

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 25, 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 testing agency and
29 published prior to the administration of the examination. The
30 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, TERRITORY <—

1 OR THE DISTRICT OF COLUMBIA if the following conditions exist:

2 (1) Licensing or registration standards in the other state, <—
3 TERRITORY OR THE DISTRICT OF COLUMBIA are substantially the same
4 as those of this act.

5 (2) Similar privileges are accorded persons licensed or
6 registered in this Commonwealth.

7 (3) The applicant holds a valid license or registration
8 issued by the other state, TERRITORY OR THE DISTRICT OF <—
9 COLUMBIA.

10 (4) The applicant complies with the rules and regulations of
11 the board.

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

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

29 [(g) Upon the submission of a written application on forms <—
30 provided by it, the board shall also issue a temporary license

1 to a person who has applied for a license under the provisions
2 of subsection (a) and who is†, in the judgment of the board,† <—
3 eligible to take the examination provided for in subsection (b).
4 Such temporary license shall be available to an applicant with
5 respect to his application for a license under subsection (a)†, <—
6 but the applicant may only use the temporary license while†. The <—
7 ~~issuance by the board of a temporary license shall authorize the~~
8 ~~practice of physical therapy or providing services only as a~~
9 ~~physical therapist assistant under the direct-on-premises~~ UNDER <—
10 THE DIRECT supervision of a licensed physical therapist. Such
11 temporary license shall expire upon the failure of the first
12 examination and upon expiration the license must be surrendered
13 to the board except that the board may reissue such temporary
14 license †in its discretion and† ~~once~~ in accordance with rules <—
15 and regulations to be established.] <—

16 (G) UPON THE SUBMISSION OF A WRITTEN APPLICATION, ON FORMS <—
17 PROVIDED BY IT, THE BOARD SHALL ISSUE A TEMPORARY LICENSE TO AN
18 APPLICANT FOR LICENSURE WHO HAS MET ALL OF THE REQUIREMENTS OF
19 SUBSECTION (A) AND WHO IS ELIGIBLE TO TAKE THE EXAMINATION
20 PROVIDED FOR IN SUBSECTION (B). THE BOARD SHALL ISSUE ONLY ONE
21 TEMPORARY LICENSE TO AN APPLICANT AND SUCH TEMPORARY LICENSE
22 SHALL EXPIRE UPON FAILURE OF THE FIRST EXAMINATION OR SIX MONTHS
23 AFTER THE DATE OF ISSUE, WHICHEVER FIRST OCCURS. ISSUANCE BY THE
24 BOARD OF A TEMPORARY LICENSE SHALL PERMIT THE APPLICANT TO
25 PRACTICE PHYSICAL THERAPY ONLY WHILE UNDER THE DIRECT-ON-
26 PREMISES SUPERVISION OF A LICENSED PHYSICAL THERAPIST WITH AT
27 LEAST TWO YEARS OF EXPERIENCE. UPON EXPIRATION, THE TEMPORARY
28 LICENSE SHALL BE PROMPTLY RETURNED BY THE APPLICANT TO THE
29 BOARD.

30 (h) [The granting or issuing of any temporary license or

1 permit relating to the practice of physical therapy in the
2 Commonwealth for any reason other than as set forth in
3 subsection (g) shall be within the sole discretion of the board
4 subject to rules and regulations established by the board.

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

8 Section 7. Renewal of License.--[(a)] Each license issued
9 under the provisions of this act shall be renewed biennially[,
10 except as provided in subsection (b)]. On or before November 1
11 of each renewal year, the board shall mail an application for
12 renewal of license to each person to whom a license was issued
13 or renewed during the current licensing period, which
14 application shall be mailed to the most recent address of said
15 person as it appears on the records of the board. Such person
16 shall complete the renewal application and return it to the
17 board with a renewal fee before December 31 of the year in which
18 said application was received. Upon receipt of any such
19 application and fee, the board shall verify the accuracy of such
20 application and issue to the applicant a certificate of renewal
21 of license for the next licensing period as described above. The
22 renewal fee for each licensing period shall be set by
23 regulation.

24 [(b) If any person shall not so renew his or her license
25 such license shall automatically expire. A license which has
26 thus expired may, within three years of its expiration date, be
27 renewed on the payment to the board of the fee for each
28 licensing period or part thereof, pro rata, during which the
29 license was ineffective and the payment of a restoration fee set
30 by regulation. After said three years period such license shall

1 be renewed only by complying with the provisions in subsections
2 (a) and (b) of section 6 relating to obtaining an original
3 license.]

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

5 Section 7.1. Reporting of Multiple Licensure.--Any licensed
6 physical therapist or registered physical therapist assistant of
7 this Commonwealth who is also licensed to practice physical
8 therapy or registered as a physical therapist assistant in any
9 other state, territory or country shall report this information
10 to the board on the biennial registration application. Any
11 disciplinary action taken in other states must be reported to
12 the board on the biennial registration application. Multiple
13 licensure or registration will be noted on the physical
14 therapist or physical therapist assistant's record and such
15 state, territory or country will be notified of any disciplinary
16 actions taken against said physical therapist or physical
17 therapist assistant in this Commonwealth.

18 Section 9.1. Physical Therapist Assistant; Education and
19 Examination; Scope of Duties; Registration.--(a) To be eligible
20 to register with the board as a physical therapist assistant, an
21 applicant must be at least 20 years of age unless otherwise
22 determined by the board, be of good moral character, not be
23 addicted to the habitual use of alcohol or narcotics or other
24 habit-forming drugs, be a graduate of a physical therapist
25 assistant program, adopted by the board, which program has been
26 approved for the education and training for physical therapist
27 assistants by the appropriate nationally recognized accrediting
28 agency and be successful in passing an examination adopted by
29 the board, subject to rules and regulations established by the
30 board and administered in accordance with section 812.1 of the

1 act of April 9, 1929 (P.L.177, No.175), known as The
2 Administrative Code of 1929. No applicant shall be registered
3 unless he has attained passing scores established by the testing
4 agency and published prior to the administration of the
5 examination.

6 (b) In case of failure of the first examination, the
7 applicant for registration shall have, after the expiration of
8 six months and within two years from the first failure, the
9 privilege of a second examination. The board may adopt
10 regulations governing the eligibility of applicants who have
11 failed to pass two examinations in order to be admitted to
12 subsequent examinations.

13 (c) A physical therapist assistant while assisting a
14 licensed physical therapist in the practice of physical therapy
15 shall only perform patient-related physical therapy acts and
16 services that are assigned or delegated by and under the direct-
17 on-premises supervision of a licensed physical therapist. Such
18 acts and services of a physical therapist assistant shall not
19 include evaluation, testing, interpretation, planning or
20 modification of patient programs. For purposes of this section
21 the term "direct-on-premises supervision" shall mean the
22 physical presence of a licensed physical therapist on the
23 premises who is immediately available to exercise supervision,
24 direction and control.

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

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

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

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

14 (f) The board shall renew, revoke or suspend the
15 registration of physical therapist assistants pursuant to rules
16 and regulations promulgated by the board. All actions of the
17 board shall be taken subject to the right of notice, hearing and
18 adjudication and the right of appeal therefrom in accordance
19 with Title 2 of the Pennsylvania Consolidated Statutes (relating
20 to administrative law and procedure).

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

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

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

30 Section 10.2. Certification of Athletic Trainers;

1 Certification Renewal, Revocation or Suspension.--* * *

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

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

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

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

16 (2) attempted to or obtained licensure by fraud or
17 misrepresentation;

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

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

25 (5) habitually indulged in the use of narcotics or other
26 habit-forming drugs, or excessively indulged in the use of
27 alcoholic liquors;

28 (6) been found guilty of unprofessional conduct.

29 Unprofessional conduct shall include any departure from or the
30 failure to conform to the minimal standards of acceptable and

prevailing physical therapy practice, in which proceeding actual injury to a patient need not be established;

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

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

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

(b) 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 [the provisions of the June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law."] Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

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

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

Section 11.1. Automatic Suspension.--A license, registration or certificate issued under this act shall automatically be suspended upon the legal commitment of a licensee, registrant or certificate holder to an institution because of mental incompetency from any cause upon filing with the board a certified copy of such commitment; conviction of a felony under

1 the act of April 14, 1972 (P.L.233, No.64), known as "The
2 Controlled Substance, Drug, Device and Cosmetic Act"; or
3 conviction of an offense under the laws of another jurisdiction
4 which, if committed in Pennsylvania, would be a felony under The
5 Controlled Substance, Drug, Device and Cosmetic Act. As used in
6 this section the term "conviction" shall include a judgment, an
7 admission of guilty or a plea of nolo contendere. Automatic
8 suspension under this section shall not be stayed pending any
9 appeal of a conviction. Restoration of such license,
10 registration or certificate shall be made as provided in this
11 act for revocation or suspension of such license, registrant or
12 certificate holder.

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

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

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

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

14 (c) In addition to any other civil remedy or criminal
15 penalty provided for in this act, the board, by a vote of the
16 majority of the maximum number of the authorized membership of
17 the board as provided by this act or by a vote of the majority
18 of the qualified and confirmed membership or a minimum of four
19 members, whichever is greater, may levy a civil penalty of up to
20 \$1,000 on any current licensee or registrant who violates any
21 provisions of this act or on any person who practices physical
22 therapy without being properly licensed to do so under this act,
23 or who practices as a physical therapist assistant without being
24 properly registered to do so under this act. The board shall
25 levy this penalty only after affording the accused party the
26 opportunity for a hearing, as provided in Title 2 of the
27 Pennsylvania Consolidated Statutes (relating to administrative
28 law and procedure).

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

1 Augmentation Account.

2 Section 10. Each rule, regulation or fee of the board in
3 effect on the effective date of this act shall remain in effect
4 after such date until amended by the board, provided that the
5 board shall immediately initiate the repeal or amendment of any
6 rule or regulation which is inconsistent with the provisions of
7 this act.

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

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

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

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