
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1363 Session of
1985

Report of the Committee of Conference

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 1363, entitled:
"An act amending the act of October 10, 1975 (P.L.383, No.110), entitled 'An act relating to the practice of physical therapy,' further providing for the board, qualifications for licenses and renewal thereof, registration of physical therapy assistants and certification of athletic trainers; PROVIDING FOR A PHYSICAL THERAPIST ASSISTANT ADVISORY COMMITTEE; providing penalties; and making an editorial change,"

respectfully submit the following bill as our report:

GORDON J. LINTON

WILLIAM R. LLOYD, JR.

(Committee on the part of the House of Representatives.)

CLARENCE D. BELL

JOHN J. SHUMAKER

LEONARD J. BODACK

(Committee on the part of the Senate.)

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 amended April 4, 1984 (P.L.196, No.41), is amended to read:

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

15 "Athletic trainer" shall mean a person certified by the State
16 Board of Physical Therapy [Examiners] as an athletic trainer
17 after meeting the requirements of this act and rules and
18 regulations promulgated pursuant thereto.

19 "Athletic Trainer Advisory Committee" shall mean the
20 committee created by section 10.1 of this act to advise the
21 board.

22 "Board" means the State Board of Physical Therapy [Examiners
23 established in accordance with the act of April 9, 1929
24 (P.L.177, No.175), known as "The Administrative Code of 1929."].

25 "Commissioner" shall mean the Commissioner of the Bureau of
26 Professional and Occupational Affairs.

27 "Healing arts" shall mean the science and skill of diagnosis
28 and treatment in any manner whatsoever of disease or any ailment
29 of the human body.

30 "Physical therapist" shall mean a person who has met all the

1 requirements of this act and is licensed to practice physical
2 therapy in accordance with this act.

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

6 "Physical therapy" means the evaluation and treatment of any
7 person by the utilization of the effective properties of
8 physical measures such as mechanical stimulation, heat, cold,
9 light, air, water, electricity, sound, massage, mobilization and
10 the use of therapeutic exercises and rehabilitative procedures
11 including training in functional activities, with or without
12 assistive devices, for the purpose of limiting or preventing
13 disability and alleviating or correcting any physical or mental
14 conditions, and the performance of tests and measurements as an
15 aid in diagnosis or evaluation of function.

16 "Physician" means a person as defined in 1 Pa.C.S. § 1991
17 (relating to definitions).

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

19 Section 2.1. State Board of Physical Therapy.--(a) The
20 board shall consist of nine members, all of whom shall be
21 residents of Pennsylvania. Five members shall be physical
22 therapists licensed to practice in this Commonwealth, each
23 having had at least five years of experience as a physical
24 therapist, three years of which must have immediately preceded
25 the appointment to the board. One member shall be a physical
26 therapist assistant currently registered with the board or an
27 athletic trainer currently certified by the board, provided that
28 the initial appointee shall be a physical therapist assistant
29 who is currently listed with the board and who shall not be
30 required to be registered until the provisions of section 9.1

1 have been implemented. Two members shall be representatives of
2 the public. One member shall be the Commissioner of Professional
3 and Occupational Affairs. The members of the board shall be
4 appointed by the Governor, with the advice and consent of a
5 majority of the members elected to the Senate.

6 (b) Professional and public members appointed after the
7 expiration of the terms of current board members shall serve the
8 following terms: one physical therapist shall serve one year;
9 one physical therapist shall serve two years; one physical
10 therapist and one public member shall serve three years; and two
11 physical therapists, one physical therapist assistant and one
12 public member shall serve four years. Thereafter, professional
13 and public members shall serve four-year terms. No member may be
14 eligible for appointment to serve more than two consecutive
15 terms. A member may continue to serve for a period not to exceed
16 six months beyond the expiration of his term, if a successor has
17 yet to be duly appointed and qualified according to law.

18 (c) The board shall select, from among their number, a
19 chairman, a vice chairman and a secretary.

20 (d) A majority of the members of the board serving in
21 accordance with law shall constitute a quorum for purposes of
22 conducting the business of the board. Except for temporary and
23 automatic suspensions under sections 11.1 and 11.2, a member may
24 not be counted as part of a quorum or vote on any issue unless
25 he or she is physically in attendance at the meeting.

26 (e) Each public and professional member of the board shall
27 be paid reasonable traveling, hotel and other necessary expenses
28 and per diem compensation at the rate of \$60 for each day of
29 actual service while on board business.

30 (f) A member who fails to attend three consecutive meetings

1 shall forfeit his seat unless the Commissioner of Professional
2 and Occupational Affairs, upon written request from the member,
3 finds that the member should be excused from a meeting because
4 of illness or the death of an immediate family member.

5 (g) In the event that a member of the board dies or resigns
6 or otherwise becomes disqualified during the term of office, a
7 successor shall be appointed in the same way and with the same
8 qualifications as set forth in subsection (a) and shall hold
9 office for the unexpired term.

10 (h) The board is subject to evaluation, review and
11 termination within the time and in the manner provided in the
12 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset
13 Act."

14 (i) A public member who fails to attend two consecutive
15 statutorily mandated seminars in accordance with section 813(e)
16 of the act of April 9, 1929 (P.L.177, No.175), known as "The
17 Administrative Code of 1929," shall forfeit his or her seat
18 unless the Commissioner of Professional and Occupational
19 Affairs, upon written request from the public member, finds that
20 the public member should be excused from a meeting because of
21 illness or the death of a family member.

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

24 Section 3. Powers and Duties of Board.--(a) [The board
25 shall elect annually from its membership a chairman and a vice-
26 chairman and shall select a secretary who need not be a member
27 of the board.] It shall be the duty of the board to pass upon
28 the qualifications of applicants for licensure as physical
29 therapists, registration as physical therapist assistants and
30 certification as athletic trainers, to conduct examinations, to

1 issue and renew licenses to physical therapists, registrations
2 to physical therapist assistants and certifications to athletic
3 trainers who qualify under this act, and in proper cases to
4 refuse to issue, suspend or revoke the license of any physical
5 therapist, registration of any physical therapist assistant, or
6 certification of any athletic trainer. The board may adopt rules
7 and regulations not inconsistent with law as it may deem
8 necessary for the performance of its duties and the proper
9 administration of this law. The board is authorized and
10 empowered to appoint hearing examiners and to conduct
11 investigations and hearings upon charges for discipline of a
12 licensee, registrant or certificate holder or for violations of
13 this act, and to cause, through the office of the Attorney
14 General, the prosecution and enjoinder of persons violating this
15 act. The board shall maintain a register listing the name of
16 every living physical therapist licensed to practice in this
17 State, every physical therapist assistant duly registered
18 pursuant to section 9.1 and every athletic trainer certified to
19 practice in this State, such individual's last known place of
20 business and last known place of residence, and the date and
21 number of the physical therapist's license or athletic trainer's
22 certification.

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

29 (c) The board shall submit annually a report to the
30 Professional Licensure Committee of the House of Representatives

1 and to the Consumer Protection and Professional Licensure
2 Committee of the Senate containing a description of the types of
3 complaints received, status of cases, board action which has
4 been taken and the length of time from the initial complaint to
5 final board resolution.

6 Section 4. Training and License Required; Exceptions.--(a)
7 It shall be unlawful for any person to practice or hold himself
8 out as being able to practice physical therapy in this State in
9 any manner whatsoever unless such person has met the educational
10 requirements and is licensed in accordance with the provisions
11 of this act. The board shall determine standards, by
12 regulations, regarding qualifications necessary for the
13 performance of such tests or treatment forms as the board shall
14 determine require additional training or education beyond the
15 educational requirements set forth by this act, as such relates
16 to the practice of physical therapy in accordance with law.

17 Nothing in this act, however, shall prohibit any person trained
18 and licensed or certified to practice or to act within the scope
19 of his certification in this State under any other law, from
20 engaging in the licensed or certified practice for which he is
21 trained.

22 * * *

23 Section 6. Qualifications for License; Examinations; Failure
24 of Examinations; Licensure Without Examination; Issuing of
25 License; Foreign Applicants for Licensure; Temporary License;
26 Perjury.--(a) To be eligible for licensure as a physical
27 therapist, an applicant must be at least 20 years of age unless
28 otherwise determined by the board in its discretion, be of good
29 moral character, not be addicted to the habitual use of alcohol
30 or narcotics or other habit-forming drugs, and [has graduated

1 from] be a graduate of a school offering an educational program
2 in physical therapy as adopted by the board, which program has
3 been approved for the education and training of physical
4 therapists by the appropriate nationally recognized accrediting
5 agency. By the time of completion of the professional study of
6 physical therapy, a physical therapist must hold a minimum of a
7 baccalaureate degree from a regionally accredited institution of
8 higher education. In the case of those applicants who have
9 completed requirements prior to the first day of January, 1967,
10 but who may not technically or totally fulfill the above
11 requirements, the board at its discretion and by the majority
12 vote of all members present may accept evidence of satisfactory
13 equivalence. The board shall not issue a license to an applicant
14 who has been convicted of a felony under the act of April 14,
15 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
16 Device and Cosmetic Act," or of an offense under the laws of
17 another jurisdiction which if committed in this Commonwealth
18 would be a felony under "The Controlled Substance, Drug, Device
19 and Cosmetic Act," unless:

20 (1) at least ten years have elapsed from the date of
21 conviction;

22 (2) the applicant satisfactorily demonstrates to the board
23 that he has made significant progress in personal rehabilitation
24 since the conviction such that licensure of the applicant should
25 not be expected to create a substantial risk of harm to the
26 health and safety of patients or the public or a substantial
27 risk of further criminal violations; and

28 (3) the applicant otherwise satisfies the qualifications
29 contained in or authorized by this act.

30 As used in this subsection the term "convicted" includes a

1 judgment, an admission of guilt, or a plea of nolo contendere.

2 (b) An applicant for licensure must pass[, to the
3 satisfaction of the board,] a written examination which shall
4 test the applicant's knowledge of the basic and clinical
5 sciences as they relate to physical therapy theory and physical
6 therapy procedures and such other subjects as the board may deem
7 necessary to test the applicant's fitness to practice physical
8 therapy. [Such examination may also include an oral examination
9 or practical examination or both at the discretion of the
10 board.] No license shall be granted unless an applicant has
11 attained passing scores established by the testing agency and
12 published prior to the administration of the examination. The
13 examination shall be held within the Commonwealth of
14 Pennsylvania twice a year at such time and place as the board
15 shall determine.

16 (c) In case of failure at the first examination, the
17 applicant for licensure shall have, after the expiration of six
18 months and within two years from the first failure, the
19 privilege of a second examination. [In case of failure in a
20 second examination, any further examinations shall be given at
21 the discretion of the board, but in any such case the applicant
22 must make a new application, and otherwise qualify under the
23 conditions in force at the time of the application for a third
24 or successive examinations.] The board may adopt regulations
25 governing the eligibility of applicants who have failed to pass
26 two examinations in order to be admitted to subsequent
27 examinations.

28 [(d) On payment to the board of a fee as set by regulation
29 and on submission of a written application on forms provided by
30 the board, the board shall issue a license without examination

1 to any person who is a licensed or otherwise registered as a
2 physical therapist by another state or territory of the United
3 States of America, or the District of Columbia and whose license
4 or registration is valid and in good standing; and further that
5 the requirements for license or registration, as the case may
6 be, in such state, territory, or district were or are
7 substantially equal to the requirements set forth in this act:
8 Provided, That such person has not taken and failed, one or more
9 times, the examination referred to in subsection (b), in which
10 case, the issuance of a license under this paragraph shall be at
11 the discretion of the board.]

12 (d.1) The board may grant licenses and registrations without
13 further examination to individuals from another state, territory
14 or the District of Columbia if the following conditions exist:

15 (1) Licensing or registration standards in the other state,
16 territory or the District of Columbia are substantially the same
17 as those of this act.

18 (2) Similar privileges are accorded persons licensed or
19 registered in this Commonwealth.

20 (3) The applicant holds a valid license or registration
21 issued by the other state, territory or the District of
22 Columbia.

23 (4) The applicant complies with the rules and regulations of
24 the board.

25 (e) The board shall issue a license to a physical therapist
26 who successfully establishes his eligibility under the terms of
27 this act and any person who holds a license pursuant to this
28 section may use the words physical therapist or licensed
29 physical therapist and he may use the letters LPT in connection
30 with his name or place of business to denote his licensure

1 hereunder.

2 (f) Foreign trained physical therapists who desire and apply
3 to be licensed as a physical therapist by the board shall,
4 before examination, furnish proof as to age, moral character,
5 and no addiction to the use of alcohol or narcotics or other
6 habit-forming drugs, and shall present proof indicating the
7 completion of educational requirements substantially equal to
8 those in subsection (a). In addition thereto, the foreign
9 trained applicant must complete, at the board's discretion, up
10 to one year of supervised clinical experience as prescribed by
11 the board prior to taking the examination for licensure.

12 [(g) Upon the submission of a written application on forms
13 provided by it, the board shall also issue a temporary license
14 to a person who has applied for a license under the provisions
15 of subsection (a) and who is, in the judgment of the board,
16 eligible to take the examination provided for in subsection (b).
17 Such temporary license shall be available to an applicant with
18 respect to his application for a license under subsection (a),
19 but the applicant may only use the temporary license while under
20 the direct supervision of a licensed physical therapist. Such
21 temporary license shall expire upon the failure of the first
22 examination and upon expiration the license must be surrendered
23 to the board except that the board may reissue such temporary
24 license in its discretion and in accordance with rules and
25 regulations to be established.]

26 (g) Upon the submission of a written application, on forms
27 provided by it, the board shall issue a temporary license to an
28 applicant for licensure who has met all of the requirements of
29 subsection (a) and who is eligible to take the examination
30 provided for in subsection (b). The board shall issue only one

1 temporary license to an applicant and such temporary license
2 shall expire upon failure of the first examination or six months
3 after the date of issue, whichever first occurs. Issuance by the
4 board of a temporary license shall permit the applicant to
5 practice physical therapy only while under the direct-on-
6 premises supervision of a licensed physical therapist with at
7 least two years of experience. Upon expiration, the temporary
8 license shall be promptly returned by the applicant to the
9 board.

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

15 (i)] Any applicant who knowingly or willfully makes a false
16 statement of fact in any application shall be subject to
17 prosecution for perjury.

18 Section 7. Renewal of License.--[(a)] Each license issued
19 under the provisions of this act shall be renewed biennially[,
20 except as provided in subsection (b)]. On or before November 1
21 of each renewal year, the board shall mail an application for
22 renewal of license to each person to whom a license was issued
23 or renewed during the current licensing period, which
24 application shall be mailed to the most recent address of said
25 person as it appears on the records of the board. Such person
26 shall complete the renewal application and return it to the
27 board with a renewal fee before December 31 of the year in which
28 said application was received. Upon receipt of any such
29 application and fee, the board shall verify the accuracy of such
30 application and issue to the applicant a certificate of renewal

1 of license for the next licensing period as described above. The
2 renewal fee for each licensing period shall be set by
3 regulation.

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

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

15 Section 7.1. Reporting of Multiple Licensure.--Any licensed
16 physical therapist or registered physical therapist assistant of
17 this Commonwealth who is also licensed to practice physical
18 therapy or registered as a physical therapist assistant in any
19 other state, territory or country shall report this information
20 to the board on the biennial registration application. Any
21 disciplinary action taken in such other jurisdiction shall be
22 reported to the board on the biennial registration application,
23 or within 90 days of final disposition, whichever occurs sooner.
24 Multiple licensure or registration shall be noted by the board
25 on the physical therapist or physical therapist assistant's
26 record and such state, territory or country shall be notified by
27 the board of any disciplinary actions taken against said
28 physical therapist or physical therapist assistant in this
29 Commonwealth.

30 Section 9.1. Physical Therapist Assistant; Education and

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

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

25 (c) A physical therapist assistant while assisting a
26 licensed physical therapist in the practice of physical therapy
27 shall only perform patient-related physical therapy acts and
28 services that are assigned or delegated by and under the direct-
29 on-premises supervision of a licensed physical therapist. Such
30 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 is a resident of Pennsylvania or has practiced in this Commonwealth for a two-year period; and

(1) 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) 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

1 with Title 2 of the Pennsylvania Consolidated Statutes (relating
2 to administrative law and procedure).

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

10 Section 9.2. Supportive Personnel.--Nothing in this act or
11 the act of October 10, 1975 (P.L.383, No.110), known as the
12 "Physical Therapy Practice Act," shall prohibit a licensed
13 physical therapist from assigning or delegating various
14 activities to other persons who may, from time to time, aid and
15 assist a licensed physical therapist in the provision of
16 physical therapy services; provided that such activities are
17 performed under the direct-on-premises supervision of a licensed
18 physical therapist and the level of such activities do not
19 require formal education or training in the practice of physical
20 therapy, the skill and knowledge of a licensed physical
21 therapist and the skill and knowledge of a properly registered
22 physical therapist assistant.

23 Section 5. Section 10 of the act is repealed.

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

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

28 (d) Unless ordered to do so by a court, the board shall not
29 reinstate the certificate of a person to practice as an athletic
30 trainer which has been revoked and such person shall be required

1 to apply for a certificate after a five-year period in
2 accordance with this section, if he desires to practice at any
3 time after such revocation.

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

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

11 (1) been found to have violated section 9;

12 (2) attempted to or obtained licensure by fraud or
13 misrepresentation;

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

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

21 (5) habitually indulged in the use of narcotics or other
22 habit-forming drugs, or excessively indulged in the use of
23 alcoholic liquors;

24 (6) been found guilty of unprofessional conduct.

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

29 [(7) been adjudged mentally incompetent by a court of
30 competent jurisdiction;]

1 [(8)] (7) treated or undertaken to treat human ailments
2 otherwise than by physical therapy as defined in this act; [and]
3 [(9)] (8) had his license to practice physical therapy
4 revoked or suspended or having other disciplinary action taken,
5 or his application for a license refused, revoked or suspended
6 by the proper licensing authority of another state, territory or
7 country; and

8 (9) Made misleading, deceptive, untrue or fraudulent
9 representations in violation of this act or otherwise in the
10 practice of the profession.

11 (b) All actions of the board shall be taken subject to the
12 right of notice, hearing and adjudication and the right of
13 appeal therefrom in accordance with [the provisions of the June
14 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency
15 Law."] Title 2 of the Pennsylvania Consolidated Statutes
16 (relating to administrative law and procedure).

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

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

24 Section 11.1. Automatic Suspension.--A license, registration
25 or certificate issued under this act shall automatically be
26 suspended upon the legal commitment of a licensee, registrant or
27 certificate holder to an institution because of mental
28 incompetency from any cause upon filing with the board a
29 certified copy of such commitment; conviction of a felony under
30 the act of April 14, 1972 (P.L.233, No.64), known as "The

1 Controlled Substance, Drug, Device and Cosmetic Act"; or
2 conviction of an offense under the laws of another jurisdiction
3 which, if committed in Pennsylvania, would be a felony under
4 "The Controlled Substance, Drug, Device and Cosmetic Act." As
5 used in this section the term "conviction" shall include a
6 judgment, an admission of guilty or a plea of nolo contendere.
7 Automatic suspension under this section shall not be stayed
8 pending any appeal of a conviction. Restoration of such license,
9 registration or certificate shall be made as provided in this
10 act for revocation or suspension of such license, registrant or
11 certificate holder.

12 Section 11.2. Temporary Suspension.--The board shall
13 temporarily suspend a license, registration or certificate under
14 circumstances as determined by the board to be an immediate and
15 clear danger to the public health or safety. The board shall
16 issue an order to that effect without a hearing, but upon due
17 notice to the licensee, registrant or certificate holder
18 concerned at his last known address, which shall include a
19 written statement of all allegations against the licensee,
20 registrant or certificate holder. The provisions of section
21 11(c) shall not apply to temporary suspension. The board shall
22 thereupon commence formal action to suspend, revoke or restrict
23 the license, registration or certificate of the person concerned
24 as otherwise provided for in this act. All actions shall be
25 taken promptly and without delay. Within 30 days following the
26 issuance of an order temporarily suspending a license,
27 registration or certificate, the board shall conduct, or cause
28 to be conducted, a preliminary hearing to determine that there
29 is a prima facie case supporting the suspension. The licensee,
30 registrant or certificate holder whose license, registration or

1 certificate has been temporarily suspended may be present at the
2 preliminary hearing and may be represented by counsel, cross-
3 examine witnesses, inspect physical evidence, call witnesses,
4 offer evidence and testimony and make a record of the
5 proceedings. If it is determined that there is not a prima facie
6 case, the suspended license, registration or certificate shall
7 be immediately restored. The temporary suspension shall remain
8 in effect until vacated by the board, but in no event longer
9 than 180 days.

10 Section 11.3. Subpoenas; Reports; Surrender of License.--(a)
11 The board shall have the authority to issue subpoenas, upon
12 application of an attorney responsible for representing the
13 Commonwealth in disciplinary matters before the board, for the
14 purpose of investigating alleged violations of the disciplinary
15 provisions administered by the board. The board shall have the
16 power to subpoena witnesses, to administer oaths, to examine
17 witnesses, and to take testimony or compel the production of
18 books, records, papers and documents as it may deem necessary or
19 proper in and pertinent to any proceeding, investigation or
20 hearing held by it. Patient records may not be subpoenaed
21 without consent of the patient or without order of a court of
22 competent jurisdiction on a showing that the records are
23 reasonably necessary for the conduct of the investigation. The
24 court may impose such limitations on the scope of the subpoena
25 as are necessary to prevent unnecessary intrusion into patient
26 confidential information. The board is authorized to apply to
27 Commonwealth Court to enforce its subpoenas.

28 (b) An attorney responsible for representing the
29 Commonwealth in disciplinary matters before the board shall
30 notify the board immediately upon receiving notification of an

alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

(c) The board shall require a person whose license, certificate or registration has been suspended or revoked to return the license, certificate or registration in such manner as the board directs. A person who fails to do so commits a misdemeanor of the third degree.

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

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

(c) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by this act or by a vote of the majority of the qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current licensee or registrant who violates any provisions of this act or on any person who practices physical therapy without being properly licensed to do so under this act, or who practices as a physical therapist assistant without being properly registered to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

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

1 Section 10. The act is amended by adding a section to read:

2 Section 13. Impaired Professional.--(a) The board, with the
3 approval of the Commissioner of Professional and Occupational
4 Affairs, shall appoint and fix the compensation of a
5 professional consultant who is a licensee of the board, or such
6 other professional as the board may determine, with education
7 and experience in the identification, treatment and
8 rehabilitation of persons with physical or mental impairments.
9 Such consultant shall be accountable to the board and shall act
10 as a liaison between the board and treatment programs, such as
11 alcohol and drug treatment programs licensed by the Department
12 of Health, psychological counseling and impaired professional
13 support groups, which are approved by the board and which
14 provide services to licensees under this act.

15 (b) The board may defer and ultimately dismiss any of the
16 types of corrective action set forth in this act for an impaired
17 professional so long as the professional is progressing
18 satisfactorily in an approved treatment program, provided that
19 the provisions of this subsection shall not apply to a
20 professional convicted of a felonious act prohibited by the act
21 of April 14, 1972 (P.L.233, No.64), known as "The Controlled
22 Substance, Drug, Device and Cosmetic Act," or convicted of a
23 felony relating to a controlled substance in a court of law of
24 the United States or any other state, territory or country. An
25 approved program provider shall, upon request, disclose to the
26 consultant such information in its possession regarding an
27 impaired professional in treatment which the program provider is
28 not prohibited from disclosing by an act of this Commonwealth,
29 another state, or the United States. Such requirement of
30 disclosure by an approved program provider shall apply in the

case of impaired professionals who enter an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding, and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an aftercare plan developed by the program provider.

(c) An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked but enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in his possession regarding said professional and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

(e) An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for such disclosure or its consequences.

1 (f) Any hospital or health care facility, peer or colleague
2 who has substantial evidence that a professional has an active
3 addictive disease for which the professional is not receiving
4 treatment, is diverting a controlled substance or is mentally or
5 physically incompetent to carry out the duties of his or her
6 license shall make or cause to be made a report to the board:
7 Provided, That any person or facility who acts in a treatment
8 capacity to an impaired physical therapist in an approved
9 treatment program is exempt from the mandatory reporting
10 requirements of this subsection. Any person or facility who
11 reports pursuant to this section in good faith and without
12 malice shall be immune from any civil or criminal liability
13 arising from such report. Failure to provide such report within
14 a reasonable time from receipt of knowledge of impairment shall
15 subject the person or facility to a fine not to exceed \$1,000.
16 The board shall levy this penalty only after affording the
17 accused party the opportunity for a hearing, as provided in
18 Title 2 of the Pennsylvania Consolidated Statutes (relating to
19 administrative law and procedure).

20 Section 11. Each rule and regulation of the board in effect
21 on the effective date of this act shall remain in effect after
22 such date until amended by the board, provided that the board
23 shall immediately initiate the repeal or amendment of any rule
24 or regulation which is inconsistent with the provisions of this
25 act. Each fee of the board in effect on the effective date of
26 this act, and not inconsistent with this act, shall remain in
27 effect after such date until repealed or amended in the manner
28 provided by law.

29 Section 12. This act constitutes the legislation necessary
30 to reestablish the State Board of Physical Therapy Examiners

1 under section 7 of the act of December 22, 1981 (P.L.508,
2 No.142), known as the Sunset Act.

3 Section 13. (a) Section 412.1 of the act of April 9, 1929
4 (P.L.177, No.175), known as The Administrative Code of 1929, is
5 repealed.

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

8 Section 14. The presently confirmed members of the State
9 Board of Physical Therapy Examiners constituted under section
10 412.1 of the act of April 9, 1929 (P.L.177, No.175), known as
11 The Administrative Code of 1929, as of the effective date of
12 this act, shall continue to serve as board members until their
13 present terms of office expire, provided that any present board
14 member whose term has expired on or before the effective date of
15 this act shall serve until a successor has been appointed and
16 qualified, but no longer than six months after the effective
17 date of this act.

18 Section 15. Any person who holds a valid license or
19 certificate issued by, or is listed with, the State Board of
20 Physical Therapy Examiners under the act of October 10, 1975
21 (P.L.383, No.110), known as the Physical Therapy Practice Act,
22 relating to the practice of physical therapy, prior to the
23 effective date of this amendatory act shall, on and after the
24 effective date hereof, be deemed to be licensed or certificated
25 by, or to be listed with, the State Board of Physical Therapy as
26 provided for in this amendatory act.

27 Section 16. This act shall take effect January 1, 1986, or
28 immediately, whichever is later.