

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1378

S. P. 428

In Senate, March 20, 1979

Referred to the Committee on Business Legislation. Sent down for concurrence and 2,000 ordered printed.

Presented by Senator Trafton of Androscoggin.

Cosponsor: Senator Gill of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Establish the Physical Therapist Practice Act.

Be it enacted by the People of the State of Maine, as follows:

32 MRSA c. 46, as amended, is repealed and the following enacted in its place:

CHAPTER 46

PHYSICAL THERAPIST PRACTICE ACT

SUBCHAPTER I

GENERAL PROVISIONS

§ 3111. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. **Board of Examiners in Physical Therapy.** The "Board of Examiners in Physical Therapy", as heretofore established and in this chapter called the "board", shall consist of 2 physicians and one lay person from the Board of Registration in Medicine, together with 2 physical therapists.

2. **Direction.** “Direction” means that the physical therapist shall maintain continuing verbal and written contact with the physical therapist assistant including periodic on-site supervision and instruction adequate to ensure the safety and welfare of the patient.

3. **Gender.** Words importing the masculine gender may be applied to females.

4. **Limit.** “Limit” means to impose conditions and requirements upon the holder of a license.

5. **Physical therapist.** “Physical therapist” means a person who practices physical therapy.

6. **Physical therapist assistant.** “Physical therapist assistant” means a person who assists in the practice of physical therapy.

7. **Physical therapy.** “Physical therapy” means the examination, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease and any other bodily and mental conditions, and includes the administration, interpretation and evaluation of tests and measurements of bodily functions and structures; the planning, administration, evaluation and modification of treatment and instruction, including the use of physical measures, activities and devices, for preventive and therapeutic purposes; and the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain.

8. **Practice of physical therapy.** “Practice of physical therapy” means the rendering or offering to render for a fee, salary or other compensation, monetary or otherwise, directly or indirectly paid, any service involving physical therapy.

9. **Referral.** “Referral” means a doctor of medicine, surgery, osteopathy or dentistry requesting a physical therapist to accept one of his patients for treatment.

10. **Reprimand.** “Reprimand” means to publicly warn a licensee.

11. **Revoke.** “Revoke” means to completely and absolutely terminate a license and all rights, privileges and authority conferred thereby.

12. **Suspend.** “Suspend” means to completely and absolutely withdraw and withhold for a period of time all rights, privileges and authority previously conferred by granting of a license.

13. **Warn.** “Warn” means to privately appraise a licensee of the unprofessional nature of his conduct and admonish him that continued or repeated conduct of that nature may give the board cause to reprimand him or to limit his license or to recommend license suspension or revocation.

SUBCHAPTER II

BOARD OF EXAMINERS

§ 3121. Appointment

The chairman, secretary-treasurer and public member of the Board of Registration in Medicine shall serve on the Board of Examiners in Physical Therapy. The 2 physical therapists currently on the board shall continue to serve until June 30, 1981 and 1983, respectively, or until their successors are appointed and qualify. Thereafter, one physical therapist shall be appointed by the Governor on or before July 1st of every odd-numbered year to hold office for 4 years from July 1st following the appointment and until his successor is appointed. A vacancy in the office of a physical therapist shall be filled for the unexpired term within 60 days in the manner provided in this section. Any member of the board may be removed from office for cause by the Governor.

§ 3122. Meetings; officers; quorum

The board shall hold regular meetings, one in March, one in July and one in November of each year, and special meetings as necessary at such times and places as it may determine upon the call of the chairman or the secretary in case of the death or inability of the chairman.

The chairman shall be empowered to administer oaths in matters connected with the duties of the board and shall call and preside at all meetings. The secretary shall keep accurate minutes of meetings and carry on official correspondence. The treasurer shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law and shall certify the expenses of board members.

The chairman and the treasurer of the Board of Registration in Medicine shall act as the chairman and the treasurer of the board, respectively. The board shall elect one of its physical therapist members as the secretary at the July meeting each year to serve for a term of one year.

A majority of the members of the board shall constitute a quorum for the transaction of business.

§ 3123. Powers and duties

The board shall have the following powers and duties in addition to all other powers and duties imposed by this chapter:

1. **Licensing.** To pass upon the qualifications of applicants for licensure and to grant and renew physical therapist and physical therapist assistant licenses to applicants who qualify under this chapter;
2. **Conduct examination.** To conduct physical therapist and physical therapist assistant examinations and to establish passing standards;
3. **Rules and regulations.** To make such rules and regulations, not inconsistent with law, as it may deem necessary for the successful enforcement of its authority and the performance of its duties;

4. **Set fees.** To establish and charge reasonable fees within the guidelines of the law for issuing and renewing licenses, administering examinations and supplying information to applicants, licensees and the general public;

5. **Investigate complaints.** To order investigation and determine the grounds for filing of a complaint on its own motion or on complaint or allegation lodged with the board regarding noncompliance with or violation of any section of this chapter or of any rules or regulations adopted by the board pursuant to its authority;

6. **Conduct hearings.** To conduct hearings in accordance with the provisions of Title 5, chapter 375, subchapter IV; and

7. **Prosecute complaints.** If the board finds after the hearing that cause exists for suspension or revocation of a license, to file a complaint with the Administrative Court pursuant to Title 5, section 10051.

8. **Maintain records.** The duty to keep a record of all its proceedings which shall include among other things a record of all moneys received and disbursed; a list of all applicants for licensure giving the name, location of business and residence, record of professional education, whether the applicant was granted or denied licensure and, if granted, the date and number of the license. The records or duplicates thereof shall always be open to inspection in the board office during regular hours. The board shall annually make a report to the Governor and to the Legislature containing a full and complete account of all its official acts during the preceding year and a statement of its receipts and disbursements and the comments or suggestions as it may deem essential.

By July 1st of each odd-numbered year, the board shall compile a current list of physical therapists and physical therapist assistants licensed to practice in this State. The list shall be available to any person upon application to the board and payment of such charge as may be fixed by the board based on the costs involved.

§ 3124. Compensation and expenses

Members of the board shall each receive up to \$40 for every day actually spent in the performance of the duties imposed upon them by this chapter and in addition thereto, necessary traveling and hotel expenses actually incurred, to be certified by the chairman and the treasurer of the board.

§ 3125. Refusal to license; disciplinary action

1. **Refusal to license.** The board may refuse to license an applicant who:

A. Does not meet the requirements for licensure;

B. Has had his license revoked or suspended by another state, territory or country; or

C. Has been convicted of any state or federal crime in accordance with the provisions of Title 5, chapter 341.

2. Investigate complaints. The board, on its own motion or upon complaint made to it or its secretary, shall order investigation of all complaints and allegations of noncompliance with or violations of this chapter. Upon completion of investigations by the secretary, the board's legal counsel or its agents, all information shall be presented to the board at a hearing held in accordance with rules adopted by the board. The board shall have the authority to issue subpoenas subject to the provisions of Title 5, section 9060.

If the board considers a violation of this chapter has occurred, it shall:

- A. Issue a warning to the licensee;
- B. Reprimand the licensee;
- C. Limit the license for a period not to exceed 5 years during which time the licensee shall be permitted to continue his practice upon condition that he will refrain from engaging in unprofessional conduct; that he will appear before the board at such times and places as may be designated by the board; that he will fully disclose to the board or its agents the nature of his practice and conduct; and that he will cooperate with the board during the entire period of limitation;
- D. File a complaint in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25; or
- E. Report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25.

A notice of any action taken by the board adverse to the accused practitioner, including a report of its findings to the Attorney General, shall be filed in the board office and shall be open to public inspection.

3. Suspension or revocation. The following shall be considered grounds for suspension or revocation of a license by the Administrative Court or for a warning, reprimand or limitation of license by the board:

- A. Conviction in this State or another state or in a federal court of any crime punishable by imprisonment for a period of one year or more;
- B. Making a false statement or submitting a forged or false document in application for a license under this chapter;
- C. Gross negligence in the practice of physical therapy;
- D. Physical or mental illness of such severity that it interferes with the competent practice of physical therapy;
- E. Use of drugs or alcohol to an extent that it interferes with the competent practice of physical therapy;
- F. Violation of any of the provisions of this chapter or rules and regulations of the board;

G. Treating or attempting to treat ailments of human beings except by physical therapy as authorized by this chapter or undertaking to treat except upon the referral of a duly licensed doctor of medicine, surgery, osteopathy or dentistry; or

H. Unprofessional conduct including, but not limited to, maintaining unacceptable standards of practice, engaging in the practice of physical therapy contrary to the ethics of the profession or conduct in the practice of physical therapy detrimental to public health and safety.

SUBCHAPTER III

REGISTRATION

§ 3131. License required; limitations and exceptions

No person shall practice, or hold himself out as authorized to practice, as a physical therapist in this State nor use the words "physical therapist" or the letters "P.T." or other words or letters to indicate that the person using the same is a licensed physical therapist unless he is licensed in accordance with the provisions of this Act.

After one year from the effective date of this Act, no person shall act, or hold himself out as being able to act, as a physical therapist assistant in this State nor use the words "physical therapist assistant" or the letters "P.T.A." or other words or letters to indicate that the person using the same is a licensed physical therapist assistant unless he is licensed in accordance with the provisions of this Act.

A license to practice as a physical therapist or to act as a physical therapist assistant shall not permit the holder thereof to administer drugs or use roentgen rays or radium for diagnostic or therapeutic purposes or electricity for surgical purposes, nor shall it permit the holder thereof to treat human beings by use of physical measures, activities or devices except upon the referral of a duly licensed doctor of medicine, surgery, osteopathy or dentistry. A license to act as a physical therapist assistant shall not permit the holder thereof to act other than under the direction of a physical therapist licensed to practice in this State.

Nothing in this chapter shall prohibit:

1. Any person licensed in this State under any other provision of law from engaging in the practice for which he is licensed;

2. Any person serving in the United States Armed Services or public health service or employed by the Veterans Administration or other federal agency from performing his official duties, provided the duties are limited to that service or employment;

3. Any person employed by and under the control of a duly licensed doctor in his office from administering physical therapy modalities providing that person does not refer to himself as a physical therapist or physical therapist assistant nor

other words or letters to indicate that the person using the same is a licensed physical therapist or physical therapist assistant;

4. The supervised practice of physical therapy by a graduate physical therapist or physical therapist assistant, who has filed with the board an application for licensure by examination and has met all the qualifications between the date of filing and the publication of the results of the next examination, provided the unlicensed graduate shall work in a facility employing at least one physical therapist licensed to practice in this State who assumes the responsibility for patient-related activities of the individual and refers to himself as a "graduate;"

5. The supervised practice of physical therapy by a student enrolled in an accredited physical therapist or physical therapist assistant program who shall refer to himself as a "student;" or

6. Any physical therapist licensed pursuant to this chapter from delegating to a physical therapy aide or licensed physical therapist assistant treatment procedures or patient-related activities commensurate with the education and training of the person, but not including interpretation of referrals, performance of evaluation procedures or determination and modification of patient treatment programs. No physical therapist shall be responsible for more than 2 aides or assistants, or both, at any given time.

A. The physical therapist shall not permit performance of treatment procedures or patient-related activities by the aide except while the physical therapist is present on the same premises. In his absence, another physical therapist or board approved designee shall be physically available.

B. The physical therapist shall maintain continuing verbal and written contact with the physical therapist assistant including periodic on-site supervision and instruction. Periodic on-site supervision shall mean:

(1) The physical therapist shall be present whenever new patients are admitted to the physical therapy service in order to accept the doctor's referral, evaluate the patient and establish the treatment program;

(2) In a facility where there are days in which no new patients are admitted to the physical therapy service and where no physical therapy supportive personnel other than physical therapist assistants are employed, there shall be documented, on-site supervision by the physical therapist no less than every 4 to 6 patient visits; and

(3) If less than 4 to 6 patient visits are made in a one-month period, the physical therapist assistant must be supervised on site at least once during that one-month period.

§ 3132. Application; qualification; licensure by examination

Before commencing work as a physical therapist or physical therapist assistant in Maine, an individual shall submit a completed application for licensure to the board and receive verification thereof.

An applicant for licensure as a physical therapist or physical therapist assistant shall submit to the board a written application on forms provided by the board together with the current application fee which shall not exceed \$50. The applicant shall present evidence satisfactory to the board that he is of good moral character, in good physical and mental health and a graduate of an educational program for the physical therapist or the physical therapist assistant, respectively, which is accredited by an agency recognized by the United States Commissioner of Education or the Council on Postsecondary Accreditation, or both, and approved by the board.

An applicant for licensure by examination who meets the qualifications in this section shall be required to pass an examination to the satisfaction of the board, conducted by it, to determine the applicant's fitness to practice as a physical therapist or to act as a physical therapist assistant, respectively. The applicant shall, at the time of filing his application, pay to the treasurer of the board the application fee plus the current examination fee. In case the application is denied and permission to take the examination refused, the examination fee only shall be returned to the applicant. Any applicant who fails to pass the examination shall be entitled to a reexamination within 6 months upon repayment of the current examination fee only. If an applicant should fail one section of the examination he need be reexamined on that particular section only. Should he fail more than one section, he shall repeat the entire examination. No applicant shall be allowed to take any part of the examination more than 3 times unless he submits evidence of having acquired additional formal education related to the previously failed exam section or sections.

On or before one year from the effective date of this Act, the board may license as a physical therapist assistant any person not meeting the educational qualification specified under this section, provided the person has been employed for 4 years prior to the effective date of this Act under the supervision of a physical therapist licensed in this State and further provided that the person successfully passes the examination required for licensure as a physical therapist assistant. These persons shall be afforded 2 opportunities for passing the examination.

§ 3133. Licensure without examination

The board may license a physical therapist or physical therapist assistant without examination, on payment of the current application fee and submission of a written application on forms provided by the board, an applicant who is currently licensed in another state as a physical therapist or physical therapist assistant, respectively, provided the requirements for licensure are substantially equal to those set forth in this Act. The applicant shall have previously passed a qualifying examination acceptable to the board.

§ 3134. Licensure for physical therapists trained in other countries

A license to practice as a physical therapist may be issued by the board to an applicant who has been trained in another country upon payment of the current application fee plus the current examination fee and presentation of satisfactory evidence that he has graduated from a school of physical therapy approved by the board, has educational credentials essentially equivalent to those of the United States trained physical therapist, demonstrates proficiency in written and spoken English, has completed up to one year of experience under the supervision of a licensed physical therapist in employment approved by the board and successfully passes an examination to the satisfaction of the board.

§ 3135. Certificate of licensure

Every applicant who satisfactorily meets the requirements for licensure as provided in this chapter shall be granted a certificate of licensure signed by the chairman and the secretary of the board. A certificate of licensure as a physical therapist shall entitle the person to whom it is granted to engage in the practice of physical therapy anywhere in this State and to use the words "physical therapist" or letters "P.T." to indicate that he is licensed in this State. A certificate of licensure as a physical therapist assistant shall entitle the person to whom it is granted to act as a physical therapist assistant as specified in section 3131 and to use the words "physical therapist assistant" or letters "P.T.A." to indicate that he is licensed in this State. Every certificate shall be conspicuously displayed at the place of employment of the person and the renewal certificate for the current biennium shall be displayed in connection with the original certificate.

§ 3136. Biennial licensure renewal; fees

On or before April 1, 1980 and every odd-numbered year thereafter each physical therapist and physical therapist assistant licensed under this chapter shall apply to the board for renewal of licensure on the forms provided and pay the current renewal fee which shall not exceed \$25. At least 45 days before April 1, 1980 and every odd-numbered year thereafter the board shall mail to each licensee at his last known address a notice of requirement of licensure renewal with appropriate forms therefor. Licensure not so renewed before April 1st shall automatically lapse. Whenever a licensee fails to renew his license within the required period the board shall notify the person at his last known address that his license has lapsed. A request for reinstatement received prior to May 1st of the same year will be considered by the board upon payment of the current license renewal fee. A license lapsed more than 30 days may be reinstated by the board only when all license renewal fee arrearage plus an additional reinstatement fee of not more than \$20 is received. The renewal of license shall be granted unless the licensee improperly or unlawfully obtained the license in the first instance or since its issuance has committed a substantial violation of any provision of this chapter.

§ 3137. Certification of physical therapy aides

An applicant for certification to practice as a certified physical therapy aide shall submit to the board at least 30 days before the next quarterly board meeting an application accompanied by a fee of \$5, evidence verified by oath that the

applicant is at least 18 years of age, is of good moral character, is in good physical and mental health, is a high school graduate or the equivalent thereof established by the general aptitude tests given by the appropriate state or federal agency and has successfully completed the training program as prescribed by the Maine Chapter, American Physical Therapy Association and the Department of Human Services. An applicant for certification shall be required to pass an examination to the satisfaction of the board, conducted by it, to determine the applicant's fitness as a physical therapy aide.

Certification as a physical therapy aide shall not permit the holder thereof to interpret physician's referrals, perform evaluative procedures, initiate or adjust treatments, assume responsibility for planning patient care, nor make entries in the patient's records, but he may work under the supervision of a legally qualified physical therapist performing predetermined treatment procedures or patient-related activities, or both, in a general hospital, extended care facility or home health agency.

STATEMENT OF FACT

The purpose of this bill is to restructure the law concerning physical therapists.