

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1363

Session of
1985

INTRODUCED BY LINTON, BOOK, RIEGER, LLOYD, AFFLERBACH, SEVENTY,
DONATUCCI, ACOSTA, FATTAH AND MILLER, JUNE 4, 1985

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE
OF REPRESENTATIVES, AS AMENDED, JUNE 11, 1985

AN ACT

1 Amending the act of October 10, 1975 (P.L.383, No.110), entitled
2 "An act relating to the practice of physical therapy,"
3 further providing for the board, qualifications for licenses
4 and renewal thereof, registration of physical therapy
5 assistants and certification of athletic trainers; providing
6 penalties; and making an editorial change.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2 of the act of October 10, 1975
10 (P.L.383, No.110), known as the Physical Therapy Practice Act,
11 is amended by adding a definition to read:

12 Section 2. Definitions.--The following definitions shall
13 apply, when used in this act, unless otherwise expressed
14 therein:

15 * * *

16 "Physical therapist assistant" shall mean a person who has
17 met all the requirements of this act and is registered as a
18 physical therapist assistant in accordance with this act.

19 * * *

1 Section 2. The act is amended by adding a section to read:

2 Section 2.1. State Board of Physical Therapy Examiners.--(a)

3 The board shall consist of nine members, all of whom shall be
4 residents of Pennsylvania. Five members shall be physical
5 therapists licensed to practice in this Commonwealth, each
6 having had at least five years of experience as a physical
7 therapist, three years of which must have immediately preceded
8 the appointment to the board. One member shall be a physical
9 therapist assistant currently registered with the board, except
10 that the initial appointee shall be listed with the board and
11 not be registered until the provisions of section 10 have been
12 implemented. Two members shall be representatives of the public.
13 One member shall be the Commissioner of Professional and
14 Occupational Affairs. The members of the board shall be
15 appointed by the Governor.

16 (b) Professional and public members appointed after the
17 expiration of the terms of current board members shall serve the
18 following terms: one physical therapist shall serve one year;
19 one physical therapist shall serve two years; one physical
20 therapist and one public member shall serve three years; and two
21 physical therapists, one physical therapist assistant and one
22 public member shall serve four years. Thereafter, professional
23 and public members shall serve four-year terms. No member may
24 serve more than two consecutive terms. A member may continue to
25 serve for a period not to exceed six months beyond the
26 expiration of his term, if a successor has yet to be duly
27 appointed and qualified according to law.

28 (c) Five members of the board shall constitute a quorum. The
29 board shall select, from among their number, a chairman, a vice
30 chairman and a secretary.

1 (d) Each public and professional member of the board shall
2 be paid reasonable traveling, hotel and other necessary expenses
3 and per diem compensation at the rate of \$60 for each day of
4 actual service while on board business.

5 (e) A member who fails to attend three consecutive meetings
6 shall forfeit his seat unless the Commissioner of Professional
7 and Occupational Affairs, upon written request from the member,
8 finds that the member should be excused from a meeting because
9 of illness or the death of an immediate family member.

10 (f) In the event that a member of the board dies or resigns
11 during the term of office, a successor shall be appointed in the
12 same way and with the same qualifications as set forth in
13 subsection (a) and shall hold office for the unexpired term.

14 Section 3. Sections 3, 6 and 7 of the act, amended April 4,
15 1984 (P.L.196, No.41), are amended to read:

16 Section 3. Powers and Duties of Board.--(a) [The board
17 shall elect annually from its membership a chairman and a vice-
18 chairman and shall select a secretary who need not be a member
19 of the board.] It shall be the duty of the board to pass upon
20 the qualifications of applicants for licensure as physical
21 therapists, registration as physical therapist assistants and
22 certification as athletic trainers, to conduct examinations, to
23 issue and renew licenses to physical therapists, registrations
24 to physical therapist assistants and certifications to athletic
25 trainers who qualify under this act, and in proper cases to
26 refuse to issue, suspend or revoke the license of any physical
27 therapist, registration of any physical therapist assistant, or
28 certification of any athletic trainer. The board may adopt rules
29 and regulations not inconsistent with law as it may deem
30 necessary for the performance of its duties and the proper

1 administration of this law. The board is authorized and
2 empowered to appoint hearing examiners and to conduct
3 investigations and hearings upon charges for discipline of a
4 licensee, REGISTRANT or certificate holder or for violations of <—
5 this act, and to cause, through the office of the Attorney
6 General, the prosecution and enjoinder of persons violating this
7 act. The board shall maintain a register listing the name of
8 every living physical therapist licensed to practice in this
9 State, every physical therapist assistant duly registered
10 pursuant to section 9.1 and every athletic trainer certified to
11 practice in this State, such individual's last known place of
12 business and last known place of residence, and the date and
13 number of the physical therapist's license or athletic trainer's
14 certification.

15 (b) The board shall submit annually to the Department of
16 State and to the House and Senate Appropriations Committees,
17 within 15 days of the date on which the Governor has submitted
18 his budget to the General Assembly, an estimate of the financial
19 requirements of the board for its administrative, investigative,
20 legal and miscellaneous expenses.

21 (c) The board shall submit annually a report to the
22 Professional Licensure Committee of the House of Representatives
23 and to the Consumer Protection and Professional Licensure
24 Committee of the Senate a description of the types of complaints
25 received, status of cases, board action which has been taken and
26 the length of time from the initial complaint to final board
27 resolution.

28 Section 6. Qualifications for License; Examinations; Failure
29 of Examinations; Licensure Without Examination; Issuing of
30 License; Foreign Applicants for Licensure; {Temporary License;} <—

1 Perjury.--(a) To be eligible for licensure as a physical
2 therapist, an applicant must be at least 20 years of age unless
3 otherwise determined by the board in its discretion, be of good
4 moral character, not be addicted to the habitual use of alcohol
5 or narcotics or other habit-forming drugs, and [has graduated
6 from] be a graduate of a school offering an educational program
7 in physical therapy as adopted by the board, which program has
8 been approved for the education and training of physical
9 therapists by the appropriate nationally recognized accrediting
10 agency. By the time of completion of the professional study of
11 physical therapy, a physical therapist must hold a minimum of a
12 baccalaureate degree from a regionally accredited institution of
13 higher education. In the case of those applicants who have
14 completed requirements prior to the first day of January, 1967,
15 but who may not technically or totally fulfill the above
16 requirements, the board at its discretion and by the majority
17 vote of all members present may accept evidence of satisfactory
18 equivalence.

19 (b) An applicant for licensure must pass[, to the
20 satisfaction of the board,] a written examination which shall
21 test the applicant's knowledge of the basic and clinical
22 sciences as they relate to physical therapy theory and physical
23 therapy procedures and such other subjects as the board may deem
24 necessary to test the applicant's fitness to practice physical
25 therapy. [Such examination may also include an oral examination
26 or practical examination or both at the discretion of the
27 board.] No license shall be granted unless an applicant has
28 attained passing scores established by the ~~board~~ TESTING AGENCY <—
29 and published prior to the administration of the examination.

30 The examination shall be held within the Commonwealth of

1 Pennsylvania twice a year at such time and place as the board
2 shall determine.

3 (c) In case of failure at the first examination, the
4 applicant for licensure shall have, after the expiration of six
5 months and within two years from the first failure, the
6 privilege of a second examination. [In case of failure in a
7 second examination, any further examinations shall be given at
8 the discretion of the board, but in any such case the applicant
9 must make a new application, and otherwise qualify under the
10 conditions in force at the time of the application for a third
11 or successive examinations.] The board may adopt regulations
12 governing the eligibility of applicants who have failed to pass
13 two examinations in order to be admitted to subsequent
14 examinations.

15 [(d) On payment to the board of a fee as set by regulation
16 and on submission of a written application on forms provided by
17 the board, the board shall issue a license without examination
18 to any person who is a licensed or otherwise registered as a
19 physical therapist by another state or territory of the United
20 States of America, or the District of Columbia and whose license
21 or registration is valid and in good standing; and further that
22 the requirements for license or registration, as the case may
23 be, in such state, territory, or district were or are
24 substantially equal to the requirements set forth in this act:
25 Provided, That such person has not taken and failed, one or more
26 times, the examination referred to in subsection (b), in which
27 case, the issuance of a license under this paragraph shall be at
28 the discretion of the board.]

29 (d.1) The board may grant licenses and registrations without
30 further examination to individuals from another state if the

1 following conditions exist:

2 (1) Licensing or registration standards in the other state
3 are substantially the same as those of this act.

4 (2) Similar privileges are accorded persons licensed OR <—
5 REGISTERED in this Commonwealth.

6 (3) The applicant holds a valid license or registration
7 issued by the other state.

8 (4) The applicant complies with the rules and regulations of
9 the board.

10 (e) The board shall issue a license to a physical therapist
11 who successfully establishes his eligibility under the terms of
12 this act and any person who holds a license pursuant to this
13 section may use the words physical therapist or licensed
14 physical therapist and he may use the letters LPT in connection
15 with his name or place of business to denote his licensure
16 hereunder.

17 (f) Foreign trained physical therapists who desire and apply
18 to be licensed as a physical therapist by the board shall,
19 before examination, furnish proof as to age, moral character,
20 and no addiction to the use of alcohol or narcotics or other
21 habit-forming drugs, and shall present proof indicating the
22 completion of educational requirements substantially equal to
23 those in subsection (a). In addition thereto, the foreign
24 trained applicant must complete, at the board's discretion, up
25 to one year of supervised clinical experience as prescribed by
26 the board prior to taking the examination for licensure.

27 †(g) Upon the submission of a written application on forms <—
28 provided by it, the board shall also issue a temporary license
29 to a person who has applied for a license under the provisions
30 of subsection (a) and who is[, in the judgment of the board,] <—

1 eligible to take the examination provided for in subsection (b).
2 Such temporary license shall be available to an applicant with
3 respect to his application for a license under subsection (a)[, <—
4 but the applicant may only use the temporary license while]. THE <—
5 ISSUANCE BY THE BOARD OF A TEMPORARY LICENSE SHALL AUTHORIZE THE
6 PRACTICE OF PHYSICAL THERAPY OR PROVIDING SERVICES ONLY AS A
7 PHYSICAL THERAPIST ASSISTANT under the direct-ON-PREMISES <—
8 supervision of a licensed physical therapist. Such temporary
9 license shall expire upon the failure of the first examination
10 and upon expiration the license must be surrendered to the board
11 except that the board may reissue such temporary license [in its <—
12 discretion and] ONCE in accordance with rules and regulations to <—
13 be established.

14 (h) [The granting or issuing of any temporary license or <—
15 permit relating to the practice of physical therapy in the
16 Commonwealth for any reason other than as set forth in
17 subsection (g) shall be within the sole discretion of the board
18 subject to rules and regulations established by the board.] <—

19 (i)] Any applicant who knowingly or willfully makes a false <—
20 statement of fact in any application shall be subject to
21 prosecution for perjury.

22 Section 7. Renewal of License.--[(a)] Each license issued
23 under the provisions of this act shall be renewed biennially[,
24 except as provided in subsection (b)]. On or before November 1
25 of each renewal year, the board shall mail an application for
26 renewal of license to each person to whom a license was issued
27 or renewed during the current licensing period, which
28 application shall be mailed to the most recent address of said
29 person as it appears on the records of the board. Such person
30 shall complete the renewal application and return it to the

1 board with a renewal fee before December 31 of the year in which
2 said application was received. Upon receipt of any such
3 application and fee, the board shall verify the accuracy of such
4 application and issue to the applicant a certificate of renewal
5 of license for the next licensing period as described above. The
6 renewal fee for each licensing period shall be set by
7 regulation.

8 [(b) If any person shall not so renew his or her license
9 such license shall automatically expire. A license which has
10 thus expired may, within three years of its expiration date, be
11 renewed on the payment to the board of the fee for each
12 licensing period or part thereof, pro rata, during which the
13 license was ineffective and the payment of a restoration fee set
14 by regulation. After said three years period such license shall
15 be renewed only by complying with the provisions in subsections
16 (a) and (b) of section 6 relating to obtaining an original
17 license.]

18 Section 4. The act is amended by adding sections to read:

19 Section 7.1. Reporting of Multiple Licensure.--Any licensed
20 physical therapist or registered physical therapist assistant of
21 this Commonwealth who is also licensed to practice physical
22 therapy or registered as a physical therapist assistant in any
23 other state, territory or country shall report this information
24 to the board on the biennial registration application. Any
25 disciplinary action taken in other states must be reported to
26 the board on the biennial registration application. Multiple
27 licensure or registration will be noted on the physical
28 therapist or physical therapist assistant's record and such
29 state, territory or country will be notified of any disciplinary
30 actions taken against said physical therapist or physical

1 therapist assistant in this Commonwealth.

2 Section 9.1. Physical Therapist Assistant; Education and
3 Examination; Scope of Duties; Registration.--(a) To be eligible
4 to register with the board as a physical therapist assistant, an
5 applicant must be at least 20 years of age unless otherwise
6 determined by the board, be of good moral character, not be
7 addicted to the habitual use of alcohol or narcotics or other
8 habit-forming drugs, be a graduate of a physical therapist
9 assistant program, adopted by the board, which program has been
10 approved for the education and training for physical therapist
11 assistants by the appropriate nationally recognized accrediting
12 agency and be successful in passing an examination adopted by
13 the board, subject to rules and regulations established by the
14 board and administered in accordance with section 812.1 of the
15 act of April 9, 1929 (P.L.177, No.175), known as The
16 Administrative Code of 1929. No applicant shall be registered
17 unless he has attained passing scores established by the testing
18 agency and published prior to the administration of the
19 examination.

20 (b) In case of failure of the first examination, the
21 applicant for registration shall have, after the expiration of
22 six months and within two years from the first failure, the
23 privilege of a second examination. The board may adopt
24 regulations governing the eligibility of applicants who have
25 failed to pass two examinations in order to be admitted to
26 subsequent examinations.

27 (c) A physical therapist assistant while assisting a
28 licensed physical therapist in the practice of physical therapy
29 shall only perform patient-related physical therapy acts and
30 services that are assigned or delegated by and under the direct-

on-premises supervision of a licensed physical therapist. Such acts and services of a physical therapist assistant shall not include evaluation, testing, interpretation, planning or modification of patient programs. For purposes of this section the term "direct-on-premises supervision" shall mean the physical presence of a licensed physical therapist on the premises who is immediately available to exercise supervision, direction and control.

(d) Only a person who has properly registered as a physical therapist assistant with the board, pursuant to the provisions of this section and rules and regulations promulgated by the board thereto, shall assist a licensed physical therapist in the practice of physical therapy as a physical therapist assistant and use the title "physical therapist assistant."

(e) The qualifications provision of this section shall not apply and an applicant shall be registered without examination if the applicant has submitted an application for registration accompanied by an application fee as specified by the board within two years after the effective date of this amendatory act and who is a resident of Pennsylvania or who has practiced in this Commonwealth for a two-year period; and

(1) who, on the effective date of this amendatory act, is a graduate of a physical therapist assistant program acceptable to the board and has engaged in physical therapist assistant practice acceptable to the board for two years; and

(2) who, on the effective date of this amendatory act, is listed with the board as a physical therapist assistant.

(f) The board shall renew, revoke or suspend the registration of physical therapist assistants pursuant to rules and regulations promulgated by the board. All actions of the

board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(g) Unless ordered to do so by a court, the board shall not reinstate the registration of a person to practice as a physical therapist assistant which has been revoked and such person shall be required to apply for registration after a five-year period in accordance with this section, if he desires to practice at any time after such revocation.

Section 5. Section 10 of the act is repealed.

Section 6. Section 10.2 of the act is amended by adding a subsection to read:

Section 10.2. Certification of Athletic Trainers;
Certification Renewal, Revocation or Suspension.--* * *

(d) Unless ordered to do so by a court, the board shall not reinstate the certificate of a person to practice as an athletic trainer which has been revoked and such person shall be required to apply for a certificate after a five-year period in accordance with this section, if he desires to practice at any time after such revocation.

Section 7. Section 11 of the act, amended April 4, 1984 (P.L.196, No.41), is amended to read:

Section 11. Refusal or Suspension or Revocation of License.--(a) The board shall refuse to issue a license to any person and after notice and hearing in accordance with rules and regulations, may suspend or revoke the license of any person who has:

(1) been found to have violated section 9;

(2) attempted to or obtained licensure by fraud or

1 misrepresentation;

2 (3) committed repeated occasions of negligence or
3 incompetence in the practice of physical therapy;

4 (4) been convicted of a felony in a Federal court or in the
5 courts of this Commonwealth or any other state, territory or
6 country. Conviction, as used in this paragraph, shall include a
7 finding or verdict of guilt, an admission of guilt or a plea of
8 nolo contendere;

9 (5) habitually indulged in the use of narcotics or other
10 habit-forming drugs, or excessively indulged in the use of
11 alcoholic liquors;

12 (6) been found guilty of unprofessional conduct.

13 Unprofessional conduct shall include any departure from or the
14 failure to conform to the minimal standards of acceptable and
15 prevailing physical therapy practice, in which proceeding actual
16 injury to a patient need not be established;

17 [(7) been adjudged mentally incompetent by a court of <—
18 competent jurisdiction;] <—

19 [(8)] (7) treated or undertaken to treat human ailments <—
20 otherwise than by physical therapy as defined in this act; and

21 [(9)] (8) had his license to practice physical therapy <—
22 revoked or suspended or having other disciplinary action taken,
23 or his application for a license refused, revoked or suspended
24 by the proper licensing authority of another state, territory or
25 country.

26 (b) All actions of the board shall be taken subject to the
27 right of notice, hearing and adjudication and the right of
28 appeal therefrom in accordance with [the provisions of the June
29 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency
30 Law."] Title 2 of the Pennsylvania Consolidated Statutes

1 (relating to administrative law and procedure).

2 (c) Unless ordered to do so by a court, the board shall not
3 reinstate the license of a person to practice as a physical
4 therapist which has been revoked and such person shall be
5 required to apply for a license after a five-year period in
6 accordance with section 6, if he desires to practice at any time
7 after such revocation.

8 Section 8. The act is amended by adding sections to read:

9 Section 11.1. Automatic Suspension.--A license, registration
10 or certificate issued under this act shall automatically be
11 suspended upon the legal commitment of a licensee, REGISTRANT OR <—
12 CERTIFICATE HOLDER to an institution because of mental
13 incompetency from any cause upon filing with the board a
14 certified copy of such commitment; conviction of a felony under
15 the act of April 14, 1972 (P.L.233, No.64), known as "The
16 Controlled Substance, Drug, Device and Cosmetic Act"; or
17 conviction of an offense under the laws of another jurisdiction
18 which, if committed in Pennsylvania, would be a felony under The
19 Controlled Substance, Drug, Device and Cosmetic Act. As used in
20 this section the term "conviction" shall include a judgment, an
21 admission of guilty or a plea of nolo contendere. Automatic
22 suspension under this section shall not be stayed pending any
23 appeal of a conviction. Restoration of such license,
24 registration or certificate shall be made as provided in this
25 act for revocation or suspension of such license, REGISTRANT OR <—
26 CERTIFICATE HOLDER.

27 Section 11.2. Summary Suspension.--The board shall
28 temporarily suspend A license, registration or certificate under <—
29 circumstances as determined by the board to be an immediate and
30 clear danger to the public health or safety. The board shall

1 issue an order to that effect without a hearing, but upon due
2 notice to the licensee, registrant or certificate holder
3 concerned at his last known address, which shall include a
4 written statement of all allegations against the licensee,
5 registrant or certificate holder. The provisions of section
6 11(c) shall not apply to temporary suspension. The board shall
7 thereupon commence formal action to suspend, revoke and restrict
8 the license, registration or certificate of the person concerned
9 as otherwise provided for in this act. All actions shall be
10 taken promptly and without delay. Within 30 days following the
11 issuance of an order temporarily suspending a license,
12 registration or certificate, the board shall conduct, or cause
13 to be conducted, a preliminary hearing to determine that there
14 is a prima facie case supporting the suspension. The licensee,
15 registrant or certificate holder whose license, registration or
16 certificate has been temporarily suspended may be present at the
17 preliminary hearing and may be represented by counsel, cross-
18 examine witnesses, inspect physical evidence, call witnesses,
19 offer evidence and testimony and make a record of the
20 proceedings. If it is determined that there is not a prima facie
21 case, the suspended license, registration or certificate shall
22 be immediately restored. The temporary suspension shall remain
23 in effect until vacated by the board, but in no event longer
24 than 180 days.

25 Section 9. Section 12 of the act is amended by adding
26 subsections to read:

27 Section 12. Penalties; Injunctive Relief.--* * *

28 (c) In addition to any other civil remedy or criminal
29 penalty provided for in this act, the board, by a vote of the
30 majority of the maximum number of the authorized membership of

1 the board as provided by this act or by a vote of the majority
2 of the qualified and confirmed membership or a minimum of four
3 members, whichever is greater, may levy a civil penalty of up to
4 \$1,000 on any current licensee OR REGISTRANT who violates any <—
5 provisions of this act or on any person who practices physical
6 therapy without being properly licensed to do so under this act,
7 or who practices as a physical therapist assistant without being
8 properly registered to do so under this act. The board shall
9 levy this penalty only after affording the accused party the
10 opportunity for a hearing, as provided in Title 2 of the
11 Pennsylvania Consolidated Statutes (relating to administrative
12 law and procedure).

13 (d) All fines and civil penalties imposed in accordance with
14 this section shall be paid into the Professional Licensure
15 Augmentation Account.

16 Section 10. Each rule, regulation or fee of the board in
17 effect on the effective date of this act shall remain in effect
18 after such date until amended by the board, provided that the
19 board shall immediately initiate the repeal or amendment of any
20 rule or regulation which is inconsistent with the provisions of
21 this act.

22 Section 11. This act constitutes the legislation necessary
23 to reestablish the State Board of Physical Therapy Examiners
24 under section 7 of the act of December 22, 1981 (P.L.508,
25 No.142), known as the Sunset Act.

26 Section 12. (a) Section 412.1 of the act of April 9, 1929
27 (P.L.177, No.175), known as The Administrative Code of 1929, is
28 repealed.

29 (b) All other acts and parts of acts are repealed insofar as
30 they are inconsistent with this act.

1 Section 13. This act shall take effect January 1, 1986, or
2 immediately, whichever is later.