



To: Economic Affairs Interim Committee

From: Montana Board of Physical Therapy

Date: June 10, 2013

Subject: HB525 – PTP response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The board protects the public from incompetent, unprofessional and unethical health providers. The board accomplishes this mission through the performance of three key functions: licensure, regulation, and discipline.

2. If your profession/occupation were not licensed, what public protection would be lost?

The patient would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through minimum qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the patient. Patients have direct access to physical therapy services, so licensing is critical for patients who might otherwise seek services from individuals who weren't licensed.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The Board of Physical Therapy Examiners was established in 1979. The board protects the public from incompetent, unprofessional, and unethical providers of physical therapy services through the licensure and regulation of qualified physical therapists and physical therapist assistants.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. Practicing as a physical therapist and physical therapist assistant without a license or with an expired license are the most common unlicensed practice issues to come before the board.

- 5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living – what is your response?**

The Legislature finds and declares that the practice of physical therapy in the state affects the public health, safety, and welfare. Unlicensed individuals who may be qualified must be licensed before they can practice in the profession. The physical therapy profession offers two levels of licensure. The requirements for licensure in Montana are very reasonable and are not felt to be a barrier for entry to the profession.

- 6. How does your board monitor bias among board members toward a particular licensee, applicant, or respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?**

The Business Standards Division provides board member training for all members to attend, which includes information and instruction on how and when to recuse oneself when there is actual or the appearance of a conflict of interest or bias. Additionally, the board's composition serves to monitor bias. The board consists of five members appointed by the Governor. Four of the members must be physical therapists who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board and one member of the general public who is not a physician or a physical therapist. Lastly, board member bias toward a particular applicant or licensee is kept to a minimum by following the rules and regulations that are in place for the board.

- 7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?**

No. The mission of associations is to promote the profession and advocate for the industry. The board's mission is to protect the public through the licensure and regulation of physical therapy. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

- 8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

Yes, for Medicaid and Medicare and health insurance, licensure is required for billing. There is no alternative.

- 9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

Four board members are peers of the licensees they oversee and have knowledge of and expertise in the regulated profession. In addition, the board includes public representation of at least one individual. This broad representation ensures an unbiased and fair approach to discipline and other issues.

10. Is there an optimum ratio between licensees, board size, or public representation?

Yes, the board regulates 1350 licensees. The board's current composition balances the number of licenses and public members while remaining small enough to function efficiently.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting physical therapists in various areas of the profession to address practice and conduct issues. The board, through the complaint process, monitors fraud on a licensee level. The board has the ability to respond to fraud issues or to forward them to the Attorney General's Office if necessary. Medicaid, Medicare, and health insurance fraud has to be monitored by those respective entities.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

Each profession has a specific scope of practice and educational requirements.

37-11-103. Restrictions on scope of practice. Nothing in this chapter shall be construed as authorizing a physical therapist, whether licensed or not, to practice medicine, osteopathy, or chiropractic, dentistry, or podiatry; nor shall Title 37, chapter 11, be construed to limit or regulate any other business or profession or any services rendered or performed in connection with physical therapy.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Yes. The person has the training, education and qualifications verified by examination to be licensed in the profession of physical therapy.

37-11-102. Exemptions. This chapter may not be construed to limit or regulate any other business or profession or any services rendered or performed in connection with another business or profession, including osteopathy, chiropractic, chiropractic physiotherapy, or massage therapists, to the extent they do massage.