

JAN 14 2011

MEMO



Senate of Pennsylvania

January 13, 2011

TO: ALL SENATORS

FROM: Stewart J. Greenleaf *Stewart*

SUBJECT: Cosponsorship -- Occupational Therapy Practice Act amendments

I am reintroducing **Senate Bill 187**, amending the Occupational Therapy Practice Act (1982 Act 140) to: (1) permit referrals from a Certified Registered Nurse Practitioner (CRNP) and a licensed Physician Assistant (PA); (2) amend the term "Occupational therapy;" (3) provide for removal of a board member for lack of attendance; (4) require an OT to have professional liability insurance; (5) provide the State Board of Occupational Therapy (OT Board) with the authority to levy a civil penalty on a person who violates the act; (6) raise the per diem for members of the OT Board; (7) include impaired professional language; and (8) establish a continuing competency requirement for occupational therapy assistants.

The General Assembly approved Act 48 of 2007, amending The Professional Nursing Law to allow CRNPs to make occupational therapy referrals. In addition, licensed PAs were also given the power to make referrals for occupational therapy via Act 46 of 2008, which amended the Osteopathic Medical Practice Act. Section 14 of the Occupational Therapy Practice Act currently states that an occupational therapist can only accept a referral from a licensed physician, licensed optometrist or a licensed podiatrist. While Act 48 and Act 46 repealed section 14 of the Occupational Therapy Practice Act to the degree that it was inconsistent, my legislation corrects this inconsistency by adding CRNP's and PA's to the list of practitioners who can refer a patient to an occupational therapist.

The definition of "Occupational therapy" is amended by replacing the word splints with the phrase "orthotics to enhance performance in occupations" which reflects the current terminology and reimbursement practice. Splints are actually high or low temperature orthotics and are coded as an orthotic for billing purposes. Since OT's do splints every day, the old terminology in the practice act, which says they can do splints, "not to include orthotics," is confusing and had led some insurance carriers to deny coverage for splints.

The bill also permits the removal of an OT Board member who fails to attend 3 meetings in 18 months, unless the Commissioner, upon written request, finds reason to excuse for illness or death in family. This is similar to language that was inserted into the Physical Therapy Practice Act two years ago to help ensure that members who are appointed to such boards actually attend and participate.

In addition, the bill requires occupational therapists to maintain \$1 million in professional liability insurance. While OT's are not currently required to carry liability insurance, most, if not all, already have such coverage. Other health care professionals, such as Physical Therapists, Certified Registered Nurse Practitioners and Perfusionists, are required to maintain liability insurance so it makes sense for OTs to have coverage.

The measure also gives the board the power to levy a civil penalty on a person who violates the act. Presently, the only way the OT Board may attempt to impose a civil penalty on a licensee is going through a hearing and entering into a consent agreement. This language would clearly provide the Board with the authority to levy a civil penalty similar to what other state licensing boards can currently do.

The State Department also recommended a number of other revisions to the act. The legislation increases the per diem allowance for members of the OT Board from \$30 to \$60. The department indicated that the members of this board are the only board members who receive \$30. The standard per diem for all other licensing boards and commissions is \$60.

A second revision includes "impaired professional" language in the act. Occupational therapists and occupational therapy assistants are as susceptible to drug and alcohol abuse as are other individuals licensed by our health-related boards. According to the department, every health licensing board's enabling statute (except for Occupational Therapy and Nursing Home Administrators) has impaired professional language which enables licensees under the board to participate in the department's Impaired Professional Program.

The final revision establishes a continuing competency requirement (much like continuing education) for license renewal for occupational therapy assistants. The department believes that continuing education is important for all professionals. The OT Board presently has the authority to set continuing competency requirements of occupational therapists but would like to extend that authority to occupational therapy assistants.

The legislation is supported by the Pennsylvania Occupational Therapy Association and the Department of State.

During the 2009-2010 legislative session, the Senate Consumer Protection and Professional Licensure Committee reported Senate Bill 187 from committee as amended. I am reintroducing the legislation as amended by the committee with clarifying language for the new liability insurance requirement and the definition of occupational therapy.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.