

No. 2008-38

AN ACT

HB 1199

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 definitions, for the State Board of Physical Therapy and its powers and duties, for training and license required and exceptions, for application for license, for qualifications for license and examinations, for renewal of license and for reporting of multiple licensure; providing for continuing education; further providing for practice of physical therapy, for physical therapy assistant, education and examination, scope of duties and registration and for supportive personnel; repealing provisions relating to Athletic Trainer Advisory Committee and certification of athletic trainers and certification renewal, revocation and suspension; and further providing for refusal or suspension or revocation of license, for automatic suspension, for temporary suspension, for subpoenas, reports and surrender of license, for penalties and injunctive relief and for impaired professional.

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

Section 1. The definitions of "athletic trainer," "Athletic Trainer Advisory Committee," "physical therapist assistant" and "physical therapy" in section 2 of the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, amended April 2, 2002 (P.L.234, No.27), are amended and the section is amended by adding definitions 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 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.]

* * *

"Certificate of authorization" means a certificate, approved by the board, to practice physical therapy without a referral under section 9(a).

"Certified registered nurse practitioner" means an individual as defined in section 2 of the act of May 22, 1951 (P.L.317, No.69), known as "The Professional Nursing Law."

* * *

"Consultation by means of telecommunications" means that a physical therapist renders a professional opinion or advice regarding the practice of physical therapy to another physical therapist or licensed health care provider via telecommunications or computer technology from a distant location, subject to section 4(b.3)(5) and consistent with applicable health information privacy laws. It includes the review or transfer of patient

records or related information by means of audio, video or data communication.

“Dentist” means an individual as defined in 1 Pa.C.S. § 1991 (relating to definitions).

“Direct on-premises supervision” means the physical presence of a licensed physical therapist in the facility, including affiliated buildings in immediate proximity, who is immediately available to exercise supervision, direction and control.

* * *

“Physical therapist assistant” shall mean [a person] an individual who has met all the requirements of this act and is [registered] certified as a physical therapist assistant in accordance with this act. Any person or individual who is registered and in good standing with the board shall be deemed certified until such time as the board promulgates regulations regarding certification.

“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.] any of the following:

(1) The evaluation, examination and testing of individuals with mechanical, physiological and developmental impairments, functional limitations and disabilities, other health-related or movement-related conditions, performed to determine a diagnosis, prognosis and plan of treatment intervention within the scope of this act or to assess the ongoing effects of intervention.

(2) The performance of tests and measurements as an aid in diagnosis or evaluation of function and the treatment of the individual through the utilization of the effective properties of physical measures such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage or mobilization-manual therapy.

(3) The use of therapeutic exercises and rehabilitative procedures, including training in functional activities, with or without the utilization of assistive devices, for the purpose of limiting or preventing disability and alleviating or correcting any physical or mental conditions.

(4) Reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health and wellness in populations of all ages as well as engaging in administration, consultation, education and research.

“Physical therapy independent private practice outpatient facility” means a practice owned and operated by a licensee under this act, or by a

licensee under this act and a health care practitioner, licensed by this Commonwealth, as permitted by law. The term shall not include a practice owned or affiliated with a hospital or health care system.

“Physician assistant” means an individual as defined in the act of October 5, 1978 (P.L.1109, No.261), known as the “Osteopathic Medical Practice Act,” or the act of December 20, 1985 (P.L.457, No.112), known as the “Medical Practice Act of 1985.”

“Podiatrist” means an individual licensed under the act of March 2, 1956 (1955 P.L.1206, No.375), known as the “Podiatry Practice Act.”

“Unrestricted license” means a license which is not restricted or limited by order of the board under its disciplinary power.

Section 2. Section 2.1 of the act, amended or added December 20, 1985 (P.L.500, No.117) and February 21, 2002 (P.L.90, No.6), is amended to read:

Section 2.1. State Board of Physical Therapy.—(a) The board shall consist of [eleven] *thirteen* members, all of whom shall be residents of Pennsylvania. [Six] *Seven* members shall be physical therapists [licensed] *holding an active license* to practice in this Commonwealth, each having had at least five years of experience as a physical therapist *in this Commonwealth*, three years of which must have immediately preceded the appointment to the board. One member shall be a physical therapist assistant [currently registered] *holding an active certificate* with the board [or an athletic trainer currently certified by the board]. Two members shall be representatives of the public. One member shall be the Commissioner of Professional and Occupational Affairs. One member shall be the Physician General of the Commonwealth or his designee. *One member shall be the Attorney General or a designee.* The members of the board, *other than the Attorney General, Physician General and commissioner*, shall be appointed by the Governor, with the advice and consent of a majority of the members elected to the Senate. *The board shall meet no less than four times per calendar year.*

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

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

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

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

(f) **[A member who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.]** *A professional or public member who fails to attend three meetings in 18 months shall forfeit the member's seat unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting because of illness or death of a family member.*

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

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

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

Section 3. Section 3 of the act, amended December 20, 1985 (P.L.500, No.117), is amended to read:

Section 3. Powers and Duties of Board.--(a) It shall be the duty of the board to pass upon the qualifications of applicants for licensure as physical therapists[, **registration**] *and certification* as physical therapist assistants [**and certification as athletic trainers**], to conduct examinations, to issue and renew licenses *and certificates of authorization* to physical therapists[, **registrations**] *and certificates* to physical therapist assistants [**and certifications to athletic trainers**] who qualify under this act, and in proper cases to refuse to issue, suspend or revoke the license *or certificate of authorization* of any physical therapist[, **registration**] *or certificate* of any physical therapist assistant [**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[, **registrant**] 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] individuals** violating this act. The board shall maintain a register listing the name of every living physical therapist licensed to practice in this State, *and* every physical therapist assistant duly **[registered] certified** pursuant to section 9.1 **[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 the physical therapist's license **[or athletic trainer's certification.] and the physical therapist assistant's certificate. Residential information shall not be considered a public record under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.**

(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.

(c) The board shall submit annually a report, to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate, containing a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution. *The board shall report final adverse disciplinary action taken against a licensee to a national disciplinary database recognized by the board as required by law.*

Section 4. Section 4 of the act, amended April 4, 1984 (P.L.196, No.41) and December 20, 1985 (P.L.500, No.117), is amended to read:

Section 4. Training and License Required; Exceptions.—(a) It shall be unlawful for **[any person] an individual** to practice or hold himself out as being able to practice physical therapy in this State in any manner whatsoever unless such **[person] individual** has met the educational requirements and is licensed in accordance with the provisions of this act. The board shall determine standards, by regulations, regarding qualifications necessary for the performance of such tests or treatment forms as the board shall determine require additional training or education beyond the educational requirements set forth by this act, as such relates to the practice of physical therapy in accordance with law. Nothing in this act, however, shall prohibit **[any person] an individual** trained and licensed or certified to practice or to act within the scope of his *license or* 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, such individual 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] *an individual* 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.

(b.2) Nothing in this act shall limit a physician’s authority to practice medicine or to delegate the performance of a medical service to a certified physical therapist assistant who is under the supervision of a licensed physical therapist, if the medical service is within the education and training for the physical therapist assistant and provided that the licensed physical therapist provides the initial evaluation for the physical therapy.

(b.3) The following shall apply:

(1) A student who is enrolled in a board-approved school of physical therapy may perform acts of physical therapy incidental to the student’s course of study.

(2) An individual may engage in the nontreatment-specific administration of baths, massage and exercise.

(3) A physical therapist holding an unrestricted license in another jurisdiction of the United States or credentialed in another country, if that individual by contract or employment is providing physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in this Commonwealth, may perform physical therapy for no more than 60 days within a consecutive 12-month period.

(4) A physical therapist holding an unrestricted license in another jurisdiction of the United States or credentialed in another country may

enter this Commonwealth to provide physical therapy during a declared State or national disaster. This exemption applies for no more than 60 days within a consecutive 12-month period following the declaration of the emergency. In order to be eligible for this exemption, the physical therapist shall notify the board of their intent to practice.

(5) A physical therapist who holds an unrestricted license in another jurisdiction of the United States may provide consultation by means of telecommunication where there is no fee paid for the consultation.

(6) An individual employed by an agency, bureau or division of the Federal Government who is discharging official duties is not subject to this act. However, if the individual engages in the practice of physical therapy outside the scope of official duties, the individual must meet the educational requirements and be licensed or certified as provided in this act.

(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." December 16, 1986 (P.L.1646, No.188), known as the "Chiropractic Practice Act."

(d) A physical therapist assistant is exempt from the requirement of certification under this act for no more than 60 days within a consecutive 12-month period if the physical therapist assistant is certified or licensed in a jurisdiction of the United States or credentialed in another country and is assisting a physical therapist engaged specifically in activities related to subsection (b.3)(3) and (4).

(e) Notwithstanding subsection (d), a physical therapist assistant providing physical therapy acts and services and the physical therapist supervising such physical therapist assistant shall be subject to the supervision requirements of this act.

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

Section 5. Application for License.—Unless entitled to licensure without examination under the provisions of section 6, **[a person]** *an individual* who desires and applies to be licensed as a physical therapist shall apply to the board **[in writing, on forms]** *on a form* 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 as set by regulation.

Section 6. Sections 6, 7 and 7.1 of the act, amended or added December 20, 1985 (P.L.500, No.117), 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 be a graduate of 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] *An applicant completing*** the professional study of physical therapy**[, a physical therapist] *after 2002 must hold a minimum of a master's degree from a regionally accredited institution of higher education. An applicant completing the professional study of physical therapy between January 1967 and 2002*** 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. The board shall not issue a license to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act," unless:

- (1) at least ten years have elapsed from the date of conviction;
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations; and
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

As used in this subsection the term "convicted" includes a judgment, an admission of guilt or a plea of nolo contendere.

(b) An applicant for licensure must pass **[a written] *an*** examination ***approved by the board*** which shall test the applicant's knowledge of the basic and clinical sciences as they relate to physical therapy theory and physical therapy procedures and such other subjects as the board may deem necessary to test the applicant's fitness to practice physical therapy. No license shall be granted unless an applicant has attained passing scores established by the testing agency and published prior to the administration of the examination. The examination shall be held **[within the Commonwealth of Pennsylvania twice a year]** at such time and place as the board shall determine.

(c) In case of failure at the first examination, the applicant for licensure shall have, after the expiration of **[six months] 60 days** and within **[two years] one year** from the first failure, the privilege of a second examination.

The board may adopt regulations governing the eligibility of applicants who have failed to pass two examinations in order to be admitted to subsequent examinations. *An applicant may take the examination no more than three times in a consecutive 12-month period.*

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

(1) Licensing or [registration] *certification* standards in the other state, territory or the District of Columbia are substantially the same as those of this act.

(2) Similar privileges are accorded [persons] *individuals* licensed or [registered] *certified* in this Commonwealth.

(3) The applicant holds a valid license [or registration], *registration or certification* issued by the other state, territory or the District of Columbia.

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

(e) The board shall issue a license to a physical therapist who successfully establishes his eligibility under the terms of this act and [any person] *an individual* who holds a license pursuant to this section may use the words physical therapist or licensed physical therapist and he [may] *shall* use the letters [LPT] *PT* in connection with his name or place of business to denote his licensure hereunder. *A licensed physical therapist may include designations for physical therapy degrees, including MPT and DPT when a master's or doctor's of physical therapy degree has been earned from a regionally accredited institution of higher education, academic degrees, specialist certification and other credentials after the letters PT.*

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

(g) Upon the submission of [a written application, on forms provided by it] *an application as provided by the board,* the board shall issue a temporary license to an applicant for licensure who has met all of the requirements of subsection (a) and who is eligible to take the examination provided for in subsection (b). The board shall issue only one temporary license to an applicant, and such temporary license shall expire upon failure of the first examination or six months after the date of issue, whichever first occurs. Issuance by the board of a temporary license shall permit the applicant to practice physical therapy only while under the direct on-premises supervision of a licensed physical therapist with at least two years of

experience. Upon expiration, the temporary license shall be promptly returned by the applicant to the board.

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

(i) An applicant for licensure who has been educated outside of the United States shall:

(1) Complete the application process, including payment of fees.

(2) Provide proof of holding an unrestricted license in the country where the applicant was educated.

(3) Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited program as determined by the board. Graduation outside the United States from a professional education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure educated outside the United States shall have:

(i) Graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy.

(ii) Provided written proof that the applicant's school of physical therapy is recognized by its own ministry of education.

(iii) Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for education requirements as further established by this rule.

(iv) Completed any additional education as required by the board.

(4) Comply with all State, Federal and administrative laws and regulations related to the application for and maintenance of licensure.

(5) Pass the examination approved by the board.

(6) Meet the requirements established by board regulations if applicable.

(j) Each licensee and certificate holder shall display a copy of the licensee's license or certificate holder's certificate in a location accessible to public view and produce a copy immediately upon request.

Section 7. Renewal of License.—Each license issued under the provisions of this act shall be renewed biennially. On or before November 1 of each renewal year, the board shall mail an application for renewal of license to each **[person] individual** 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] individual** as it appears on the records of the board. Such **[person] individual** shall complete the renewal application and **[return] submit** 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 for each licensing period shall be set by regulation.

Section 7.1. Reporting of Multiple Licensure.—Any licensed physical therapist or **[registered] certified** physical therapist assistant of this Commonwealth who is also licensed to practice physical therapy or **[registered] certified** as a physical therapist assistant in any other state, territory or country shall report this information to the board on the biennial registration application. Any disciplinary action taken in such other jurisdiction shall be reported to the board on the biennial registration application, or within **[90] 30** days of final disposition, whichever occurs sooner. Multiple licensure or **[registration] certification** shall be noted by the board on the physical therapist or physical therapist assistant's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against said physical therapist or physical therapist assistant in this Commonwealth.

Section 7. The act is amended by adding a section to read:

Section 7.2. Continuing Education.—For each license renewal, a licensee shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board. The licensee shall provide the board with evidence of the completion of the continuing education. A physical therapist who has met the continuing education requirements for a certificate of authorization set forth in section 9(c)(1) shall be deemed to have met the continuing education requirement for license renewal. No credit shall be given for any course in office management or practice building.

Section 8. Section 9 of the act, amended February 21, 2002 (P.L.90, No.6), is amended to read:

Section 9. Practice of Physical Therapy.—(a) Except as provided in subsection (b), no **[person] individual** licensed under this act as a physical therapist shall treat human ailments by physical therapy or otherwise except by the referral of **[a person] an individual** licensed as a physician, *a licensed physician assistant practicing pursuant to a written agreement with a physician or a certified registered nurse practitioner practicing pursuant to a collaborative agreement with a physician*; however, a physical therapist shall be permitted to accept the referral of a *licensed* dentist or podiatrist **[licensed]**, 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.] For purposes of this section, relating to referrals, a licensed physician, dentist or podiatrist means an individual holding an active license in this Commonwealth, the District of Columbia or any other state or United States territory.**

(b) Licensees who meet the standards set forth in this subsection may apply to the board for a certificate of authorization to practice physical therapy under this act without the required referral under subsection (a). A certificate of authorization to practice physical therapy without a referral under subsection (a) shall not authorize a physical therapist either to treat a condition in **[any person] an individual** which is a nonneurologic, nonmuscular or nonskeletal condition or to treat **[a person] an individual** who has an acute cardiac or acute pulmonary condition unless the physical therapist has consulted with the **[person's] individual's** licensed physician, dentist or podiatrist regarding the **[person's] individual's** condition and the physical therapy treatment plan or has referred the **[person] individual** to a licensed physician, dentist or podiatrist for diagnosis and referral. The certificate of authorization shall be issued only to licensed physical therapists practicing physical therapy. The certificate of authorization shall be displayed by the certificate holder in a manner conspicuous to the public. The renewal of the certificate of authorization shall coincide with the renewal of the license of the licensee. Licensees making application for a certificate of authorization shall present satisfactory evidence to the board of all of the following:

- (1) That the licensee has:
 - (i) passed an examination for licensure to practice physical therapy, which examination included testing on the appropriate evaluative procedures to treat **[a person] an individual** without a referral; or
 - (ii) passed an examination for licensure to practice physical therapy prior to 1990 and successfully completed a course approved by the board on the appropriate evaluative procedures to treat **[a person] an individual** without a referral.
- (2) That the licensee has:
 - (i) practiced physical therapy as a licensed physical therapist in the delivery of patient care in accordance with this act on a continuous basis for at least two years immediately preceding the application for a certificate of authorization;
 - (ii) been licensed under section 6(d.1) and has practiced physical therapy in the delivery of patient care as a licensed physical therapist in a reciprocal state on a continuous basis for at least two years immediately preceding the application for a certificate of authorization; or
 - (iii) provided proof of meeting the standards of clause (i) or (ii) of this paragraph through the application of any combination thereof.
- (3) That the license of that licensee has been maintained in good standing.
- (4) That the licensee has professional liability insurance in accordance with the following provisions:
 - (i) **Beginning with the first license renewal period at least two years after the effective date of this subsection or upon first making application for a certificate of authorization, whichever occurs earlier,**

any licensee applying for and obtaining a certificate of authorization shall obtain and maintain, to the satisfaction of the board, professional liability insurance coverage in the minimum amounts required to be maintained by physicians pursuant to the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act." The professional liability insurance coverage shall remain in effect as long as that licensee has a certificate of authorization.]

(ii) A licensee shall notify the board within 30 days of the licensee's failure to be covered by the required insurance. Failure to notify the board shall be actionable under section 11 or 12. Further, the certificate of authorization of that licensee shall automatically be suspended upon failure to be covered by the required insurance and shall not be restored until submission to the board of satisfactory evidence that the licensee has the required professional liability insurance coverage.

(iii) The board shall accept from licensees as satisfactory evidence of insurance coverage under this subsection any or all of the following: self-insurance, personally purchased professional liability insurance, professional liability insurance coverage provided by the licensee's employer or any similar type of coverage.

(iii.1) A licensee under this act, practicing in this Commonwealth, shall maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept as satisfactory evidence of insurance coverage any of the following:

(A) self-insurance;

(B) personally purchased liability insurance; or

(C) professional liability insurance coverage provided by the physical therapist's employer or similar insurance coverage acceptable to the board.

(iii.2) A license applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with subparagraph (iii.1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice physical therapy in this Commonwealth.

(iii.3) Upon issuance of a license, a licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

(iv) The board shall adopt, by regulation, standards and procedures established by the Insurance Commissioner for self-insurance. In the absence of these standards and procedures, the board, after consultation with the Insurance Commissioner, shall establish standards and procedures by regulation for self-insurance under this subsection.

(c) (1) For each renewal of the certificate of authorization, the licensee shall complete within the immediately preceding two-year period at least **[20] 30** hours of continuing physical therapy education related to keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least ten of the **[20] 30** hours shall be in appropriate evaluative procedures to treat **[a person] an individual** without a referral. *No credit shall be given for any course in office management or practice building.* The licensee shall provide the board with evidence of the completion of the continuing education.

(2) Continuing education programs and program providers under this subsection shall be approved by the board in accordance with standards and criteria established by the board by regulation. The regulation shall include any fees necessary to implement this provision and provide for waiver of the continuing education requirement due to illness or hardship in any licensing renewal period.

[(3) The requirements for continuing physical therapy education shall not apply until the first renewal of the certificate of authorization at least two years after the effective date of this subsection. No credit shall be given for any course in office management or practice building.]

(d) A physical therapist practicing physical therapy under this act shall refer patients to a licensed physician or other appropriate health care practitioner in any of the following cases:

(1) Cases where symptoms are present for which physical therapy is a contraindication.

(2) Cases for which treatment is outside the scope of practice of physical therapy.

(3) Cases for which treatment is beyond the education, expertise or experience of the physical therapist.

(e) A physical therapist may treat **[a person] an individual** without a referral as provided for in subsection (b) for up to 30 days from the date of the first treatment. A physical therapist shall not treat **[a person] an individual** beyond 30 days from the date of the first treatment unless he or she has obtained a referral from a licensed physician[, dentist or podiatrist.]; *a licensed physician assistant practicing pursuant to a written agreement with a physician; a certified registered nurse practitioner practicing pursuant to a collaborative agreement with a physician; or a licensed dentist or licensed podiatrist, for the treatment of a condition that is within the scope of practice of dentistry or podiatry.* The date of the first treatment for purposes of this subsection is the date the **[person] individual** is treated by any physical therapist treating without a referral.

(f) Nothing in this section shall be construed to require or preclude third-party insurance reimbursement. Nothing herein shall preclude an insurer or other third-party payor from requiring that a physical therapist obtain a referral from a licensed physician[, dentist or podiatrist or]; *a licensed physician assistant practicing pursuant to a written agreement with a*

physician; a certified registered nurse practitioner practicing pursuant to a collaborative agreement with a physician; or a licensed dentist or licensed podiatrist, for the treatment of a condition that is within the scope of practice of dentistry or podiatry; or that a physical therapist file an evaluation and treatment plan with the insurer or third-party payor as a precondition of reimbursement.

Section 9. Sections 9.1 and 9.2 of the act, added December 20, 1985 (P.L.500, No.117), are amended to read:

Section 9.1. Physical Therapist Assistant; Education and Examination; Scope of Duties; **[Registration] Certification.**—(a) To be eligible **[to register with]** *for certification* by the board as a physical therapist assistant, an applicant must be at least **[20] 18** years of age unless otherwise determined by the board, be of good moral character, not be addicted to the habitual use of alcohol or narcotics or other habit-forming drugs, be a graduate of a physical therapist assistant program adopted by the board, which program has been approved for the education and training for physical therapist assistants by the appropriate nationally recognized accrediting agency and be successful in passing an examination **[adopted] approved** by the board, subject to rules and regulations established by the board and administered in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of 1929.” *Applicants eligible to register with the board shall be deemed eligible for certification by the board until such time as the board promulgates any regulation regarding certification.* No applicant shall be **[registered] certified** unless he has attained passing scores established by the **[testing agency] board** and published prior to the administration of the examination.

(a.1) Upon the submission of an application, as provided by the board, the board shall issue a temporary certificate to an applicant for certification who has met all of the requirements of subsection (a) and who is eligible to take the examination provided for in subsection (a). The board shall issue only one temporary certificate to an applicant, and the temporary certificate shall expire upon failure of the first examination or six months after the date of issue, whichever first occurs. Issuance by the board of a temporary certificate shall permit the applicant to provide physical therapy acts and services only while under the direct on-premises supervision of a licensed physical therapist. Upon expiration, the temporary certificate shall be promptly returned by the applicant to the board.

(b) In case of failure of the first examination, the applicant for **[registration] certification** shall have, after the expiration of **[six months] 60 days** and within **[two years] one year** from the first failure, the privilege of a second examination. The board may adopt regulations governing the eligibility of applicants who have failed to pass two examinations in order to be admitted to subsequent examinations.

(c) A physical therapist assistant while assisting a licensed physical therapist in the practice of physical therapy shall only perform patient-related physical therapy acts and services that are assigned or delegated by and under the **[direct on-premises]** supervision of a licensed physical therapist. Such acts and services of a physical therapist assistant shall not include evaluation, testing, interpretation, planning or modification of patient programs. For purposes of this section the term **["direct on-premises supervision"** shall mean the physical presence of a licensed physical therapist on the premises who is immediately available to exercise supervision, direction and control.] **"supervision" means as follows:**

(1) In all practice settings, the performance of selected acts and services by the physical therapist assistant shall be:

(i) The responsibility of the licensed physical therapist at all times.

(ii) Based on the following factors:

(A) Complexity and acuity of the patient's needs.

(B) Proximity and accessibility of the licensed physical therapist to the certified physical therapist assistant.

(C) Supervision available in the event of an emergency or critical event.

(D) Type of practice setting in which the service is provided.

(2) In all practice settings, the initial patient contact shall be made by a licensed physical therapist for evaluation of the patient and establishment of a plan of care.

(3) Supervision requirements of a physical therapist assistant shall be dependent upon the practice setting in which the care is delivered:

(i) When care is delivered to an individual in an acute care hospital, acute inpatient rehabilitation center, long-term acute care hospital facility setting or as otherwise required by Federal or State law or regulation, the physical therapist assistant shall be under the direct on-premises supervision of a licensed physical therapist.

(ii) When care is provided to an individual in a preschool, primary school, secondary school or other similar educational setting, a licensed physical therapist shall make an onsite visit and examine the patient at least every four patient visits or every 30 days, whichever shall occur first.

(iii) When care is provided to a patient in a physical therapy independent private practice outpatient facility, a licensed physical therapist shall provide direct on-premises supervision of a physical therapist assistant for at least 50% of the hours worked by the physical therapist assistant during the calendar week unless otherwise required by Federal law, and the physical therapist shall be immediately available by telecommunication if not providing direct on-premises supervision.

(iv) For any home health care, facility or practice setting not specified in subparagraph (i), (ii) or (iii), a licensed physical therapist shall make an onsite visit and actively participate in the treatment of the patient at least every seven patient visits or every 14 days, whichever shall occur first. The

board shall review and make recommendations to the Consumer Protection and Professional Licensure Committee of the Senate and to the Professional Licensure Committee of the House of Representatives relating to the implementation of this paragraph three years following the effective date of this paragraph.

(4) In all practice settings, a physical therapist assistant shall be under the direct on-premises supervision of a licensed physical therapist until the physical therapist assistant submits for approval evidence satisfactory to the board of:

(i) at least 2,000 hours of experience providing patient-related acts and services verified by a supervising licensed physical therapist; or

(ii) employment as a physical therapist assistant for at least three of the five years immediately preceding the effective date of this paragraph.

(5) Upon compliance with paragraph (4), a physical therapist assistant may only provide physical therapy acts and services when the licensed physical therapist is available and accessible in person or by telecommunication to the physical therapist assistant during all working hours of the physical therapist assistant and is present within a 100-mile radius of the treatment location. A physical therapist assistant shall consult with the supervising physical therapist in the event of a change in the patient's condition which may require the assessment of a licensed physical therapist.

(6) A licensed physical therapist shall not supervise more than three physical therapist assistants at any time.

(7) In the event of a change of the supervising licensed physical therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any certified physical therapist assistant providing physical therapy acts and services and shall become the supervising physical therapist.

(d) Only [a person] an individual who has been properly [registered] certified 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.] assistant" and the abbreviation "PTA." Until such time as the board promulgates rules and regulations, an individual who is properly registered with the board shall be deemed certified for the purposes of this section.

(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 *issue*, renew, revoke or suspend the [registration] *certification* of physical therapist assistants pursuant to rules and regulations promulgated by the board. All actions of the board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

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

(h) *A physical therapist assistant may not authorize the discharge of a patient from physical therapy services.*

(i) *In an emergency situation, such as serious illness or death of a family member, which causes the unanticipated absence of the supervising physical therapist for not more than two days per month, a certified physical therapist assistant may continue to render services to only those patients for which the certified physical therapist assistant has previously participated in the intervention for established plans of care not to exceed the regularly scheduled operational hours of the particular day or days the supervising physical therapist is absent. Every effort shall be made by the licensed physical therapist or certified physical therapist assistant to obtain supervision in the care described in this subsection. A licensee utilizing this section shall maintain a written record noting the date and the emergency, which shall be available for board review, and shall submit a report to the board biennially setting forth each day absent under this paragraph and the reason for such absence. A licensed physical therapist may utilize this emergency provision no more than ten days per calendar year.*

(j) *For each certificate renewal, a certificate holder shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board in accordance with standards and criteria established by the board by regulation. The certificate holder shall provide the board with evidence of the completion of the continuing education. The current rules and regulations shall remain in effect until such time as the board establishes by regulations, standards and criteria relating to continuing physical*

therapy education for certified physical therapist assistants and physical therapists.

Section 9.2. Supportive Personnel.—Nothing in this act [or the act of October 10, 1975 (P.L.383, No.110), known as the “Physical Therapy Practice Act,”] shall prohibit a licensed physical therapist from assigning or delegating various activities to other [persons] *individuals* who may, from time to time, aid and assist a licensed physical therapist *or certified physical therapist assistant* in the provision of physical therapy services; provided that such activities are performed under the direct on-premises supervision of a licensed physical therapist *or certified physical therapist assistant* and the level of such activities do not require formal education or training in the practice of physical therapy, the skill and knowledge of a licensed physical therapist and the skill and knowledge of a properly [registered] *certified* physical therapist assistant.

Section 10. Section 10.1 of the act, added April 4, 1984 (P.L.196, No.41), is repealed:

[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 11. Section 10.2 of the act, added April 4, 1984 (P.L.196, No.41) and December 20, 1985 (P.L.500, No.117), is amended to read:

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).

(d) Unless ordered to do so by a court, the board shall not reinstate the certificate of a person to practice as an athletic trainer which has been revoked, and such person shall be required to apply for a certificate after a five-year period in accordance with this section, if he desires to practice at any time after such revocation.] *Administrative Procedure.—The board shall conduct all disciplinary proceedings under this act in accordance with 2 Pa.C.S. (relating to administrative law and procedure).*

Section 12. Section 11 of the act, amended December 20, 1985 (P.L.500, No.117) and February 21, 2002 (P.L.90, No.6), is amended to read:

Section 11. Refusal or Suspension or Revocation of License *or Certificate*.—(a) [The] *Except as otherwise provided in this act, the* board shall refuse to issue a license *or certificate* to [any person] *an individual* and, after notice and hearing in accordance with rules and regulations, may suspend or revoke the license *or certificate* of [any person] *an individual* who has:

- (1) been found to have violated any of the provisions of section 9;
- (2) attempted to or obtained licensure *or certification* by fraud or misrepresentation;
(2.1) attempted to engage in conduct that subverts or undermines the integrity of the examination or the examination process;
- (3) committed repeated occasions of negligence or incompetence in the practice of physical therapy;
- (4) been convicted of a felony *or a crime of moral turpitude* in a Federal court or in the courts of this Commonwealth or any other state, territory or

country. Conviction, as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere;

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

(6) been found guilty of unprofessional conduct. Unprofessional conduct shall include any departure from or the failure to conform to the minimal standards of acceptable and prevailing physical therapy practice, *including the recognized standards of ethics of the physical therapy profession*, in which proceeding actual injury to a patient need not be established;

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

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

(9) made misleading, deceptive, untrue or fraudulent representations in violation of this act or otherwise in the practice of the profession[.];

(10) in the case of a licensed physical therapist who failed to supervise physical therapist assistants or supportive personnel in accordance with this act or board regulation; or

(11) knowingly aiding, assisting, procuring or advising any unlicensed individual to practice a profession contrary to this act or regulations of the board.

(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 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]** *an individual to practice as a physical therapist or the certificate of an individual certified to practice as a physical therapist assistant* which has been revoked, and such **[person]** *individual* shall be required to apply for a license *or certificate* after a five-year period in accordance with section 6, if he desires to practice at any time after such revocation.

Section 13. Sections 11.1, 11.2 and 11.3 of the act, added December 20, 1985 (P.L.500, No.117), are amended 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 the act of April 14, 1972 (P.L.233, No.64), known as “The Controlled Substance, Drug, Device and Cosmetic Act”; or conviction of an offense under the laws of another jurisdiction which, if committed in Pennsylvania, would be a felony under “The Controlled Substance, Drug, Device and

Cosmetic Act.” As used in this section the term “conviction” shall include a judgment, an admission of guilty or a plea of nolo contendere. Automatic suspension under this section shall not be stayed pending any appeal of a conviction. Restoration of such license[, **registration**] or certificate shall be made as provided in this act for revocation or suspension of such license[, **registrant**] or certificate holder.

Section 11.2. Temporary Suspension.—The board shall temporarily suspend a license[, **registration**] or certificate under circumstances as determined by the board to be an immediate and clear danger to the public health or safety. The board shall issue an order to that effect without a hearing, but upon due notice, to the licensee[, **registrant**] or certificate holder concerned at his last known address, which shall include a written statement of all allegations against the licensee[, **registrant**] or certificate holder. The provisions of section 11(c) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license[, **registration**] or certificate of the [**person**] *individual* concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within 30 days following the issuance of an order temporarily suspending a license[, **registration**] or certificate, the board shall conduct, or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee[, **registrant**] or certificate holder whose license[, **registration**] or certificate has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license[, **registration**] or certificate shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

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

(b) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall 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] an individual** whose license[,] or certificate **[or registration]** has been suspended or revoked to return the license[,] or certificate **[or registration]** in such manner as the board directs. **[A person] An individual** who fails to do so commits a misdemeanor of the third degree.

(d) The board, upon probable cause, has authority to compel a licensee or certificate holder to submit to a mental or physical examination by a physician approved by the board. Failure of a licensee or certificate holder to submit to an examination when directed by the board, unless the failure is due to circumstances beyond the licensee's or certificate holder's control, shall constitute an admission of the allegations against the licensee or certificate holder, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence.

(e) A licensee or certificate holder affected shall, at reasonable intervals as determined by the board, be afforded an opportunity to demonstrate that the licensee or certificate holder can resume competent practice with reasonable skill and safety.

Section 14. Section 12 of the act, amended or added April 4, 1984 (P.L.196, No.41) and December 20, 1985 (P.L.500, No.117), is amended to read:

Section 12. Penalties; Injunctive Relief.—(a) **[Any person] An individual** who violates any provision of this act shall be guilty of a misdemeanor, as herein set forth, and upon conviction thereof shall be punished by a fine of not less than **[\$100] \$500** nor more than **[\$500] \$1,000** or by imprisonment for not less than 30 days nor more than 90 days, or by both such fine and imprisonment; and on each additional offense shall be subject to a fine of not less than \$1,000 and imprisonment of not less than six months nor more than one year, at the discretion of the court.

(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] an individual** 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.

(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] certificate holder** who violates any provisions of this act or on **[any person] an individual** 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] certified** 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.

Section 15. Section 13 of the act, added December 20, 1985 (P.L.500, No.117), is amended to read:

Section 13. Impaired Professional.—(a) The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of **[persons] individuals** with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees **or certificate holders** under this act.

(b) The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as “The Controlled Substance, Drug, Device and Cosmetic Act,” or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of 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 after-care 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 *or certificate* 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 *or certificate* 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.

(f) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license *or certification* shall make or cause to be made a report to the board: Provided, That [any person] *an individual* or facility who acts in a treatment capacity to an impaired physical therapist in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. [Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed \$1,000. 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).]

(g) An individual or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide a report within a reasonable time from receipt of knowledge of impairment shall subject the individual or facility to a fine not to exceed \$1,000. The board shall levy this penalty only after affording the accused party the opportunity for a hearing as provided in 2 Pa.C.S. (relating to administrative law and procedure).

Section 16. The State Board of Physical Therapy shall promulgate regulations to implement the amendment or addition of sections 2, 2.1, 3, 4,

5, 6, 7, 7.1, 7.2, 9, 9.1(a), (a.1), (b), (d), (e), (f), (g) and (j), 11, 11.1, 11.2, 11.3, 12 and 13 of the act within 18 months of the effective date of this section. Until such time as the board promulgates rules and regulations regarding issue, renewal, revocation or suspension of physical therapist assistants, the current rules and regulations shall remain in effect.

Section 17. This act shall take effect in 90 days.

APPROVED—The 4th day of July, A.D. 2008.

EDWARD G. RENDELL