



JOE SANFELIPPO

STATE REPRESENTATIVE • 15th ASSEMBLY DISTRICT

(608) 266-0620
FAX: (608) 282-3615
Toll-Free: (888) 534-0015
Rep.Sanfelippo@legis.wi.gov

P.O. Box 8953
Madison, WI 53708-8953

December 16, 2015

Good morning Chair and Health Committee members. Thank you for allowing me the opportunity to testify today on AB 549 which gives physical therapists the ability to order x-rays.

Under this bill, a physical therapist may only order x-rays if they undergo extensive training outlined in the bill. This training includes obtaining a clinical doctorate degree in physical therapy, completing a nationally recognized specialty certification program, completing a nationally recognized residency or fellowship certified by an organization recognized by the examining board and completing a formal X-ray ordering training program with demonstrated physician involvement.

That is the key distinction in this bill – physical therapists will be added to the list of medical professionals who can *order* x-rays. Physical therapists will not be *reading or interpreting* the x-rays.

Patient safety is of the utmost importance and at the forefront of every caregiver's mind. This bill requires a physical therapist to communicate with the patient's primary care physician for appropriate coordination of care with limited exceptions that are outlined in the bill.

This is a sensible bill that will make it more convenient for physical therapy patients who may need an x-ray and may help reduce their health care costs. Instead of being referred back to another health care provider for an x-ray, a physical therapist would be able to order an x-ray under this bill, eliminating the extra time and money it would take to be referred back to another health care professional.

Again, thank you for holding a public hearing on Assembly Bill 549. I would be happy to answer any questions you have on the bill.

<http://docs.legis.wisconsin.gov/2015/proposals/ab549>



Van H. Wanggaard

Wisconsin State Senator

TESTIMONY ON ASSEMBLY BILL 549

Thank you, Mr. Chairman and committee members, for this hearing on Senate Bill 453. This is a bi-partisan bill that would save patients time and money by allowing a physical therapist who is licensed in Wisconsin to order X-rays. The legislation is being brought forward by request from the Wisconsin Physical Therapy Association.

Physical therapists are entry level providers and in many cases, patients seek a physical therapist first after suffering an injury or impairment. In Wisconsin, patients have been able to see physical therapists without a referral from a physician or other provider (also known as direct access) since 1987.

Today, ordering X-rays is taught and tested in all six accredited physical therapy programs in Wisconsin and in all doctorate programs across the US. However, current Wisconsin law does not include physical therapists in the list of medical providers from whom a radiologic technologist may accept an order for an X-ray. This results in a legal conflict with physical therapists sending patients directly for X-rays.

Senate Bill 453 will provide clarity in two ways. First, by adding physical therapists to the list of providers whom a radiologist technician can receive an order from. Second, the bill explicitly allows physical therapists with specific training and education to order X-rays.

There are a number of limitations and safeguards in the bill to ensure quality care. The bill specifies that physical therapists can order X-rays, but not interpret them. Images will still be reviewed by radiologists. Also, insurance billing would remain unchanged, and would still be done by radiologist technicians. The bill provides that the physical therapist must, when ordering X-rays, communicate with the patient's primary care physician or an appropriate health care provider to ensure coordination of care. Lastly, it is important to note that this is not a mandate. Hospitals would still be allowed to determine by their own boards whether to adopt this model.

Senate Bill 453 will save patients time and money, ensure prompt treatment and avoid needless referral to another medical provider. Again, thank you for hearing this important bill; I urge quick passage.

Serving Racine County - Senate District 21



Wisconsin Medical Society

TO: Assembly Committee on Health
Rep. Joe Sanfelippo, Chair

FROM: Gregg Bogost, MD

DATE: December 16, 2015

RE: Opposition to Assembly Bill 549

Good morning Representative Sanfelippo and committee members.

Thank you for the opportunity to testify on Assembly Bill 549. My name is Gregg Bogost. I am a practicing radiologist representing the Wisconsin Medical Society. I also represent the Wisconsin Radiological Society. I am a Fellow of the American College of Radiology, a member of the Wisconsin Medical Society's Council on Legislation and member of the State Radiography Examining Board. Together our Societies represent more than 12,000 physicians, residents and medical students and 774 physician radiologists in the state.

Radiologists are physicians who supervise and interpret medical imaging studies such as x-rays, CT scans, MRI and ultrasound. As such, under AB 549, radiologists will be responsible for interpreting the medical images that physical therapists will be allowed to order.

As experts in imaging acquisition and interpretation, radiologists understand both the clinical and legal implications of this proposed legislation. Our concerns regarding AB 549 are not about competition nor are they about money. In fact, the bill could potentially have a positive financial impact on radiologists if physical therapists order a lot of x-rays. Instead, our concerns are based solely on patient care and systemic issues.

That said, radiologists and other physicians recognize and appreciate that physical therapists are well trained and perform a crucial role in helping patients recover from surgery, injury and common ailments. Physicians, radiologists included, highly value the skills and services provided by physical therapists. They are highly valued members of the health care delivery team – critical for the delivery of high quality patient care.

Under the current model of delivery of PT services, physicians or physician extenders such as physician's assistants refer patients to physical therapists after conducting an initial assessment of the patient's need. At that initial visit, the physician attempts to evaluate the potential causes of the patient's problem. Comorbidities, review of medications, a medical history, physical exam and potentially the ordering of testing such as blood work or x-rays are performed to take into account factors pertinent to the patient. The result of that evaluation may result in a referral to PT.

That initial patient encounter with a physician is important, as it allows the provider to gather the necessary information about the patient's medical issues that may relate to the current problem. This approach allows for a consideration of a myriad of diagnostic possibilities in the context of the full medical review, while minimizing patient risk.

By providing physical therapists the ability to order x-rays independently, patients may bypass that initial full spectrum evaluation, which creates some significant patient care concerns. When patients are seen by similar mid-level providers such as PAs or nurse practitioners, the State Legislature has built in safeguards for patients in obligating either supervisory or collaborative relationships with physicians. Such relationships are not required for physical therapists. So, episodes of care that bypass that first comprehensive patient evaluation will be done without the guidance of a primary care physician. WRS is concerned that significant medical conditions detectable via x-rays that lie outside of the education and scope of practice of physical therapists may not be appropriately referred or managed by physical therapists in the absence of physician supervision. While some physical therapists practicing in an academic environment may have appropriate policies and relationships with physicians to allow referral of the patient to appropriate care, many physical therapists are not affiliated with such institutions or policy, and the management of such findings are outside the scope of their training. Failure of the physical therapist to act on a finding described in a report by a radiologist could lead to unnecessarily delayed treatment and adverse patient outcomes, as well as liability to the radiologist.

Here are some examples.

You go to the physical therapist for back pain. PT orders lumbar spine x-rays. The result: There is some disk degeneration and arthritis, as is commonly seen, that may or may not matter. Much to all of our chagrin, probably every one of you on this committee and myself will show some degenerative disk disease or arthritis on that x-ray. But most of those findings are not symptomatic. The key is weeding out what findings are significant. But in this example, your pain is actually coming from a kidney stone trying to pass. This is a very common occurrence. Entertaining that possibility is not typically in a PT's training, so many important differential diagnostic possibilities won't be entertained. A physician, though, is more likely to have thought of this possibility and ordered a urinalysis looking for blood in the urine, and ordered the more appropriate scan to confirm the diagnosis. In the meantime, my report to the PT describes your disk disease, which will probably be the main focus of the physical therapist.

Similarly, you present to the physical therapist with shoulder pain. The PT focuses on the shoulder and orders x-rays and institutes treatment for arthritis or rotator cuff disease suggested by the x-ray. However, the possibility that the pain is coming from a pinched nerve in the cervical spine may not be addressed, and your diagnosis gets missed or delayed. Similarly, hip or leg pain can be caused by a pinched nerve in the lower back that usually requires a provider to perform a neurologic exam such as testing reflexes and sensation which physical therapists do not perform.

An additional concern is that x-rays may reveal significant disease unrelated to the pathology that the PT was focused on or may not be trained to understand. Such problems may go unaddressed or be lost in communication problems, particularly when the patient does not have a primary care physician and accesses care without establishing a relationship with a physician or physician-supervised provider.

For example, a lung nodule – possible lung cancer – is seen on your shoulder x-ray. The radiologist reports this and the need for further evaluation such as a CT scan. While in most situations, particularly in the centers of excellence such as at the University of Wisconsin Hospital where there is comprehensive structure and vertically integrated pathways, the PT will appropriately, and is obligated to, refer to another health care team member.

However, the model at UW is not necessarily the model throughout the state. Smaller or unaffiliated PT practices may not have the proper mechanisms to communicate a referral to an unknown physician, particularly since the bill does not mandate supervision or at the very least collaboration. Furthermore, the PT's do not have a malpractice insurance requirement, which then shifts the focus of any lawsuits to the interpreting radiologist who rendered an accurate report. This is significant because case law has made it clear that radiologists are obligated to communicate to patients even though there may not be a direct known relationship. So even though the radiologist rendered an accurate report, they can be and have been successfully sued for failure to communicate.

Other examples of findings that may not arouse recognition or action from a physical therapist, or may not be in the wheelhouse of a PT's training include: An unexpected bone tumor, an aortic aneurysm seen on a spine x-ray, or a manifestation of a broader systemic illness such as kidney failure shown on its effect on the bone.

There is another significant concern. A large proportion of patients treated by physical therapists are Medicare patients. Currently, CMS does not pay for x-rays ordered by physical therapists. What does this mean? Patients will assume their x-ray study is paid for by Medicare like most other scenarios. As a result, patients will be caught off guard that they are on the hook for that expense. Of note is that the charge the senior will receive will not be the discounted Medicare rate; rather, the facility would charge their "rack rate". Our seniors will not appreciate that obligation for what is usually a significantly higher charge.

While one solution would be to require patients be informed of this scenario, this puts the patients in an undesirable, awkward position to refuse a recommended test that otherwise would have been paid for if they saw their physician first. Patients would have to sign an advanced beneficiary notice, an example of which is provided. To get the test and have it rightfully paid for, the patient would have to reestablish an appointment with a physician after the fact, causing delay and patient inconvenience.

The patient care concerns that result from the lack of a supervision or collaborative requirement, along with the Medicare non-payment issues create practical barriers to implementing this bill as proposed. Without a strict requirement that PTs coordinate with physicians, AB 549 poses significant patient safety and liability concerns. Any poor outcomes and/or missed and delayed diagnosis would be a disservice to patients and negate any savings anticipated by skipping visits to physician's offices.

The Wisconsin Medical Society and Wisconsin Radiological Society encourage the Committee to consider statutory requirements for physician supervision if a PT desires to order an x-ray. If the Legislature decides to elevate the physical therapist's practice status, it may wish to require that PTs carry malpractice coverage. If the State Legislature wishes to advance this bill, additional scrutiny of the training required for ordering x-rays would also need to be reviewed. In addition, to address the CMS issue you may want to include an informed consent provision which would clearly disclose that Medicare patients would be obligated to pay the cost of x-rays that are ordered independently by a physical therapist. However, this would not obviate the inconvenience of having the patient pay out of pocket or have to make a return visit to the doctor to have the x-ray paid for.

Thank you for this opportunity to share our concerns.



Sample Hospital
 630 Second Street
 Portsmouth, OH 45662
 (740) 355-9029

Patient Name: Joe L. Patient

Identification Number: 123-45-6789A

ADVANCE BENEFICIARY NOTICE OF NONCOVERAGE (ABN)

NOTE: If Medicare doesn't pay for the services/supplies below, you may have to pay.

Medicare does not pay for everything, even some care that you or your health care provider have good reason to think you need. We expect Medicare may not pay for the services/supplies below.

Services/Supplies:	Reason Medicare May Not Pay:	Estimated Cost:
71010 - Radiologic examination, chest; single view, frontal	Not covered with your diagnosis.	... \$58.00

WHAT YOU NEED TO DO NOW:

- Read this notice, so you can make an informed decision about your care.
- Ask us any questions that you may have after you finish reading.
- Choose an option below about whether to receive the services/supplies listed above.

Note: If you choose Option 1 or 2, we may help you to use any other insurance that you may have, but Medicare cannot require us to do this.

Options: Check only one box. We cannot choose a box for you.

OPTION 1. I want the services/supplies listed above. You may ask to be paid now, but I also want Medicare billed for an official decision on payment, which is sent to me on a Medicare Summary Notice (MSN). I understand that if Medicare doesn't pay, I am responsible for payment, but I **can appeal to Medicare** by following the directions on the MSN. If Medicare does pay, you will refund any payments I made to you, less co-pays or deductibles.

OPTION 2. I want the services/supplies listed above, but do not bill Medicare. You may ask to be paid now as I am responsible for payment. I **cannot appeal if Medicare is not billed.**

OPTION 3. I don't want the services/supplies listed above. I understand with this choice I am **not responsible for payment, and I cannot appeal to see if Medicare would pay.**

Additional Information:

Ordering Doctor: Park, Michael MD; Diagnosis Code(s): 250.00; Additional Procedure Information: 71010 - N/A;

This notice gives our opinion, not an official Medicare decision. If you have other questions on this notice or Medicare billing, call **1-800-MEDICARE** (1-800-633-4227/TTY: 1-877-486-2048).

Signing below means that you have received and understand this notice. You also receive a copy.

Signature:	Date:
-------------------	--------------

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0566. The time required to complete this information collection is estimated to average 7 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

Wisconsin Association of Health Plans

The Voice of Wisconsin's Community-Based Health Plans

Testimony Presented to the Assembly Committee on Health In Opposition to Assembly Bill 549

December 16, 2015

The Wisconsin Association of Health Plans appreciates the opportunity to submit comments in opposition to Assembly Bill 549, which would give physical therapists the authority to order x-rays. Our opposition to the legislation stems from the following concerns about expanding the types of providers with authority to order x-rays:

- **Increased overuse of x-rays.** Inappropriate use of x-rays needlessly increases health care costs and raises patient exposure to harmful medical radiation. The overuse of medical imaging, including x-rays, remains a target of health plans and health systems seeking to improve care, reduce waste and lower costs.
- **Increased risk of uncoordinated health care services,** which can lead to quality problems, duplicated services and higher costs.
- **Higher administrative costs** as health systems and health plans develop and work through additional protocols to control inappropriate utilization and ensure quality, compliance and patient safety.

To reduce the risk of inappropriate x-ray use and poor care coordination, the legislation would need to incorporate protective measures such as limiting the ordering authority to plain film x-rays vs. computed tomography (CT). Further, physical therapists would need to adhere to medical guidelines and procedures to ensure an appropriate level of quality and tight coordination with primary care physicians. The standards physical therapists must meet to be qualified to order x-rays would need to be reviewed and kept current, and the qualifying therapists must be able to show that the necessary qualifications for ordering x-rays are clearly met.

As health plans, health systems, employers and governments continue working to find ways to reduce health care costs and improve health care quality, Assembly Bill 549 is much more likely to increase costs and lower health care quality. Health plans find no compelling benefit to the proposal or problem this proposal would solve. **For these reasons, the Wisconsin Association of Health Plans recommends that you oppose Assembly Bill 549.**

The Wisconsin Association of Health Plans is the voice of 12 community-based health plans from across Wisconsin. Collectively, our members provide health insurance coverage in every county of the state to individuals, employers and government programs. Wisconsin's community-based health plans are generally the lowest cost, highest quality health plans in Wisconsin, as measured by premium comparisons, patient satisfaction scores and national health plan rankings and ratings.

For more information, contact Tim Lundquist, Director of Government and Public Affairs, at 608-255-0921.