening Panel and System” or*
11 *another report determined by the department of health and environment*
12 *to provide more appropriate newborn screening guidelines to protect the*
13 *health and welfare of newborns.*

14 *[(j) In performing the duties under subsection (i), the secretary of*
15 *health and environment shall appoint an advisory council to advise the*
16 *department of health and environment on implementation of subsection*
17 *(i).*

18 *[(k) The department of health and environment shall periodically re-*
19 *view the newborn screening program to determine the efficacy and cost*
20 *effectiveness of the program and determine whether adjustments to the*
21 *program are necessary to protect the health and welfare of newborns*
22 *and 4 to maximize the number of newborn screenings that may be con-*
23 *ducted 5 with the funding available for the screening program.]*

24 **Sec. ~~2-3~~ [5.]** K.S.A. 2006 Supp. **[65-180,]** 65-2901 **is and 65-2912**
25 **are** hereby repealed.

26 **Sec. ~~3-4~~ [6].** This act shall take effect and be in force from and after
27 its publication in the statute book.
28