

FISCAL NOTE
Requested by Legislative Council
01/04/2019

Bill/Resolution No.: SB 2125

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill has no fiscal impact for the North Dakota Board of Physical Therapy.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Bruce Wessman

Agency: Board of Physical Therapy

Telephone: 7012613732

Date Prepared: 01/11/2019

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2125

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB2125
1/17/2019
30951

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to the board of physical therapy & physical therapy licensure; provide for application.

Minutes: Att #1 – Bruce Wessman

Chairman Davison: Let's open SB2125.

Sen Burckhard, Dist 5, Minot: I am here to introduce this bill on behalf of the Board of Physical Therapists. There is nothing controversial in this bill, and it does not change their scope of practice. Bruce Wessman is here to explain more fully. Please Do Pass. (1.45)

Bruce Wessman, Executive Dir. North Dakota Board of Physical Therapy: (1.55-8.40) (see att #1) We have not had major changes since 2005. We ask for Do Pass.

Sen. Kristin Roers: I am a nurse. On page 8 and talking about the number of times you can take the test. Are there statics' how frequently more than one time to pass?

Bruce: 90 % or so pass the first time. In the ten year we have had one or testified in opposition to the bill. That could not pass the program.

Sen. Kristin Roers: Why the need to say 6 times then?

Bruce: If it does happen, the Federation State Boards wanted as many for consistency. If you can't pass in 6, you never will.

Sen. Shawn Vedaa: Why does tele-health not meet the requirements for direct supervision?

Bruce: Direct supervision is only for physical therapy aids. A PT has to be on site. Just to clarify, I guess.

Vice Chair Meyer: Did the board approve the reconfiguration?

Bruce: Yes. The chapter has been involved in approving, also. (11.1

Vice Chair Meyer: Thanks. Any more in support? Any against? We will close this hearing.
We will be at ease until chairman returns.

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB2125
1/24/2019
31373

- Subcommittee
- Conference Committee

Committee Clerk Signature: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to the board of physical therapy & physical therapy licensure; provide for application.

Minutes:

Chairman Davison: This updates the boards licensure. Sen Meyer asked if the boards approved this change. What are the committee wishes?

Sen. Erin Oban: I move a DO PASS on SB2125. **Sen Meyer:** I second.

Chairman Davison: Any discussion? Was there any against? No. Take the roll.

YES 7 NO 0 -0- absent PASSED **Sen K Roers** will carry the bill. (2.03)

1/24/19
ate:

Date:

Roll Call Vote #:

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. JB 2125**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen Oban Seconded By Sen Meyer

Total (Yes) _____ No _____

Absent _____ 0

Floor Assignment Sen. K. Roers

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2125: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2125 was placed on the Eleventh order on the calendar.

2019 HOUSE HUMAN SERVICES

SB 2125

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2125
3/13/2019
33687

- Subcommittee
- Conference Committee

Committee Clerk: Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to the board of physical therapy and physical therapy licensure and to provide for application.

Minutes:

Attachment 1

Chairman Weisz: Opened the hearing on SB 2125.

Senator Randy Burckhard, District 5: Introduced SB 2125. This bill is intended to bring the Physical Therapy Practice Act from Chapter 43-26.1 of the Century Code more up to date and to correct some errors and inconsistencies in the current law. The last major change in this Act was 14 years ago. To the best of my knowledge there is nothing controversial in this bill and it does not change their scope of practice. Jeanne DeKrey from the Board of Physical Therapy is here to further explain the bill.

Jeanne DeKrey, North Dakota Board of Physical Therapy: In support of SB 2125. We want to assure our supervision is appropriate to the level of education and a little less restrictive for the Physical Therapy Assistants and we want to align with what the Insurance companies say about physical therapy aides. They say it doesn't require the skills of the PTA and insurance shouldn't be paying for it. We think this will align the state to welcome more licensed providers. The second big change is to the Board composition. Currently we currently have 3 Physical Therapists, 2 Physicians and one consumer member. We want to restructure the board as it's becoming difficult to get a Physician to do volunteer work and give up a whole day from their practice. We are hoping to change that composition by keeping the 3 Physical Therapists and drop to one Physician and add a Physical Therapist Assistant to that group and increase our public member to two. The other changes we want to improve on the efficiency allowing students to get to the testing quicker. In dealing with the language on Page 9 line 25 we are trying to deal with the problem of cheating on the national level exams. Explained the language changes the Board has proposed. We are asking for a favorable consideration on SB 2125. (**See Attachment 1**).

Chairman Weisz: When you talk about changing the board composition, do you have an issue getting a public member?

Jeanne DeKrey: That has been an issue. We have asked our public members as they finish their terms if they would help us recruit people that they think would be good and it has actually worked out pretty well. We are covering their travel costs but we don't reimburse them in any other ways.

Rep. Porter: Page 9 line 9 we have received some emails and concerns about the removal of the ability of the Physical Therapy aides to do specific tasks as directed by the Physical Therapist. Is there a reason why that has been removed and what is to gain or lose by leaving it in?

Jeanne DeKrey: We are trying to get in line with what the Blue Cross Blue Shield and Medicare are saying that unless it requires the specific skills of the Physical Therapist or a Physical Therapy Assistant they are not going to allow that to be paid. So taking Physical Therapy aides out of the picture we are just not having them provide services they are not adequately trained to provide. They are there to assist an Assistant or a Physical Therapist but they are not there to have an independent type of practice.

Rep. Greg Westlind: One of the emails said they do not perform any types of therapy. They are just there to assist in cleaning equipment is that accurate? On line 5 you still have Physical Therapy Aide in that sentence.

Jeanne DeKrey: Physical Therapy Aide our intent as a board is that they are not doing patient care aspects. They are there to help in physical components like setting up and cleaning up. In line 5 if you have an aide who is working with me I need to make sure they are safe and competent in helping with patient transfers, spotting if we are doing some balance things but not doing therapy things, and they would help with cleanup and things of that nature. We are trying to get them back into the position they were intended for and not being exploited.

Rep. Skroch: Would this also apply to CNA Aides work in long term care facilities that receive orders but are allowed to function independently?

Jeanne DeKrey: That is a different thing. The rehab aides are not looking at a physical therapy plan. It is pretty much when the patient is at a maintenance time and not an insurance billable issue.

Rep. Westlind: Are we penalizing them because Blue Cross Blue Shield thinks they are doing work and getting paid for it? Isn't it more of a jurisdiction issue as to watching these people to make sure they are not doing actual physical therapy and creating an illegal payment?

Jeanne DeKrey: 0:12:25.I think it is a question we have as a board such as can I have an aide do this? We told the Physical Therapist it is ultimately their responsibility and their license and I think there is some situations where they are pressured to bend those lines a little and we are hoping to give them better guidelines. it's important to have them revisit the guidelines.

Vice Chairman Rohr: Back to the composition of your board and moving it from two positions to one. You aren't limited with technology could they skype in or have you tried that?

Jeanne DeKrey: No we haven't tried that. Maybe we need to be more creative as well. We hold 1 full day of meetings, but technology may be applicable.

Kevin Axman, North Dakota Physical Therapy Association: After sharing these changes with the Association and we have received no opposition. As an Association we are in support of SB 2125.0:14:56

Chairman Weisz: Any further support of SB 2125? Any opposition? Seeing none.

Hearing closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2125
3/13/2019
33690

- Subcommittee
- Conference Committee

Committee Clerk: Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to the board of physical therapy and physical therapy licensure and to provide for application.

Minutes:

Chairman Weisz: Opened the hearing on SB 2125. If you look at the language they are eliminating Physical Therapy Aides, in fact they even add them under a section to make it clear that Physical Therapists may use Physical Therapy Aides when working directly with the Physical Therapists and make sure the Aide is not doing Physical Therapy services and make clear what duties they can do.

Rep. Skroch: I move a Do Pass on SB 2125.

Vice Chairman Rohr: Seconded.

Chairman Weisz: Any further discussion? Seeing none we will call the roll for a Do pass on SB 2125.

Roll call taken: Yes: 14 No: 0 Absent: 0. Motion carries on a Do Pass on SB 2125.

Rep. Skroch: Will carry the bill.

Hearing closed.

Date: 3/13/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2125**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. Skroch Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Skroch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2125: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2125 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2125

Thursday, January 1, 2019

Senate Government and Veterans Affairs Committee
SB 2125

SEN. DAVISON AND COMMITTEE MEMBERS:

My name is Bruce Wessman. I'm the executive director of the North Dakota Board of Physical Therapy. I'm appearing here this morning to explain the changes the Board has made in its Practice Act. These changes are being made to bring the Act a bit more up-to-date – the last substantive changes were made in 2005; to bring the Act more in line with the Model Act proposed by the Federation of State Boards of Physical Therapy (FSBPT); and to correct some errors and inconsistencies.

On page 1, line 19, dealing with direct supervision, this change was made to recognize that physical therapists (PTs) have three levels of supportive personnel they supervise. Direct supervision is for aides as they require the most stringent level of supervision.

On page 2, line 7, general supervision was added as this is the normal level of supervision for physical therapist assistants (PTA's) from neighboring states. The current law is more restrictive and was thought to be a hindrance in the ability to hire PTAs.

On page 2, line 14, the changes were made to provide for student supervision. Physical therapy aides require direct supervision.

On page 4, starting on line 5, we made some changes in Board composition since it has been difficult for the Governor's Office to recruit physicians to serve on the Board. Under current law, the Board consists of three licensed PTs, two physicians, and one public member. Under our changes, there will be three PTs, one licensed physician, one licensed PTA and two public members. Adding another consumer member will make the number of non-PT's greater than the number of PT's which may be important after the North Carolina dental board ruling.

The change on page 5, line 7, corrects an oversight in previously omitting PTAs.

The changes starting on line page 5, line 24, were made to protect the privacy of licensees, patients and medical records during investigations.

On page 6, beginning on line 14, we made sure that PTAs were included. They should have been there all along.

SB 2125
1-17-19
A+H+A

Pg 2

On page 7, line 9, we added information concerning the criminal history background checks that the Board began using after the 2017 Legislature gave us authority to do so.

On page 8, starting on line 1, we made changes to allow North Dakota to participate in an alternate approval pathway for students applying to take the National Physical Therapy Examination (NPTE). This will be a more efficient method for students. The standards set out at lines 6 and 7 are the standards set by the FSBPT after extensive, nation-wide study.

The fee added on page 8, line 22, reflect fees required to participate in the Physical Therapy Licensure Compact (Ch. 43-26.2, NDCC) authorized by the 2017 Legislative Assembly.

The changes on page 9, line 9, clarify that a physical therapist aide should not be involved with patient care that is considered skilled therapy. This is a requirement of both Medicare and North Dakota Blue Cross/Blue Shield.

On page 9, line 23, we added language to make it clear the PT is in charge of overall patient care and in communicating with the patient or his or her representatives.

We added language beginning on page 9, line 25, to deal with the growing problem for all licensed professions of cheating on their national examinations.

The changes on page 10, beginning on line 6, will allow a PTA to bill for manual therapy. Our rules will not allow a PTA to perform spinal manipulation but only peripheral joint mobilization and only if cleared by the supervising PT. This is well within a PTA's scope of practice and their education and national examination.

And, finally, the changes on page 10, line 21, were made to eliminate confusion that may result from PTs misusing the term "doctor." We want the public to fully understand who are doctors of physical therapy and who are doctor doctors☺

We have vetted these changes with every North Dakota health care profession and none raised any concerns. We believe these changes are more in the nature of updating and modernizing.

We ask for your favorable consideration. Thank you for your time and consideration. If you have any questions I would be glad to try to answer them.

Wednesday March 13, 2019

House Human Services Committee
SB 2125

CHAIRMAN WEISZ AND COMMITTEE MEMBERS:

My name is Jeanne DeKrey. I'm the current Chair of the North Dakota Board of Physical Therapy. I'm appearing here this afternoon to explain changes the Board has proposed to its Practice Act. These changes are being made to bring the Act (43.26) up-to-date – the last substantive changes were made in 2005; and to correct some errors and inconsistencies.

- Page 1, line 19, deals with direct supervision, this change was made to recognize that physical therapists (PTs) have three levels of supportive personnel they supervise. Direct supervision is the most stringent level and required for aides.
- Page 2, line 7, "general supervision" was added as this is the normal level of supervision for physical therapist assistants (PTA's) in our neighboring states (and generally across the country). Our current law is more restrictive and is thought to be a hindrance in the ability to recruit and utilize PTAs.
- Page 2, line 14, changes are proposed made to provide for student supervision.
 - Page 3, line 26, includes as updated definition of "Telehealth"
 - Page 4, starting on line 5, we hope to make changes in Board composition since it has been difficult for the Governor's Office to recruit physicians to serve on the Board. Under current law, the Board consists of three licensed PTs, two physicians, and one public member. Under proposed changes, there will be three PTs, one licensed physician, one licensed PTA and two public members. Adding another consumer member will make the number of non-PT's greater than the number of PT's which may be important after the North Carolina dental board ruling.
 - Page 5, line 7, corrects an oversight in previously omitting PTAs.
 - The changes starting on line page 5, line 24, are proposed to protect the privacy of licensees, patients and medical records during investigations.
 - Page 6, beginning on line 14, we have included PTAs. Again, this corrects an oversight as they should have been included all along.
 - Page 7, line 9, we added information concerning the criminal history background checks that the Board began using after the 2017 Legislature authorized us to do so.
 - Page 8, starting on line 1, proposed changes would allow North Dakota to participate in an alternate approval pathway for students applying to take the National Physical Therapy Examination (NPTE). This will be a more

efficient method for students. The standards set out at lines 6 and 7 are the standards set by the FSBPT after extensive, nation-wide study.

- The fee added on page 8, line 22, reflect fees required to participate in the Physical Therapy Licensure Compact (Ch. 43-26.2, NDCC) authorized by the 2017 Legislative Assembly.
- Page 9, line 9, clarifies that a physical therapist aide should not be involved with patient care that is considered skilled therapy. This is a requirement of both Medicare and North Dakota Blue Cross/Blue Shield.
- Page 9, line 23, proposed language makes it clear the PT is in charge of overall patient care and in communicating with the patient or his or her representatives.
- Language beginning on page 9, line 25, deals with the growing problem for all licensed professions of cheating on national examinations.
- The proposed changes on page 10, beginning on line 6, will allow a PTA to perform and bill for manual therapy. Our rules will not allow a PTA to perform spinal manipulation but only peripheral joint mobilization and only if cleared by the supervising PT. This is well within a PTA's scope of practice, their education and national examination expectations.
- And, finally, the changes on page 10, line 21, were made to eliminate confusion that may result from PTs misusing the term "doctor." We want the public to fully understand who "doctors of physical therapy" are and who doctor doctors are ☺

We have vetted these changes with every North Dakota health care profession and none raised any concerns. We believe these changes are more in the nature of updating and modernizing our language.

We ask for your favorable consideration. Thank you for your time and consideration. If you have any questions I would be glad to try to answer them.