

No. 1984-41

## AN ACT

SB 525

Amending the act of October 10, 1975 (P.L.383, No.110), entitled "An act relating to the practice of physical therapy," providing for the certification of athletic trainers by the State Board of Physical Therapy Examiners; creating an Athletic Trainer Advisory Committee; authorizing the setting of educational standards, certification standards and fees, for the renewal, revocation and suspension of certifications; further providing standards for the practice of physical therapy; making an appropriation; and providing penalties for violations of the act.

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

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

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

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

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

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

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

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

"Physical therapist" shall mean a person who **[practices physical therapy in some or all respects as defined in "physical therapy," subject to section 9 and] has met all the requirements [as stated in] of this act and is licensed to practice physical therapy in accordance with this act.**

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

"Physician" means a person **[who has received formal and recognized training in the art and science of medicine and is qualified to seek or has acquired an unlimited license to practice medicine and surgery as provided by law] as defined in 1 Pa.C.S. § 1991 (relating to definitions).**

Section 2. Section 3 of the act is amended to read:

Section 3. Powers and Duties of Board.—(a) The board shall elect annually from its membership a chairman and a vice-chairman and shall select a secretary who need not be a member of the board. It shall be the duty of the board to pass upon the qualifications of applicants for licensure *as physical therapists and certification as athletic trainers*, to conduct examinations, to issue and renew licenses to physical therapists *and certifications to athletic trainers* who qualify under this act, and in proper cases to suspend or revoke the license of any physical therapist *or certification of any athletic trainer*. The board may adopt rules and regulations not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this law. The board is authorized and empowered *to appoint hearing examiners and* to conduct investigations and hearings upon charges for discipline of a licensee *or certificate holder* or for violations of this act, and to cause, through the office of the Attorney General, the prosecution and enjoinder of persons violating this act. The board shall maintain a register listing the name of every living physical therapist licensed to practice in this State, **[his] every physical therapist assistant and every athletic trainer certified to practice in this State, such individual's** last known place of business and last known place of residence, and the date and number of **[his] the physical therapist's license or athletic trainer's certification**.

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

Section 3. Sections 4 and 5 of the act are amended to read:

Section 4. Training and License Required; Exceptions.—(a) **[From and after one year from the effective date of this act, it]** *It shall be unlawful for any person to practice or hold himself out as being able to practice physical therapy in this State [unless he is trained and] in any manner whatsoever unless such person has met the educational requirements and is licensed in accordance with the provisions of this act. Nothing in this act, however, shall prohibit any person trained and licensed [to practice in this State under any other law, from engaging in the practice for which he is trained and licensed.] or certified to practice or to act within the scope of his certification in this State under any other law, from engaging in the licensed or certified practice for which he is trained.*

(b) This act shall not prohibit students who are enrolled in schools of physical therapy approved by the board, from performing acts of physical therapy as is incidental to their course of study; nor shall it prevent any student in any educational program in the healing arts approved or accredited under the laws of Pennsylvania in carrying out prescribed courses of study. Nothing in this act shall apply to any person employed by an agency, bureau, or division of the Federal Government while in the discharge of official duties, however, if such individual engages in the practice of physical therapy outside the scope of official duty, **[he must be trained and] such indi-**

*vidual must meet the educational requirements and be licensed as herein provided. The provisions of this act are not intended to limit the activities of persons legitimately engaged in the nontherapeutic administration of baths, massage, and normal exercise.*

*(b.1) It shall be a violation of this act for any person or business entity to utilize in connection with a business name or activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist" or similar words and their related abbreviations which imply directly or indirectly that physical therapy services are being provided, including the billing of physical therapy services, unless such services are provided by a licensed physical therapist in accordance with this act: Provided, however, That nothing in this section shall limit a physician's authority to practice medicine or to bill for such practice nor limit a chiropractor's authority to practice chiropractic or to bill for such practice.*

(c) The practice of physical therapy shall not include the practice of chiropractic as defined by the act of August 10, 1951 (P.L.1182, No.264), known as the "Chiropractic Registration Act of 1951."

Section 5. Application for License.—Unless entitled to licensure without examination under the provisions of section 6, a person who desires and applies to be licensed as a physical therapist shall apply to the board in writing, on forms furnished by the board, and such application blanks shall embody evidence satisfactory to the board of the applicant's possessing the qualifications preliminary to examination required by this act. At the time of forwarding such application to the board, an applicant for licensure as a physical therapist shall pay a fee [of \$50, which shall not be refundable] as set by regulation.

Section 4. Section 6(a), (d), (g) and (h) of the act are amended to read:

Section 6. Qualifications for License; Examinations; Failure of Examinations; Licensure Without Examination; Issuing of License; Foreign Applicants for Licensure; Temporary License; Perjury.—(a) To be eligible for licensure as a physical therapist, an applicant must be at least 20 years of age unless otherwise determined by the board in its discretion, be of good moral character, not be addicted to the habitual use of alcohol or narcotics or other habit-forming drugs, and [have an education of not less than 60 semester hours of college credits or the equivalent thereof including courses in biological, physical and social studies at an accredited college or university and has attended an accredited physical therapy course of not less than 12 months, in a school of physical therapy established in a fully accredited medical school, hospital, college or university which course has provided curricula and training, the requirements of which shall be approved from time to time by the board with advice and consultation with recognized national accrediting agencies and professional organizations including the American Physical Therapy Association] *has graduated from a school offering an educational program in physical therapy as adopted by the board, which program has been approved for the education and training of physical therapists by the appropriate nationally recognized accrediting agency.* By the time of completion of the professional study of physical therapy, a physical therapist must

hold a minimum of a baccalaureate degree from a regionally accredited institution of higher education. In the case of those applicants who have completed requirements prior to the first day of January, 1967, but who may not technically or totally fulfill the above requirements, the board at its discretion and by the majority vote of all members present may accept evidence of satisfactory equivalence.

\* \* \*

(d) On payment to the board of **[a fee of \$15 for applicants subject to paragraph (1) of this subsection and \$75 for applicants subject to paragraph (2) of this subsection,] a fee as set by regulation** and on submission of a written application on forms provided by the board, the board shall issue a license without examination to[:

(1) **A person filing said application within one year from the effective date of this act who presents evidence satisfactory to the board that he meets the qualifications set forth in subsection (a) and that he has a valid license to practice physical therapy in the Commonwealth of Pennsylvania on the effective date of this act.**

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

\* \* \*

(g) **[On payment to the board of a fee of \$25, and the submission of a written application on forms provided by it, the board, in its discretion, shall issue without examination a temporary license to practice physical therapy in this State for a period not to exceed one year to any person who meets the qualifications set forth in clause (2) of subsection (d) of this section upon submission by such person of evidence satisfactory to the board and verified by oath that he is in this State on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project. A temporary license, as described above, may be renewed for one additional year at the board's discretion, and upon expiration must be surrendered to the board.**

(h) Upon the submission of a written application on forms provided by it, the board shall also issue a temporary license to a person who has applied for a license under the provisions of subsection (a) and who is, in the judgment of the board, eligible to take the examination provided for in subsection (b). Such temporary license shall be available to an applicant with respect to his application for a license under subsection (a), but the applicant may only use the temporary license while under the direct supervision of a licensed physical therapist. Such temporary license shall expire upon the

failure of the first examination and upon expiration the license must be surrendered to the board *except that the board may reissue such temporary license in its discretion and in accordance with rules and regulations to be established.*

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

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Section 5. Sections 7, 8 and 9 of the act are amended to read:

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

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

Section 8. Fees and Fines for Board.—(a) All fees and fines collected under the provisions of this act shall be paid into the [~~State Treasury for the use of the Commonwealth~~] *Professional Licensure Augmentation Account established pursuant to and for use in accordance with the act of July 1, 1978 (P.L. 700, No.124), known as the "Bureau of Professional and Occupational Affairs Fee Act."*

*(b) All fees required under the provisions of this act shall be fixed by the board, by regulation, and shall be subject to review in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that the projected revenues will meet or exceed projected expenditures.*

*(c) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board are inadequate to meet the minimum*

*enforcement efforts required, then the bureau, after consultation with the board, shall increase the fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that adequate revenues are raised to meet the required enforcement effort.*

Section 9. *Practice and Referrals by Physicians.*—Any person licensed under this act as a physical therapist shall not treat human ailments by physical therapy or otherwise except by the referral of a person licensed [in this State] as a physician; however, a physical therapist shall be permitted to accept the referral of a dentist or podiatrist licensed [in this State], for the treatment of a condition that is within the scope of practice of dentistry or podiatry. Nothing in this act shall be construed as authorization for a physical therapist to practice any branch of the healing arts except as described in this act. Any person violating the provisions of this act shall be guilty of a misdemeanor as described in section 12.

Section 6. The act is amended by adding sections to read:

*Section 10.1. Athletic Trainer Advisory Committee Created.*—*There is hereby created an advisory committee to be known as the Athletic Trainer Advisory Committee which shall be appointed by and serve at the pleasure of the board for the purpose of carrying out the provisions of this act as it relates to athletic trainers. The Athletic Trainer Advisory Committee shall assist the board in the certification, renewal, revocation or suspension of athletic trainers in accordance with this act and rules and regulations and as the board deems appropriate. The Athletic Trainer Advisory Committee shall consist of no more than three members who shall be certified athletic trainers and who shall receive reimbursement for actual traveling expenses related to their service to the board and a per diem to be fixed from time to time by the Governor's Executive Board but not less than \$35 per day. Advisory committee members may be selected by the board from a list of qualified athletic trainers provided by the Pennsylvania Athletic Trainers Society. Members of the advisory committee shall serve for three years except that the initial committee membership shall be appointed to serve for staggered terms of one, two and three years respectively.*

*Section 10.2. Certification of Athletic Trainers; Certification Renewal, Revocation or Suspension.*—(a) *The board shall have the power to adopt rules and regulations governing the certification of athletic trainers. Such rules and regulations shall establish standards necessary to Commonwealth certification in the following categories:*

- (1) *Approved educational program standards.*
- (2) *Education degree requirements for certification.*
- (3) *Practical training experience requirements for certification.*
- (4) *Other requirements necessary for the proper, ethical and professional training of persons applying for certification, which are deemed appropriate by the board.*

*Regulations promulgated pursuant to this section shall be formulated with the advice and consultation of the Athletic Trainer Advisory Committee.*

(b) *The board shall issue certification certificates to individuals seeking certification as athletic trainers after its review of a proper certification*

*application presented on forms prescribed by the board which evidences the satisfaction of the standards promulgated by rules in accordance with the provisions in subsection (a) and further upon payment of an appropriate fee to be set by the board after consultation with the commissioner.*

*(c) The board shall renew, revoke or suspend the certification of athletic trainers pursuant to rules and regulations formulated in consultation with the Athletic Trainer Advisory Committee. 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).*

Section 7. Section 11(a)(1) of the act 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) [practiced physical therapy other than upon the referral of a physician or as set forth in section 9] *been found to have violated section 9;*

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Section 8. Section 12(b) of the act is amended to read:

Section 12. Penalties; Injunctive Relief.—\* \* \*

(b) The board may, in the name of the people of the Commonwealth of Pennsylvania, through the Attorney General's Office, apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of this act. Such injunction proceedings shall be in addition to, and *not* in lieu of, all penalties and other remedies in this act.

Section 9. There is hereby appropriated from the Professional Licensure Augmentation Account within the General Fund to the Bureau of Professional and Occupational Affairs, in the Department of State, for the establishment and operations of the State Board of Physical Therapy Examiners, pursuant to this act, the sum of \$10,000, or as much thereof as may be necessary.

Section 10. All fees fixed by the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, or fixed pursuant to the act of July 1, 1978 (P.L.700, No.124), known as the Bureau of Professional and Occupational Affairs Fee Act, shall continue in full force and effect until changed by the board in accordance with this act.

Section 11. This act shall take effect three calendar months from the date of its enactment.

APPROVED—The 4th day of April, A. D. 1984.

DICK THORNBURGH