

HOUSE BILL 799

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2004 Regular Session
(4r2062)

ENROLLED BILL

-- Health and Government Operations/Education, Health, and Environmental Affairs --

Introduced by **Delegate Donoghue**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 518

1 AN ACT concerning

2 **Board of Physical Therapy Examiners**

3 FOR the purpose of adding the position of vice chairman to the Board of Physical
4 Therapy Examiners; providing for the appointment and duties of the vice
5 chairman; altering the circumstances under which the Board may disclose
6 information contained in the Board's records; authorizing the Board to disclose
7 information to certain boards under certain circumstances; ~~providing that the~~
8 ~~Board may authorize the practice of physical therapy by an unlicensed~~
9 ~~individual under certain circumstances and with certain limitations~~; altering
10 the requirements for licensure of certain applicants; amending the required
11 frequency of onsite supervision for certain licensed physical therapist
12 assistants; altering the circumstances in which the Board may discipline certain
13 licensees; authorizing certain individuals to file exceptions to the decision of a
14 disciplining committee; amending certain penalties to include imprisonment
15 and an increased maximum fine; authorizing a civil fine of a certain amount to
16 be levied on certain persons; providing for the distribution of the civil fine;
17 amending and clarifying certain definitions; and generally relating to the Board

1 of Physical Therapy Examiners.

2 BY repealing and reenacting, with amendments,

3 Article - Health Occupations

4 Section 13-101, 13-203, 13-207.1, ~~13-301~~, 13-303, 13-310, 13-316, 13-317,
5 and 13-407

6 Annotated Code of Maryland

7 (2000 Replacement Volume and 2003 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Health Occupations**

11 13-101.

12 (a) In this title the following words have the meanings indicated.

13 (b) "Board" means the State Board of Physical Therapy Examiners.

14 (c) "License" means, unless the context requires otherwise, a license issued by
15 the Board to practice:

16 (1) Physical therapy; or

17 (2) Limited physical therapy.

18 (d) "Licensed physical therapist" means, unless the context requires
19 otherwise, a physical therapist who is licensed by the Board to practice physical
20 therapy.

21 (e) "Licensed physical therapist assistant" means, unless the context requires
22 otherwise, a physical therapist assistant who is licensed by the Board to practice
23 limited physical therapy.

24 (f) "Physical therapist" means an individual, licensed by the State Board of
25 Physical Therapy Examiners, who practices physical therapy and who has passed the
26 national physical therapy licensing examination administered or accepted by the
27 Board.

28 (g) "Physical therapist assistant" means an individual who practices limited
29 physical therapy and who has passed the national physical therapy licensing
30 examination administered or accepted by the Board.

31 (h) (1) "Practice limited physical therapy" means to practice the health
32 specialty concerned with:

33 (i) The prevention of disability in [individuals] PATIENTS OR
34 CLIENTS; and

1 (ii) The physical rehabilitation of [individuals] PATIENTS OR
2 CLIENTS with a congenital or acquired disability.

3 (2) "Practice limited physical therapy" includes, except as provided in
4 paragraph (3) of this subsection[, administering]:

5 (I) TAKING AND DOCUMENTING MEASUREMENTS; AND

6 (II) ADMINISTERING treatment with therapeutic exercise,
7 therapeutic massage, mechanical devices, or therapeutic agents that use the physical,
8 chemical, or other properties of air, water, electricity, sound, or radiant energy.

9 (3) "Practice limited physical therapy" does not include:

10 (i) [Performing and interpreting tests and measurements of
11 neuromuscular and musculoskeletal functions to aid treatment] INTERPRETING
12 MEASUREMENTS;

13 (ii) Planning treatment programs [that are based on test findings];
14 or

15 (iii) Using:

16 1. X rays;

17 2. Radioactive substances; or

18 3. Electricity for cauterization or surgery.

19 (i) (1) "Practice physical therapy" means to practice the health specialty
20 concerned with:

21 (i) The prevention of disability in [individuals] PATIENTS OR
22 CLIENTS; and

23 (ii) The physical rehabilitation of [individuals] PATIENTS OR
24 CLIENTS with a congenital or acquired disability.

25 (2) "Practice physical therapy" includes:

26 (i) Performing an evaluation of the physical therapy needs of
27 [individuals] PATIENTS OR CLIENTS;

28 (ii) Performing and interpreting tests and measurements of
29 neuromuscular and musculoskeletal functions to aid treatment;

30 (iii) Planning treatment programs that are based on test findings;
31 and

32 (iv) Except as provided in paragraph (3) of this subsection,
33 administering treatment with therapeutic exercise, therapeutic massage, mechanical

1 devices, or therapeutic agents that use the physical, chemical, or other properties of
2 air, water, electricity, sound, or radiant energy.

3 (3) "Practice physical therapy" does not include using:

4 (i) X rays;

5 (ii) Radioactive substances; or

6 (iii) Electricity for cauterization or surgery.

7 (j) "Restricted license" means a license issued by the Board under and as
8 limited by § 13-314 of this title to practice physical therapy.

9 (k) "Temporary license" means a license issued by the Board under and as
10 limited by § 13-313 of this title to practice:

11 (1) Physical therapy; or

12 (2) Limited physical therapy.

13 13-203.

14 (a) From among its members, the Board annually shall elect a chairman AND
15 VICE CHAIRMAN.

16 (b) The Board shall determine:

17 (1) The manner of election of the chairman AND VICE CHAIRMAN; and

18 (2) The duties of the chairman AND VICE CHAIRMAN.

19 13-207.1.

20 [(a) The Board may disclose any information contained in a record of the Board
21 to any other health occupations regulatory board of this State or another state if:

22 (1) Disclosure of the information would be in the best interest of public
23 protection; and

24 (2) The information is based on the final decision by the Board.

25 (b) Subject to Title 4, Subtitle 3 of the Health - General Article, the Board
26 shall ensure, to the extent possible, that the name of an individual filing a complaint
27 with the Board or providing information for an investigation is kept confidential
28 when information is disclosed under subsection (a) of this section.] IF IT IS
29 DETERMINED THAT DISCLOSURE OF INFORMATION CONTAINED IN A RECORD OF
30 THE BOARD WILL SERVE TO PROTECT THE PUBLIC, THE BOARD, AFTER AN
31 AFFIRMATIVE VOTE OF A MAJORITY, MAY:

1 (1) DISCLOSE ANY INFORMATION CONTAINED IN A RECORD OF THE
2 BOARD TO ANY OTHER HEALTH OCCUPATIONS LICENSURE BOARD OF THIS STATE IF
3 THE INFORMATION RELATES TO AN INDIVIDUAL LICENSED OR CERTIFIED BY THE
4 OTHER BOARD; OR

5 (2) DISCLOSE TO A PHYSICAL THERAPY LICENSURE BOARD OF ANY
6 OTHER STATE:

7 (I) ANY INFORMATION CONTAINED IN A RECORD OF THE BOARD IF
8 THE INFORMATION RELATES TO AN INDIVIDUAL LICENSED BY THE BOARD AND IS
9 BASED ON A FINAL DECISION OF THE BOARD; OR

10 (II) THE INFORMATION THAT A LICENSEE HAS CHARGES PENDING
11 BEFORE THE BOARD AND THERE HAS BEEN NO FINAL DECISION IN THE MATTER.

12 ~~13-301.~~

13 ~~(a) Except as otherwise provided in this title, an individual shall be licensed
14 by the Board before the individual may practice physical therapy or limited physical
15 therapy in this State.~~

16 ~~(b) This section does not apply to:~~

17 ~~(1) A student who is supervised directly by a licensed physical therapist
18 in a Board approved physical therapy educational program; or~~

19 ~~(2) A physical therapy aide, if the physical therapy aide:~~

20 ~~(i) Subject to the rules and regulations adopted by the Board,
21 performs only procedures that do not require the professional skills of a licensed
22 physical therapist or a licensed physical therapist assistant; and~~

23 ~~(ii) Performs procedures only under the direct supervision of a
24 licensed physical therapist who personally is present in the area where the
25 procedures are performed.~~

26 ~~(C) SUBJECT TO ANY LIMITATIONS THE BOARD IMPOSES, THE BOARD MAY
27 AUTHORIZE AN UNLICENSED INDIVIDUAL TO PRACTICE PHYSICAL THERAPY OR
28 LIMITED PHYSICAL THERAPY IF:~~

29 ~~(1) THE BOARD FINDS THAT THE CIRCUMSTANCES WARRANT; AND~~

30 ~~(2) THE INDIVIDUAL MEETS THE QUALIFICATIONS, OTHER THAN
31 EXAMINATION, FOR A LICENSE.~~

32 ~~13-303.~~

33 (a) If an applicant for a physical therapy license has been educated in physical
34 therapy in any state, the applicant shall have:

1 (1) Graduated from a physical therapy program that, in the year of
2 graduation, was approved by:

- 3 (i) The American Medical Association;
- 4 (ii) The American Physical Therapy Association; or
- 5 (iii) The Commission on Accreditation of Physical Therapy
6 Education; and

7 (2) Completed satisfactorily the clinical training required by the physical
8 therapy curriculum.

9 (b) If an applicant for a physical therapy license has been educated in physical
10 therapy outside of any state, the applicant shall have[:

11 (1) Earned all credits at an institution of higher learning that has]
12 GRADUATED FROM A PHYSICAL THERAPY PROGRAM THAT IN THE YEAR OF
13 GRADUATION HAD educational requirements equivalent to a [bachelor's] degree in
14 physical therapy from a United States program accredited by the Commission on
15 Accreditation of Physical Therapy Education[;

16 (2) Earned a minimum of 120 credit hours in the following manner:

17 (i) 50 credit hours in general education to include at least one
18 course in:

- 19 1. Humanities;
- 20 2. Social science;
- 21 3. Behavioral science;
- 22 4. Physics with a laboratory;
- 23 5. Chemistry with a laboratory;
- 24 6. Biology with a laboratory; and
- 25 7. Mathematics;

26 (ii) 60 credit hours in a professional physical therapy program to
27 include at least one course in:

- 28 1. Human anatomy;
- 29 2. Human physiology;
- 30 3. Neurology;
- 31 4. Physiology;

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a license,
2 temporary license, or restricted license for the applicant, licensee, or holder or for
3 another;
- 4 (2) Fraudulently or deceptively uses a license, temporary license, or
5 restricted license;
- 6 [(3)] Practices physical therapy inconsistent with any written or oral order
7 of:
- 8 (i) A physician authorized to practice medicine in any state;
- 9 (ii) A dentist authorized to practice dentistry in any state; or
- 10 (iii) A podiatrist authorized to practice podiatry in any state;
- 11 (4)] (3) Unless specifically licensed with respect to the treatment,
12 treats or attempts to treat a health condition of [an individual] A PATIENT OR
13 CLIENT by means other than physical therapy;
- 14 [(5)] (4) In the case of an individual who is authorized to practice
15 physical therapy is grossly negligent:
- 16 (i) In the practice of physical therapy;
- 17 (ii) In the direction of an individual who is authorized to practice
18 limited physical therapy; or
- 19 (iii) In the supervision of a physical therapy aide;
- 20 [(6)] (5) In the case of an individual who is authorized to practice limited
21 physical therapy:
- 22 (i) Practices limited physical therapy other than as authorized by
23 this title; or
- 24 (ii) Is grossly negligent while practicing limited physical therapy;
- 25 [(7)] (6) Is convicted of or pleads guilty or nolo contendere to a felony or
26 to a crime involving moral turpitude, whether or not any appeal or other proceeding is
27 pending to have the conviction or plea set aside;
- 28 [(8)] (7) Is convicted of a violation of a narcotic law;
- 29 [(9)] (8) To an extent that impairs professional competence, habitually
30 uses any:
- 31 (i) Drug; or
- 32 (ii) Alcoholic beverage;

- 1 [(10)] (9) Pays or agrees to pay any sum to any person for bringing or
2 referring a patient;
- 3 [(11)] (10) Is disciplined by a licensing or disciplinary authority of any
4 [other] state or country or convicted or disciplined by a court of any state or country
5 OR DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR
6 VETERANS ADMINISTRATION for an act that would be grounds for disciplinary action
7 under the Board's disciplinary statutes;
- 8 [(12)] (11) Practices physical therapy or limited physical therapy with an
9 unauthorized person or supervises or aids an unauthorized person in the practice of
10 physical therapy or limited physical therapy;
- 11 [(13)] (12) Willfully makes or files a false report or record in the practice of
12 physical therapy or limited physical therapy;
- 13 [(14)] (13) Willfully fails to file or record any report as required by law,
14 willfully impedes or obstructs the filing or recording of the report, or induces another
15 to fail to file or record the report;
- 16 [(15)] (14) Submits a false statement to collect a fee;
- 17 [(16)] (15) Violates any provision of this title or rule or regulation adopted
18 by the Board;
- 19 [(17)] (16) Uses or promotes or causes the use of any misleading, deceiving,
20 or untruthful advertising matter, promotional literature, or testimonial;
- 21 [(18)] (17) Is professionally, physically, or mentally incompetent;
- 22 [(19)] (18) Promotes the sale of devices, appliances, or goods to a patient
23 OR CLIENT so as to exploit the patient OR CLIENT for financial gain;
- 24 [(20)] (19) Commits an act of unprofessional conduct in the practice of
25 physical therapy or limited physical therapy;
- 26 [(21)] (20) Grossly overutilizes health care services;
- 27 [(22)] (21) Is convicted under insurance fraud as defined in § 27-801 of the
28 Insurance Article;
- 29 [(23)] (22) Refuses, withholds from, denies, or discriminates against [an
30 individual] A PATIENT OR CLIENT with regard to the provision of professional
31 services for which the licensee is licensed and qualified to render because the
32 [individual] PATIENT OR CLIENT is HIV positive;
- 33 [(24)] (23) Provides professional services while:
- 34 (i) Under the influence of alcohol; or

1 (ii) Using any narcotic or controlled dangerous substance, as
2 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
3 therapeutic amounts or without valid medical indication;

4 [(25)] (24) Willfully and without legal justification, fails to cooperate with
5 a lawful investigation conducted by the Board; or

6 [(26)] (25) Fails to meet accepted standards in delivering physical therapy
7 or limited physical therapy care.

8 13-317.

9 (a) Except as otherwise provided in the Administrative Procedure Act, before
10 the Board takes any action under § 13-316 of this subtitle, it shall give the individual
11 against whom the action is contemplated an opportunity for a hearing before the
12 Board.

13 (b) The Board shall give notice and hold the hearing in accordance with the
14 Administrative Procedure Act.

15 (c) The individual may be represented at the hearing by counsel.

16 (d) (1) The chairman of the Board may delegate authority to conduct a
17 hearing to a committee consisting of three or more Board members.

18 (2) The committee shall:

19 (i) Hold an evidentiary hearing; and

20 (ii) Prepare a recommended decision for consideration by a quorum
21 of the Board, which may include members of the committee.

22 (3) The committee shall give [to the individual who is the subject of the
23 hearing notice of] EACH PARTY the opportunity to file exceptions and present
24 argument to the Board regarding the decision of the committee.

25 (e) Over the signature of an officer or the executive director of the Board, the
26 Board may issue subpoenas and administer oaths in connection with any
27 investigation under this title and any hearings or proceedings before it.

28 (f) If, without lawful excuse, a person disobeys a subpoena from the Board or
29 an order by the Board to take an oath or to testify or answer a question, then, on
30 petition of the Board, a court of competent jurisdiction may punish the person as for
31 contempt of court.

32 (g) If after due notice the individual against whom the action is contemplated
33 fails or refuses to appear, nevertheless the Board may hear and determine the matter.

1 13-407.

2 (A) A person who violates any provision of this title is guilty of a misdemeanor
3 and on conviction is subject to a fine not exceeding [\$1,000] \$5,000 OR
4 IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

5 (B) (1) ANY PERSON WHO VIOLATES § 13-401 OF THIS SUBTITLE IS SUBJECT
6 TO A CIVIL FINE OF NOT MORE THAN \$50,000 TO BE ASSESSED BY THE BOARD.

7 (2) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
8 SUBSECTION INTO THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS FUND.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2004.