

MAINE STATE LEGISLATURE

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(New Title)
New Draft of S. P. 428, L. D. 1378
FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1664

S. P. 593

In Senate, June 1, 1979

Reported by Senator Clark of Cumberland from the Committee on Business
Legislation and Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Revise the Physical Therapist Practice Act.

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

Sec. 1. 32 MRSA c. 45, as amended, is repealed.

Sec. 2. 32 MRSA c. 45-A is enacted to read:

CHAPTER 45-A

PHYSICAL THERAPIST PRACTICE ACT

§ 3111. Definitions

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

1. **Board.** "Board" means the Board of Examiners in Physical Therapy as created in section 3112.

2. **Direction.** "Direction" means continuing verbal and written contact by a physical therapist, as with the physical therapist assistance, including periodic on-site supervision adequate to ensure the safety and welfare of the patient.

3. **Physical therapist.** "Physical therapist" means a person who practices physical therapy.

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

5. **Physical Therapy.** “Physical therapy” means the evaluation, 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 condition; the administration, interpretation and evaluation of tests and measurements of bodily functions and structures for the purpose of treatment planning; the planning, administration, evaluation and modification of treatment and instruction; and the use of physical agents and procedures, 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.

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

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

§ 3112. Board created; appointment and duties

There is created within the Department of Business Regulation the Board of Examiners in Physical Therapy. It shall consist of one physical therapist, one physical therapist assistant, 2 physicians from the Board of Registration in Medicine and one public member.

1. **Appointment.** Members of the board shall be appointed by the Governor for a term of 4 years. Members currently serving on the existing board will continue until the expiration of their present appointment. Each member shall serve until his successor is appointed. Vacancies shall be filled within 60 days of expiration.

Any member of the board may be removed from office for cause by the Governor. A member may not serve more than 2 successive terms.

2. **Meetings.** The board shall hold regular meetings in March, July, November and at such other times as deemed necessary by the chairman of the board and shall elect a chairman and a secretary who shall serve for 2 years. Members of the board shall receive \$25 for every day actually spent in the performance of the duties imposed upon them by this chapter and necessary traveling and hotel expenses actually incurred.

3. **Officers.** The chairman shall be empowered to administer oath in matters connected with the duties of the board. The secretary shall keep accurate minutes of meetings and carry on official correspondence.

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

5. Powers and duties. The board shall have the following powers and duties:
- A. To review the qualifications of applicants for licensure and to license physical therapists and physical therapist assistants who qualify under this chapter;
 - B. To conduct physical therapist and physical therapist assistant examinations and to establish passing standards;
 - C. To make rules in accordance with this chapter necessary for the enforcement of its authority and performance of its duties consistent with the provisions of Title 5, chapter 375;
 - D. To establish and charge reasonable fees for issuing and renewing licenses, administering examinations and supplying information to applicants, licensees and the general public;
 - E. To order investigation of a complaint on its own motion on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board;
 - F. To conduct hearings in accordance with the provisions of Title 5, chapter 375, subchapter IV;
 - G. After hearing, to censure or proceed in the Administrative Court pursuant to Title 5, section 10051, if the board finds after hearing that cause exists for suspension or revocation of a license;
 - H. To authorize issuance of certificates of licensures by the Central Licensing Division of the Department of Business Regulation which shall process and issue initial and renewal certificates of licensure. The licensing division shall maintain a register containing names and addresses of each person licensed and such other information as is deemed necessary by the board and the Commissioner of Business Regulation. This information shall be open for public inspection during regular office hours;
 - I. To submit, no later than August 1st of each year to the Commissioner of Business Regulation for the preceding fiscal year ending June 30th, an annual report of its operations and financial position together with such comments and recommendations as the board deems essential; and
 - J. To furnish advice and consent to the Commissioner of Business Regulation, who shall be empowered to appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of Business Regulation and under the commissioner's supervision.

§ 3113. License required; limitations and exceptions

No person shall practice, or hold himself out as authorized to practice, as a physical therapist in this State or use the words "physical therapist" or the letters "P. T." or other words or letters to indicate that the persons using the same is a

licensed physical therapist unless he is licensed in accordance with the provisions of this chapter.

After one year from the effective date of this chapter, no person shall act, or hold himself out as being able to act, as a physical therapist assistant in this State or 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 provisions of this chapter.

Nothing in this chapter shall be construed as authorizing a physical therapist or physical therapist assistant, licensed or not, to practice medicine, osteopathy, dentistry, chiropractic or any other form of healing. A licensed physical therapist or physical therapist assistant shall not administer drugs or use roentgen rays or radium for diagnostic or therapeutic purposes or electricity for surgical purposes, or 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 licensed physical therapist assistant shall act only under the direction of a physical therapist licensed to practice in this State.

Nothing in this chapter shall prohibit:

1. Engaging in licensed practice. Any person licensed in this State under any other provision of law from engaging in the practice for which he is licensed;
2. Federal officials. 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. Persons employed by licensed doctors. Any person employed by and under 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 not other words or letters to indicate that the person using the same is a licensed physical therapist or physical therapist assistant;
4. Graduate physical therapist assistant. The supervised practice of physical therapy by a graduate physical therapist or graduate 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 he shall refer to himself as a "graduate" and work in a facility employing at least one physical therapist licensed to practice in this State who assumes responsibility for patient-related activities of the individual;
5. Student physical therapist or assistant. The supervised practice of physical therapy by a student enrolled in a accredited physical therapist or physical therapist assistant program who shall refer to himself as a "student;" or

6. Delegation to aides or assistants. 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 or evaluation procedures or determination and modification of patient treatment programs. The board shall adopt rules governing supervision of physical therapy aides and licensed physical therapist assistants.

§ 3114. Application; qualification; licensure by examination

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 an application fee which shall not exceed \$50. The applicant shall present evidence satisfactory to the board that he is of good moral character and a graduate of an educational program for the physical therapist or the physical therapist assistant which is accredited by an agency recognized by the United State Commissioner of Education or the Council on Post Secondary 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, conducted by the board, 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 board the application fee plus an examination fee set by the board to cover the costs of the examination, but not to exceed \$75. In case the application is denied and permission to take the examination refused, the examination fee only shall be returned to the applicant. Any application who fails to pass the examination shall be entitled to a reexamination within 6 months upon repayment of the examination fee only. If an applicant should fail one section of the examination, he shall 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 examination section or sections.

On or before one year from the effective date of this chapter, the board may license as a physical therapist assistant any person not meeting the educational qualification specified under this section, provided the person is a high school graduate, has been employed for 4 years prior to the effective date of this chapter under the supervision of a physical therapist licensed in this State, and successfully passes the examination required for licensure as a physical therapist assistant. The provisions relating to re-examination in the previous paragraph shall apply.

The board may license as a physical therapist or physical therapist assistant, without examination on payment of the 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 chapter. The applicant shall have previously passed a qualifying examination acceptable to the board.

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

§ 3115. Certificate of licensure

Every applicant who satisfactorily meets the qualifications as provided in subchapter III shall be granted a certificate of licensure signed by the chairman and 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 and to use the words "physical therapist assistant" or letters "P.T.A." to indicate that he is licensed in this State. Every certificate of licensure renewal certificate for the current biennium shall be conspicuously displayed at the place of employment of the licensee.

§ 3116. Biennial licensure renewal; fees

All licenses issued shall expire March 31st or at such other times as the Commissioner of Business Regulation may designate. The Central Licensing Division shall notify each licensee, at his last known address, 30 days in advance of the expiration of his license. Renewal certificates will be on forms provided and the fee shall not exceed \$25. Any license not renewed by March 31st will automatically lapse. A license may be reinstated only by a majority vote of the board after the following conditions are met:

1. No grounds for suspension or revocation. There exists no cause as set forth in section 3053 which may be considered grounds for suspension or revocation of license; and

2. Licensee shows cause. The licensee has shown cause why he failed to apply for licensure renewal and has paid to the board all license renewal fee arrearage plus an additional reinstatement fee which shall not exceed \$20.

STATEMENT OF FACT

The purposes of this bill are:

1. To restructure and clarify the physical therapy practice statute;
2. To provide for the increased cost of board operation;
3. To change the renewal requirement from annual to biennial;
4. To permit the board to hold meetings and conduct licensing examinations at times other than in conjunction with meetings of the Board of Registration in Medicine;
5. To eliminate trade association membership as a condition for licensure; and
6. To update the present statute to reflect current professional practice by:
 - A. Decreasing board size to correspond with current practice and including a physical therapist assistant member;
 - B. Revising the definition of physical therapy;
 - C. Allowing for recent changes in physical therapy school accreditation procedures;
 - D. Providing for licensure of the physical therapist assistant;
 - E. Adding osteopathy and dentistry as potential sources of referral to physical therapy;
 - F. Updating the mechanism for licensure of foreign trained physical therapists;
 - G. Expanding the section on exceptions to licensure to provide for government employees, students and recent graduates while awaiting examination; and
 - H. Deleting state certification of physical therapy aides.