

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 1453

S.P. 571

In Senate, March 30, 2023

### An Act to Amend the Physical Therapist Practice Laws

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Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.  
Cosponsored by Representative MATHIESON of Kittery and  
Senators: BAILEY of York, HICKMAN of Kennebec, Representatives: ARFORD of  
Brunswick, CAMPBELL of Orrington, FAY of Raymond, GATTINE of Westbrook,  
MASTRACCIO of Sanford, MEYER of Eliot.

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

2 **Sec. 1. 32 MRSA §3111, sub-§3**, as enacted by PL 1979, c. 555, §2, is amended to  
3 read:

4 **3. Physical therapist.** "Physical therapist" means a person who ~~practices~~ is licensed  
5 pursuant to this chapter to practice physical therapy.

6 **Sec. 2. 32 MRSA §3111, sub-§4**, as enacted by PL 1979, c. 555, §2, is amended to  
7 read:

8 **4. Physical therapist assistant.** "Physical therapist assistant" means a person who is  
9 licensed pursuant to this chapter and who assists a physical therapist in specific components  
10 of treatment, prevention and educational interventions within the practice of physical  
11 therapy.

12 **Sec. 3. 32 MRSA §3111, sub-§5**, as amended by PL 2007, c. 402, Pt. N, §1, is  
13 further amended to read:

14 **5. Physical therapy or physiotherapy.** "Physical therapy" ~~is or~~ "physiotherapy"  
15 means the practice provision of services in the scope of which practice that is set forth in  
16 section 3111-A.

17 **Sec. 4. 32 MRSA §3111, sub-§6**, as enacted by PL 1979, c. 555, §2, is amended to  
18 read:

19 **6. Practice of physical therapy.** "Practice of physical therapy" means the rendering  
20 of or offering to render any service involving physical therapy for a fee, salary or other  
21 compensation, monetary or otherwise, paid directly or indirectly to detect, assess, prevent,  
22 correct, alleviate or limit physical disability, bodily malfunction and pain from injury,  
23 disease or any other bodily condition.

24 **Sec. 5. 32 MRSA §3111, sub-§7**, as amended by PL 1983, c. 468, §9, is further  
25 amended to read:

26 **7. Referral.** "Referral" means the request of ~~a~~ an advanced practice registered nurse,  
27 certified nurse midwife, physician assistant, naturopathic doctor or doctor of medicine,  
28 surgery, osteopathy, podiatry or dentistry or any other health care provider acting within  
29 the scope of that health care provider's license to a physical therapist to accept one of his  
30 that health care provider's patients for treatment.

31 **Sec. 6. 32 MRSA §3113-A**, as amended by PL 1991, c. 885, Pt. E, §41 and affected  
32 by §47, is further amended to read:

33 **§3113-A. License required; limitations and exceptions**

34 A person may not practice or profess to be authorized to practice physical therapy or  
35 physiotherapy as a physical therapist in this State or use the words "physical therapist" or  
36 "physiotherapist" or the letters "P.T." or other words or letters to indicate that the person  
37 using those words or letters is a licensed physical therapist unless that person is licensed in  
38 accordance with the provisions of this chapter.

39 ~~After one year from the effective date of this chapter, a~~ A person may not act or profess  
40 to be able to act as a physical therapist assistant or physiotherapist assistant in this State or  
41 use the words "physical therapist assistant" or the letters "P.T.A." or other words or letters

1 to indicate that the person using those words or letters is a licensed physical therapist  
2 assistant unless that person is licensed in accordance with the provisions of this chapter.

3 Nothing in this chapter may be construed as authorizing a physical therapist or physical  
4 therapist assistant, licensed or not licensed, to practice medicine, osteopathy, dentistry,  
5 chiropractic or any other form of healing, except that physical therapists may utilize  
6 manipulative techniques if practiced within the scope of their profession. ~~Physical~~  
7 ~~therapists may not apply manipulative thrust to the vertebrae of the spine except upon~~  
8 ~~consultation with, and referral by, a duly licensed doctor of medicine, surgery, chiropractic~~  
9 ~~or osteopathy.~~ A licensed physical therapist or physical therapist assistant may not  
10 administer drugs except upon the referral of a duly licensed doctor of medicine, surgery,  
11 osteopathy, podiatry or dentistry, and or other licensed health care provider who has  
12 authority to prescribe drugs. A licensed physical therapist may not use roentgen rays or  
13 radium or use electricity for surgical purposes. A licensed physical therapist assistant may  
14 act only under the direction of a physical therapist licensed to practice in this State.

15 When treating a patient without referral from a an advanced practice registered nurse,  
16 certified nurse midwife, physician assistant, naturopathic doctor or doctor of medicine,  
17 osteopathy, podiatry, dentistry or chiropractic, the physical therapist or physical therapist  
18 assistant is subject to the following requirements.

19 **1. No medical diagnosis.** A physical therapist or physical therapist assistant may not  
20 make a medical diagnosis. ~~The physical therapist or physical therapist assistant shall refer~~  
21 ~~to a licensed doctor of medicine, osteopathy, podiatry, dentistry or chiropractic a patient~~  
22 ~~whose physical condition, either at the initial evaluation or during subsequent treatment,~~  
23 ~~the physical therapist or physical therapist assistant determines to be beyond the scope of~~  
24 ~~the practice of the physical therapist or physical therapist assistant.~~

25 **2. No improvement.** ~~If no improvement in the patient is documented by the physical~~  
26 ~~therapist or physical therapist assistant within 30 days of initiation of treatment, the~~  
27 ~~physical therapist or physical therapist assistant shall refer the patient to a licensed doctor~~  
28 ~~of medicine, osteopathy, podiatry, dentistry or chiropractic.~~

29 **3. Length of treatment.** ~~For treatment required beyond 120 days, the physical~~  
30 ~~therapist or physical therapist assistant shall consult with, or refer the patient to, a licensed~~  
31 ~~doctor of medicine, surgery, osteopathy, podiatry, dentistry or chiropractic. The physical~~  
32 ~~therapist or physical therapist assistant shall document the action taken.~~

33 **4. Requirement to refer.** A physical therapist or physical therapist assistant shall  
34 refer to an advanced practice registered nurse, certified nurse midwife, physician assistant,  
35 naturopathic doctor or licensed doctor of medicine, osteopathy, podiatry, dentistry or  
36 chiropractic or other appropriate health care provider a patient whose physical condition  
37 the physical therapist or physical therapist assistant determines, either at the initial  
38 evaluation or during subsequent treatment, to be beyond the scope of the practice of the  
39 physical therapist or physical therapist assistant.

40 An employer is not liable under Title 39-A, section 206 for charges for services of a  
41 physical therapist or physical therapist assistant unless the employee has been referred to  
42 that practitioner by a licensed doctor of medicine, surgery, osteopathy, chiropractic,  
43 podiatry or dentistry.

1           **Sec. 7. 32 MRSA §3113-B, sub-§3**, as enacted by PL 1991, c. 178, §3, is amended  
2 to read:

3           **3. Persons employed by licensed doctors.** Any person employed by and under the  
4 control of a duly licensed doctor in that doctor's office from administering ~~physical therapy~~  
5 modalities, ~~providing as long as~~ that person does not profess to be a physical therapist or,  
6 ~~physiotherapist~~, physical therapist assistant or physiotherapist assistant or use words or  
7 letters to indicate that the person is a licensed physical therapist or physical therapist  
8 assistant;

9           **Sec. 8. 32 MRSA §3116**, as amended by PL 2007, c. 402, Pt. N, §8, is further  
10 amended to read:

11           **§3116. License renewal**

12           All licenses must be renewed ~~biennially on or before March 31st of each even-~~  
13 ~~numbered year or at such other times as the Commissioner of Professional and Financial~~  
14 Regulation may designate upon application by the licensee accompanied by the renewal  
15 fee as set under section 3116-A. Any license not renewed by ~~March 31st~~ the date set by  
16 the commissioner automatically expires. The board may renew an expired license if the  
17 renewal notice is returned within 90 days of the expiration date and upon payment of a late  
18 fee in addition to the renewal fee as set under section 3116-A. A person who submits an  
19 application for renewal more than 90 days after the license expiration date is subject to all  
20 requirements governing new applicants under this chapter, except that the board may in its  
21 discretion, giving due consideration to the protection of the public, waive examination if  
22 the renewal application is made within 2 years from the date of that expiration.

23           **Sec. 9. 32 MRSA §3116-B** is enacted to read:

24           **§3116-B. Continuing education requirements for license renewal**

25           The board shall establish by rule continuing education requirements as a condition of  
26 renewal of a license as authorized under Title 10, section 8003, subsection 5-A, paragraph  
27 D.

28           **Sec. 10. 32 MRSA §3121** is enacted to read:

29           **§3121. Criminal history record information; fees**

30           **1. Background check.** The board shall request a background check for each person  
31 who submits an application for initial licensure or licensure by endorsement under this  
32 chapter. The background check must include criminal history record information obtained  
33 from the Maine Criminal Justice Information System and the Federal Bureau of  
34 Investigation. The following provisions apply.

35           A. The criminal history record information obtained from the Maine Criminal Justice  
36 Information System must include a record of public criminal history record information  
37 as defined in Title 16, section 703, subsection 8.

38           B. The criminal history record information obtained from the Federal Bureau of  
39 Investigation must include other state and national criminal history record information.

40           C. An applicant shall submit to having fingerprints taken. The State Police, upon  
41 payment of a fee established by the board by rule by the applicant, shall take or cause  
42 to be taken the applicant's fingerprints and shall forward the fingerprints to the State

1 Bureau of Identification so that the bureau can conduct state and national criminal  
2 history record checks. Except for the portion of the payment, if any, that constitutes the  
3 processing fee charged by the Federal Bureau of Investigation, all money received by  
4 the State Police for purposes of this paragraph must be paid over to the Treasurer of  
5 State. The money must be applied to the expenses of administration incurred by the  
6 Department of Public Safety.

7 D. The subject of a Federal Bureau of Investigation criminal history record check may  
8 obtain a copy of the criminal history record check by following the procedures outlined  
9 in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state  
10 criminal history record check may inspect and review the criminal history record  
11 information pursuant to Title 16, section 709.

12 E. State and federal criminal history record information may be used by the board for  
13 the purpose of screening each applicant. A board action against an applicant under this  
14 subsection is subject to the provisions of Title 5, chapter 341.

15 F. Information obtained pursuant to this subsection is confidential. The results of  
16 background checks received by the board are for official use only and may not be  
17 disseminated to any other person or entity.

18 G. An applicant whose license has expired and who has not applied for renewal may  
19 request in writing that the State Bureau of Identification remove the applicant's  
20 fingerprints from the bureau's fingerprint file. In response to a written request, the  
21 bureau shall remove the applicant's fingerprints from the fingerprint file and provide  
22 written confirmation of that removal.

23 **2. Rules.** The board, following consultation with the State Bureau of Identification,  
24 shall adopt rules to implement this section. Rules adopted pursuant to this subsection are  
25 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## 26 SUMMARY

27 This bill amends the laws governing the practice of physical therapy as follows.

28 1. It includes the term "physiotherapy" in the definition of "physical therapy" and  
29 clarifies the definitions of "physical therapist," "physical therapist assistant," "practice of  
30 physical therapy" and "referral."

31 2. It amends the provisions of law governing physical therapy licensure to delineate  
32 authorized practices and limitations and referral requirements.

33 3. It authorizes the Commissioner of Professional and Financial Regulation to  
34 determine the date of license renewal and requires the Board of Examiners in Physical  
35 Therapy to establish continuing education requirements as a condition of license renewal.

36 4. It requires the board to request a background check, including criminal history  
37 record information and fingerprints, for all persons who submit an application for initial  
38 licensure or licensure by endorsement.