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California -- Physical Therapists Fighting Bill to Allow Doc-Owned Clinics: [Top](#) [03/07/11]

By [Greg Jones](#), Western Bureau Chief

An association of physical therapists is attacking legislation that would allow therapists to be employees of medical corporations, saying the bill would allow physicians to refer patients to themselves to increase profits.

Assembly Bill 783, introduced by Assembly Member Mary Hayashi, D-Hayward, would allow medical corporations to control access to physical therapists.

California Physical Therapy Association president Dr. James Syms says the measure will limit the choice of patients, as well as the quality of care they receive. Supporters, on the other hand, say the bill does nothing more than remove an ambiguity in existing law that would force physical therapists currently employed by medical corporations to either quit or face sanctions from the licensing board.

"This bill is necessary to save jobs and preserve continuity of care," Hayashi said in a statement. "Physical therapists are a key part of patient recovery in many aspects of health care, and AB 783 will ensure that they can continue to practice where they are needed most."

The bill would add physical therapists to the list of professions that can be employed in a medical corporation. In doing so, it could allow physicians to make a referral to a service in which they have a financial interest, an act that is generally prohibited by Labor Code Sections 139.3 and 139.31. However, there is an exception in 139.31(e) for services performed within a physician's office.

Lach Taylor, a consultant with the Commission on Health and Safety and Workers' Compensation (CHSWC), said it is not clear how the bill would interact with the labor codes addressing conflict of interest, but it is something he plans to review.

Syms was less reserved in his assessment of the bill.

"This possesses an inherent conflict of interest by establishing a self-referral for profit situation and removes consumer choice," he said. "Furthermore, studies show that self-referrals by physicians to services in which they have an ownership interests result in unnecessary and inadequate care and higher costs for both consumers and payers."

The U.S. Office of Inspector General provided a report to the Department of Health and Human Service in 2006 stating that when a physician orders and directs physical therapy, 91% of the time the care is below professional standards and unnecessary.

An older study of California's pre-reform comp system found that the frequency with which physical therapy was initiated was 2.3 times greater among self-referring physicians as opposed to those making referrals to independent therapists. The study, conducted by Alex Swedlow (now research director for the California Workers' Compensation Insurance Institute) and published in the New England Journal of Medicine in 1992, found that the independent physical therapists charged on average 10% more, but the "small difference in cost per case is more than offset by the dramatically greater frequency with which self-referring providers initiate physical therapy."

California now limits injured workers to 24 physical therapy visits.

Dr. Jim Dagostino, chair of the government affairs committee for the California Physical Therapy Association, said additional anecdotal evidence suggests that therapists who have worked for physicians are asked to sign off on charts for patients they haven't met, and much of the treatment is performed by

technical staff as opposed to physical therapists because the physician employers don't hire enough physical therapists.

He also said if enacted, the legislation will make it harder for patients and injured workers to be referred to an independent physical therapist.

"I have loyal patients but I must admit they really have to battle hard to get to me when they have a doctor who has his own therapy department," Dagostino said. "Work comp patients have little choice now in California, but certainly at this point they are going to have a tougher time coming to a place like mine."

Hayashi said in a statement that the legislation was necessary to correct an ambiguity in the law that could cause physical therapists to be fined or possibly lose their license to practice.

The Physical Therapy Board of California allowed physical therapists to work for medical corporations since 1990. However, in 2008 the board was asked whether the practice was legal and an answer from the Legislative Counsel Bureau determined that a physical therapist could be sanctioned for providing services as an employee of a medical corporation. The Department of Consumer Affairs is reviewing the laws now and the board said it is waiting for the results of that review before it takes further action.

Ross Warren, chief consultant to the Assembly Committee on Business, Professions and Consumer Protection, said the bill only removes the perceived ambiguity currently before the Physical Therapy Board, and statements that the bill would do anything else, including create a referral-for profit scheme, are untrue.

"Basically, what you have is private practice, which is a small minority, trying to get an economic advantage over physical therapists who work in the employ of professional organizations by outlawing that relationship and forcing them to quit or have the board pull their license," Warren said.

The language in AB 783 is identical to legislation introduced as AB 1152 last year. The California Physical Therapy Association helped kill that legislation in the Senate, Syms said. He said allowing physical therapists to work for physicians was a bad idea last session and it is a bad idea now.

"What's changed since then, other than the other side going to legislators and trying to convince them otherwise?" Syms said.

To read AB 783, click here:

<http://www.workcompcentral.com/pdf/2011/misc/CalifAB783.pdf> .

To read AB 1152 from the previous session, click here:

<http://www.workcompcentral.com/pdf/2011/misc/CalifAB1152.pdf> .

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