

**SENATE BILL No. 440**

By Committee on Public Health and Welfare

2-7

1 AN ACT concerning health and health professions; relating to the  
2 occupational therapy practice act; authorizing occupational therapists to  
3 provide limited services to patients without a referral; amending K.S.A.  
4 65-5401 and 65-5402 and repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Except as otherwise provided in subsection (c), an  
8 occupational therapist may evaluate and initiate occupational therapy  
9 treatment on a patient without referral from a healthcare practitioner.

10 (1) An occupational therapist who is treating a patient without a  
11 referral from a healthcare practitioner shall obtain a referral from an  
12 appropriate healthcare practitioner prior to continuing treatment if the  
13 patient:

14 (A) Is not progressing toward documented treatment goals as  
15 demonstrated by objective, measurable or functional improvement, or any  
16 combination thereof, after ten patient visits or in a period of 30 calendar  
17 days from the initial treatment visits following the initial evaluation visit;  
18 or

19 (B) within one year from the initial treatment visits following the  
20 initial evaluation visit, returns to the occupational therapist seeking  
21 treatment for the same condition or injury.

22 (b) Occupational therapists may provide services without a referral  
23 to:

24 (1) Employees solely for the purpose of education and instruction  
25 related to workplace injury prevention;

26 (2) the public for the purpose of health promotion, education, and  
27 functional independence in activities of daily living; or

28 (3) special education students who need occupational therapy services  
29 to fulfill the provisions of their individualized education plan (IEP) or  
30 individualized family service plan (IFSP).

31 (c) Nothing in this section shall be construed to prevent a hospital or  
32 ambulatory surgical center from requiring a physician order or make a  
33 referral for occupational therapy services for a patient currently being  
34 treated in such facility.

35 (d) When a patient self-refers to an occupational therapist pursuant to  
36 this section, the occupational therapist, prior to commencing treatment,

1 shall provide written notice to the patient that an occupational therapy  
2 diagnosis is not a medical diagnosis by a physician.

3 (f) Occupational therapists shall perform wound care management  
4 services only after approval by a person licensed to practice medicine and  
5 surgery.

6 (g) As used in this section, "healthcare practitioner" means: A person  
7 licensed by the state board of healing arts to practice medicine and surgery,  
8 osteopathic medicine and surgery or chiropractic; a "mid-level  
9 practitioner" as defined in K.S.A. 65-1626, and amendments thereto; or a  
10 licensed dentist or licensed optometrist in appropriately related cases.

11 New Sec. 2. Professional liability insurance coverage shall be  
12 maintained in effect by each licensed occupational therapist actively  
13 practicing in this state as a condition of rendering professional services as  
14 an occupational therapist in this state. The board shall fix by rules and  
15 regulations the minimum level of coverage for such professional liability  
16 insurance.

17 Sec. 3. K.S.A. 65-5401 is hereby amended to read as follows: 65-  
18 5401. K.S.A. 65-5401 to ~~65-5417, inclusive~~ through K.S.A. 65-6521, and  
19 amendments thereto, and sections 1 and 2, and amendments thereto, shall  
20 be known and may be cited as the occupational therapy practice act.

21 Sec. 4. K.S.A. 65-5402 is hereby amended to read as follows: 65-  
22 5402. As used in K.S.A. 65-5401 to ~~65-5417, inclusive, and K.S.A. 65-  
23 5418 to 65-5420, inclusive, and amendments thereto~~ the occupational  
24 therapy practice act:

25 (a) "Board" means the state board of healing arts.

26 (b) "Practice of occupational therapy" means the therapeutic use of  
27 purposeful and meaningful occupations (*or* goal-directed activities) to  
28 evaluate and treat, ~~pursuant to the referral, supervision, order or direction~~  
29 ~~of a physician, a licensed podiatrist, a licensed dentist, a licensed physician~~  
30 ~~assistant, or a licensed advanced practice registered nurse working~~  
31 ~~pursuant to the order or direction of a person licensed to practice medicine~~  
32 ~~and surgery, a licensed chiropractor, or a licensed optometrist,~~ individuals  
33 who have a disease or disorder, impairment, activity limitation or  
34 participation restriction that interferes with their ability to function  
35 independently in daily life roles and to promote health and wellness.

36 (1) Occupational therapy intervention may include:

37 ~~(1)~~(A) Remediation or restoration of performance abilities that are  
38 limited due to impairment in biological, physiological, psychological or  
39 neurological cognitive processes;

40 ~~(2)~~(B) adaptation of tasks, process, or the environment or the teaching  
41 of compensatory techniques in order to enhance performance;

42 ~~(3)~~(C) disability prevention methods and techniques that facilitate the  
43 development or safe application of performance skills; and

1       ~~(4)(D)~~ health promotion strategies and practices that enhance  
2 performance abilities.

3       (2) *The "practice of occupational therapy" does not include the*  
4 *practice of any branch of the healing arts or making a medical diagnosis.*

5       (c) "Occupational therapy services" include, but are not limited to:

6       (1) Evaluating, developing, improving, sustaining, or restoring skills  
7 in activities of daily living (ADL), work or productive activities, including  
8 instrumental activities of daily living (IADL) and play and leisure  
9 activities;

10       (2) evaluating, developing, remediating, or restoring sensorimotor,  
11 cognitive or psychosocial components of performance;

12       (3) designing, fabricating, applying, or training in the use of assistive  
13 technology or orthotic devices and training in the use of prosthetic devices;

14       (4) adapting environments and processes, including the application of  
15 ergonomic principles, to enhance performance and safety in daily life  
16 roles;

17       (5) applying physical agent modalities as an adjunct to or in  
18 preparation for engagement in occupations;

19       (6) evaluating and providing intervention in collaboration with the  
20 client, family, caregiver or others;

21       (7) educating the client, family, caregiver or others in carrying out  
22 appropriate nonskilled interventions; and

23       (8) consulting with groups, programs, organizations or communities  
24 to provide population-based services.

25       (d) "Occupational therapist" means a person licensed to practice  
26 occupational therapy as defined in this act.

27       (e) "Occupational therapy assistant" means a person licensed to assist  
28 in the practice of occupational therapy under the supervision of an  
29 occupational therapist.

30       (f) "Person" means any individual, partnership, unincorporated  
31 organization or corporation.

32       (g) "Physician" means a person licensed to practice medicine and  
33 surgery.

34       (h) "Occupational therapy aide," "occupational therapy tech" or  
35 "occupational therapy paraprofessional" means a person who provides  
36 supportive services to occupational therapists and occupational therapy  
37 assistants in accordance with K.S.A. 65-5419, and amendments thereto.

38       Sec. 5. K.S.A. 65-5401 and 65-5402 are hereby repealed.

39       Sec. 6. This act shall take effect and be in force from and after its  
40 publication in the statute book.