

SENATE BILL 364

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1998 Regular Session
(8r1570)

ENROLLED BILL

-- *Economic and Environmental Affairs/Environmental Matters* --

Introduced by **Senator Collins**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **Physical Therapy - License and Practice Requirements**

3 FOR the purpose of altering certain English language proficiency requirements for
4 physical therapy licensure; specifying certain educational requirements for
5 physical therapy licensure for certain applicants; requiring the agent of the
6 State Board of Physical Therapy Examiners to provide a certain notice
7 concerning the time and place of a certain examination; extending the period of
8 expiration of a certain temporary license after issuance of the license; providing
9 for the expiration of certain temporary licenses under certain circumstances;
10 repealing a certain authorization for the renewal of a certain temporary license;
11 altering certain grounds for disciplinary action by the Board; providing for
12 certain medical or psychological evaluation of certain licensees under certain
13 circumstances; authorizing certain judicial actions to enjoin certain conduct;
14 specifying a certain place where a certain judicial action may be held and a
15 certain evidentiary standard and legal effect applicable to that action; and
16 generally relating to physical therapy.

17 BY repealing and reenacting, with amendments,

1 Article - Health Occupations
2 Section 13-302, 13-303, 13-306, 13-313, and 13-316
3 Annotated Code of Maryland
4 (1994 Replacement Volume and 1997 Supplement)

5 BY adding to
6 Article - Health Occupations
7 Section 13-316.1 and 13-318.1
8 Annotated Code of Maryland
9 (1994 Replacement Volume and 1997 Supplement)

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

12 **Article - Health Occupations**

13 13-302.

14 (a) (1) To qualify for a physical therapy license, an applicant shall be an
15 individual who meets the requirements of:

16 (i) This section; and

17 (ii) § 13-303 of this subtitle.

18 (2) To qualify for a physical therapist assistant license, an applicant
19 shall be an individual who meets the requirements of:

20 (i) This section; and

21 (ii) § 13-304 of this subtitle.

22 (b) The applicant shall be of good moral character.

23 (c) Except as otherwise provided in this title, the applicant shall pass the
24 appropriate examination given by the Board under this subtitle.

25 (d) The applicant shall meet any other qualifications or requirements that the
26 Board establishes for license applicants.

27 (e) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
28 SUBSECTION, THE Board shall require as part of its examination or licensing
29 procedures that an applicant for a license to practice physical therapy or limited
30 physical therapy demonstrate [an] WRITTEN AND oral competency in the English
31 language.

32 (2) [Graduation from a recognized English-speaking undergraduate
33 school after at least 3 years of enrollment, or from a recognized English-speaking
34 professional school is acceptable as proof of proficiency in the oral communication of

1 the English language under this section] AN APPLICANT IS EXEMPT FROM ENGLISH
2 LANGUAGE COMPETENCY TESTING UNDER PARAGRAPH (1) OF THIS SUBSECTION IF
3 THE APPLICANT GRADUATED FROM A PHYSICAL THERAPY PROGRAM THAT WAS
4 TAUGHT IN ENGLISH.

5 (3) By regulation, the Board shall develop a procedure for testing
6 individuals who because of their speech impairment are unable to complete
7 satisfactorily a Board approved standardized test of oral competency.

8 (4) If any disciplinary charges or action that involves a problem with the
9 oral communication of the English language are brought against a licensee under this
10 title, the Board shall require the licensee to take and pass a Board approved
11 standardized test of oral competency.

12 13-303.

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

15 (1) Graduated from a physical therapy [curriculum] PROGRAM that, in
16 the year of graduation, was approved by:

17 (i) The American Medical Association; [or]

18 (ii) The American Physical Therapy Association; [and] OR

19 (III) THE COMMISSION ON ACCREDITATION OF PHYSICAL THERAPY
20 EDUCATION; AND

21 (2) Completed satisfactorily the clinical training required by the physical
22 therapy curriculum.

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

25 (1) [Graduated from a physical therapy curriculum] EARNED ALL
26 CREDITS AT AN INSTITUTION OF HIGHER LEARNING that has educational
27 requirements [comparable to those approved by:

28 (i) The American Medical Association; or

29 (ii) The American Physical Therapy Association; and] EQUIVALENT
30 TO A BACHELOR'S DEGREE IN PHYSICAL THERAPY FROM A UNITED STATES
31 PROGRAM ACCREDITED BY THE COMMISSION ON ACCREDITATION OF PHYSICAL
32 THERAPY EDUCATION;

33 (2) EARNED A MINIMUM OF 120 CREDIT HOURS IN THE FOLLOWING
34 MANNER:

35 (I) 50 CREDIT HOURS IN GENERAL EDUCATION TO INCLUDE AT
36 LEAST A ~~TWO~~ ONE SEMESTER COURSE IN:

- 1 1. HUMANITIES;
- 2 2. SOCIAL SCIENCE;
- 3 3. BEHAVIORAL SCIENCE;
- 4 4. PHYSICS WITH A LABORATORY;
- 5 5. CHEMISTRY WITH A LABORATORY;
- 6 6. BIOLOGY WITH A LABORATORY; AND
- 7 7. MATHEMATICS;

8 (II) 60 CREDIT HOURS IN A PROFESSIONAL PHYSICAL THERAPY
9 PROGRAM TO INCLUDE AT LEAST ONE COURSE IN:

- 10 1. HUMAN ANATOMY;
- 11 2. HUMAN PHYSIOLOGY;
- 12 3. NEUROLOGY;
- 13 4. PHYSIOLOGY;
- 14 5. FUNCTIONAL ANATOMY;
- 15 6. KINESIOLOGY;
- 16 7. ORTHOPEDICS;
- 17 8. PEDIATRICS;
- 18 9. GERIATRICS;
- 19 10. PHYSICAL AGENTS;
- 20 11. MUSCULOSKELETAL ASSESSMENT AND TREATMENT;
- 21 12. NEUROMUSCULAR ASSESSMENT AND TREATMENT; AND
- 22 13. CARDIOPULMONARY ASSESSMENT AND TREATMENT; AND

23 (III) 10 CREDIT HOURS AS ELECTIVES IN GENERAL OR
24 PROFESSIONAL EDUCATION;

25 (3) COMPLETED AT LEAST TWO CLINICAL AFFILIATIONS TOTALING AT
26 LEAST 800 HOURS; AND

27 [(2)] (4) Completed [in any state] a preceptorship that fulfills the
28 requirements set by the Board.

1 13-306.

2 (a) An applicant who otherwise qualifies for a license is entitled to be
3 examined for that license as provided in this section.

4 (b) The Board shall give examinations at least twice a year, at the times and
5 places that the Board determines, to applicants for:

6 (1) A physical therapy license; and

7 (2) A physical therapist assistant license.

8 (c) The Board OR ITS AGENT shall[:

9 (1) Notify each qualified applicant of the time and place of examination;
10 and

11 (2) Publish notice of the time and place of each examination given under
12 this subtitle:

13 (i) At least one time in a daily newspaper of general circulation in
14 this State; and

15 (ii) In any other manner that the Board determines] NOTIFY EACH
16 QUALIFIED APPLICANT OF THE TIME AND PLACE OF THE EXAMINATION.

17 (d) The Board shall determine the subjects, scope, form, and passing score for
18 examinations given under this subtitle.

19 13-313.

20 (a) (1) Subject to the provisions of this section, the Board shall issue a
21 temporary license to an applicant who:

22 (i) Except as provided in paragraph (2) of this subsection and
23 except for the examination requirements of this subtitle, has met the appropriate
24 licensing requirements of this title to the satisfaction of the Board;

25 (ii) Submits to the Board:

26 1. An application on the form that the Board requires; and

27 2. Any other document required by the Board; and

28 (iii) Pays to the Board the application fee set by the Board.

29 (2) In addition to the requirements of paragraph (1) of this subsection, to
30 be eligible for a temporary license an applicant educated outside of any state shall
31 have been accepted for a preceptorship.

1 (b) (1) A temporary license issued to a physical therapist authorizes the
2 holder to practice physical therapy while the temporary license is effective.

3 (2) A temporary license issued to a physical therapist assistant
4 authorizes the holder to practice limited physical therapy while the temporary license
5 is effective.

6 (c) (1) Unless the Board revokes a temporary license, [each] A temporary
7 license expires [60] 90 days after [the date of the next scheduled examination]
8 ISSUANCE.

9 (2) If a holder of a temporary license applies for a license by examination
10 but does not report to take the [next scheduled] examination WHEN SCHEDULED, the
11 temporary license expires on the date of [that] THE SCHEDULED examination.

12 (d) The Board may[:

13 (1) Extend] EXTEND a temporary license to complete a preceptorship[;
14 or

15 (2) Renew a temporary license once for an additional term under
16 subsection (c) of this section, if the holder:

17 (i) Otherwise meets the requirements of this section;

18 (ii) Submits a renewal application to the Board on the form that the
19 Board requires; and

20 (iii) Pays to the Board a temporary license renewal fee set by the
21 Board].

22 (e) The Board shall issue a license to replace the temporary license of a holder,
23 if the Board receives:

24 (1) The passing test scores of the holder; and

25 (2) Any other document that the Board requires.

26 13-316.

27 Subject to the hearing provisions of § 13-317 of this subtitle, the Board may
28 deny a license, temporary license, or restricted license to any applicant, reprimand
29 any licensee or holder of a temporary license or restricted license, place any licensee
30 or holder of a temporary license or restricted license on probation, or suspend or
31 revoke a license, temporary license, or restricted license if the applicant, licensee, or
32 holder:

33 (1) Fraudulently or deceptively obtains or attempts to obtain a license,
34 temporary license, or restricted license for the applicant, licensee, or holder or for
35 another;

- 1 (2) Fraudulently or deceptively uses a license, temporary license, or
2 restricted license;
- 3 (3) Practices physical therapy inconsistent with any written or oral order
4 of:
- 5 (i) A physician authorized to practice medicine in any state;
- 6 (ii) A dentist authorized to practice dentistry in any state; or
- 7 (iii) A podiatrist authorized to practice podiatry in any state;
- 8 (4) Unless specifically licensed with respect to the treatment, treats or
9 attempts to treat a health condition of an individual by means other than physical
10 therapy;
- 11 (5) In the case of an individual who is authorized to practice physical
12 therapy [under this title,] is grossly negligent [in the practice of physical therapy or
13 in the direction of an individual who is authorized to practice limited physical therapy
14 under this title;]:
- 15 (I) IN THE PRACTICE OF PHYSICAL THERAPY;
- 16 (II) IN THE DIRECTION OF AN INDIVIDUAL WHO IS AUTHORIZED TO
17 PRACTICE LIMITED PHYSICAL THERAPY; OR
- 18 (III) IN THE SUPERVISION OF A PHYSICAL THERAPY AIDE;
- 19 (6) In the case of an individual who is authorized to practice limited
20 physical therapy [under this title]:
- 21 (i) Practices LIMITED physical therapy other than as authorized by
22 this title; or
- 23 (ii) Is grossly negligent while practicing limited physical therapy;
- 24 (7) Is convicted of or pleads guilty or nolo contendere to a felony or to a
25 crime involving moral turpitude, whether or not any appeal or other proceeding is
26 pending to have the conviction or plea set aside;
- 27 (8) Is convicted of a violation of a narcotic law;
- 28 (9) To an extent that impairs professional competence, habitually uses
29 any:
- 30 (i) Drug; or
- 31 (ii) Alcoholic beverage;
- 32 (10) Pays or agrees to pay any sum to any person for bringing or referring
33 a patient;

1 (11) Is disciplined by a licensing or disciplinary authority of any other
2 state or country or convicted or disciplined by a court of any state or country for an act
3 that would be grounds for disciplinary action under the Board's disciplinary statutes;

4 (12) Practices physical therapy or limited physical therapy with an
5 unauthorized person or supervises or aids an unauthorized person in the practice of
6 physical therapy or limited physical therapy;

7 (13) Willfully makes or files a false report or record in the practice of
8 physical therapy or limited physical therapy;

9 (14) Willfully fails to file or record any report as required by law, willfully
10 impedes or obstructs the filing or recording of the report, or induces another to fail to
11 file or record the report;

12 (15) Submits a false statement to collect a fee;

13 (16) Violates any PROVISION OF THIS TITLE OR rule or regulation adopted
14 by the Board;

15 (17) Uses or promotes or causes the use of any misleading, deceiving, or
16 untruthful advertising matter, promotional literature, or testimonial;

17 (18) Is professionally, physically, or mentally incompetent;

18 (19) Promotes the sale of devices, appliances, or goods to a patient so as to
19 exploit the patient for financial gain;

20 (20) Commits an act of unprofessional conduct in the practice of physical
21 therapy;

22 (21) Grossly over utilizes health care services;

23 (22) Is convicted under insurance fraud as defined in § 27-801 of the
24 Insurance Article; [or]

25 (23) Refuses, withholds from, denies, or discriminates against an
26 individual with regard to the provision of professional services for which the licensee
27 is licensed and qualified to render because the individual is HIV positive[.];

28 (24) PROVIDES PROFESSIONAL SERVICES WHILE:

29 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

30 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS
31 SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN
32 EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

33 (25) WILLFULLY AND WITHOUT LEGAL JUSTIFICATION, FAILS TO
34 COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD; OR

1 (26) FAILS TO MEET ACCEPTED STANDARDS IN DELIVERING PHYSICAL
2 THERAPY CARE.

3 13-316.1.

4 (A) IF IN INVESTIGATING AN ALLEGATION BROUGHT AGAINST A LICENSEE
5 UNDER THIS TITLE, THERE IS GOOD CAUSE TO BELIEVE THAT THE PHYSICAL OR
6 MENTAL CONDITION OF THE LICENSEE MAY ADVERSELY AFFECT THE ABILITY OF
7 THE LICENSEE TO PRACTICE PHYSICAL THERAPY OR LIMITED PHYSICAL THERAPY,
8 THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO APPROPRIATE MEDICAL OR
9 PSYCHOLOGICAL EXAMINATION, TESTING, OR EVALUATION BY A HEALTH CARE
10 PROVIDER DESIGNATED BY THE BOARD.

11 (B) IN RETURN FOR THE PRIVILEGE TO PRACTICE PHYSICAL THERAPY OR
12 LIMITED PHYSICAL THERAPY, A LICENSEE IS DEEMED TO:

13 (1) CONSENT TO BE EXAMINED, TESTED, OR EVALUATED PURSUANT TO
14 THIS SECTION; AND

15 (2) WAIVE OBJECTION TO THE RECEIPT OF AND CONSIDERATION BY
16 THE BOARD OF THE RESULTS OF ANY EXAMINATIONS, TESTS, OR EVALUATIONS
17 CONDUCTED BY, AND THE REPORTS AND TESTIMONY OF, THE EXAMINING HEALTH
18 CARE PROVIDER.

19 (C) THE FAILURE OR REFUSAL OF THE LICENSEE TO SUBMIT TO AN
20 EXAMINATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MAY BE
21 CONSIDERED AS EVIDENCE OF THE INABILITY OF THE LICENSEE TO PRACTICE
22 COMPETENTLY, UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS
23 BEYOND THE CONTROL OF THE LICENSEE.

24 (D) THE BOARD SHALL PAY THE COST OF ALL EXAMINATIONS, TESTS, AND
25 EVALUATIONS PERFORMED PURSUANT TO THIS SECTION.

26 13-318.1.

27 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THIS STATE OR THE
28 BOARD TO ENJOIN:

29 (1) THE UNAUTHORIZED PRACTICE OF PHYSICAL THERAPY; OR

30 (2) CONDUCT THAT IS GROUND FOR DISCIPLINARY ACTION UNDER §
31 13-316 OF THIS TITLE.

32 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

33 (1) THE BOARD IN ITS OWN NAME;

34 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

35 (3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

1 (C) AN ACTION UNDER THIS SECTION MAY BE BROUGHT IN THE COUNTY
2 WHERE THE DEFENDANT RESIDES OR ENGAGED IN THE ACT SOUGHT TO BE
3 ENJOINED.

4 (D) PROOF OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY
5 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
6 UNDER THIS SECTION.

7 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
8 OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF PHYSICAL
9 THERAPY UNDER § 13-401 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 13-316
10 OF THIS TITLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1998.