

SENATE BILL 489

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8lr2766
CF HB 384

By: **Senator Pinsky**

Introduced and read first time: February 1, 2008

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physical Therapy Examiners – Temporary License – Repeal**

3 FOR the purpose of repealing the provisions related to the issuance, eligibility
4 requirements, term, renewal, and surrender of a certain temporary license to
5 practice physical therapy or limited physical therapy; repealing a certain
6 definition of a certain term; making certain technical changes; and generally
7 relating to a temporary license and the State Board of Physical Therapy
8 Examiners.

9 BY repealing and reenacting, without amendments,
10 Article – Health Occupations
11 Section 13–101(a)
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2007 Supplement)

14 BY repealing
15 Article – Health Occupations
16 Section 13–101(k) and 13–313
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2007 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Health Occupations
21 Section 13–315, 13–316, 13–317(a), 13–318, 13–318.1(a), and 13–407.1
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2007 Supplement)

24 BY renumbering
25 Article – Health Occupations
26 Section 13–314 through 13–316.1, respectively
27 to be Section 13–313 through 13–316, respectively

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2007 Supplement)

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

5 **Article – Health Occupations**

6 13–101.

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

8 [(k) “Temporary license” means a license issued by the Board under and as
9 limited by § 13–313 of this title to practice:

10 (1) Physical therapy; or

11 (2) Limited physical therapy.]

12 [13–313.

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

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

18 (ii) Submits to the Board:

19 1. An application on the form that the Board requires;

20 and

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

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

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

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

28 (2) A temporary license issued to a physical therapist assistant
29 authorizes the holder to practice limited physical therapy while the temporary license
30 is effective.

1 (c) (1) Unless the Board revokes a temporary license, a temporary license
2 expires 90 days after issuance.

3 (2) If a holder of a temporary license applies for a license by
4 examination but does not report to take the examination when scheduled, the
5 temporary license expires on the date of the scheduled examination.

6 (d) The Board may extend a temporary license to complete a preceptorship.

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

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

10 (2) Any other document that the Board requires.]

11 13–315.

12 (a) Unless the Board agrees to accept the surrender of a license, a licensed
13 physical therapist, licensed physical therapist assistant, or holder of a restricted
14 license [or temporary license] may not surrender the license nor may the license lapse
15 by operation of law while the licensee is under investigation or while charges are
16 pending against the licensee.

17 (b) The Board may set conditions on its agreement with the licensee under
18 investigation or against whom charges are pending to accept surrender of the license.

19 (c) An individual whose license has been suspended or revoked by the Board
20 shall return the license to the Board. If the suspended or revoked license has been lost,
21 the individual shall file with the Board a statement verifying that the individual's
22 license has been lost.

23 13–316.

24 Subject to the hearing provisions of § 13–317 of this subtitle, the Board may
25 deny a license[, temporary license,] or restricted license to any applicant, reprimand
26 any licensee or holder of a [temporary license or] restricted license, place any licensee
27 or holder of a [temporary license or] restricted license on probation, or suspend or
28 revoke a license[, temporary license,] or restricted license if the applicant, licensee, or
29 holder:

30 (1) Fraudulently or deceptively obtains or attempts to obtain a
31 license[, temporary license,] or restricted license for the applicant, licensee, or holder
32 or for another;

1 (2) Fraudulently or deceptively uses a license[, temporary license,] or
2 restricted license;

3 (3) Unless specifically licensed with respect to the treatment, treats or
4 attempts to treat a health condition of a patient or client by means other than physical
5 therapy;

6 (4) In the case of an individual who is authorized to practice physical
7 therapy is grossly negligent:

8 (i) In the practice of physical therapy;

9 (ii) In the direction of an individual who is authorized to
10 practice limited physical therapy; or

11 (iii) In the supervision of a physical therapy aide;

12 (5) In the case of an individual who is authorized to practice limited
13 physical therapy:

14 (i) Practices limited physical therapy other than as authorized
15 by this title; or

16 (ii) Is grossly negligent while practicing limited physical
17 therapy;

18 (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a
19 crime involving moral turpitude, whether or not any appeal or other proceeding is
20 pending to have the conviction or plea set aside;

21 (7) Is convicted of a violation of a narcotic law;

22 (8) To an extent that impairs professional competence, habitually uses
23 any:

24 (i) Drug; or

25 (ii) Alcoholic beverage;

26 (9) Pays or agrees to pay any sum to any person for bringing or
27 referring a patient;

28 (10) Is disciplined by a licensing or disciplinary authority of any state
29 or country or convicted or disciplined by a court of any state or country or disciplined
30 by any branch of the United States uniformed services or Veterans Administration for
31 an act that would be grounds for disciplinary action under the Board's disciplinary
32 statutes;

- 1 (11) Practices physical therapy or limited physical therapy with an
2 unauthorized person or supervises or aids an unauthorized person in the practice of
3 physical therapy or limited physical therapy;
- 4 (12) Willfully makes or files a false report or record in the practice of
5 physical therapy or limited physical therapy;
- 6 (13) Willfully fails to file or record any report as required by law,
7 willfully impedes or obstructs the filing or recording of the report, or induces another
8 to fail to file or record the report;
- 9 (14) Submits a false statement to collect a fee;
- 10 (15) Violates any provision of this title or rule or regulation adopted by
11 the Board;
- 12 (16) Uses or promotes or causes the use of any misleading, deceiving, or
13 untruthful advertising matter, promotional literature, or testimonial;
- 14 (17) Is professionally, physically, or mentally incompetent;
- 15 (18) Promotes the sale of devices, appliances, or goods to a patient or
16 client so as to exploit the patient or client for financial gain;
- 17 (19) Commits an act of unprofessional conduct in the practice of
18 physical therapy or limited physical therapy;
- 19 (20) Grossly overutilizes health care services;
- 20 (21) Is convicted under insurance fraud as defined in § 27–801 of the
21 Insurance Article;
- 22 (22) Refuses, withholds from, denies, or discriminates against a patient
23 or client with regard to the provision of professional services for which the licensee is
24 licensed and qualified to render because the patient or client is HIV positive;
- 25 (23) Provides professional services while:
- 26 (i) Under the influence of alcohol; or
- 27 (ii) Using any narcotic or controlled dangerous substance, as
28 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
29 therapeutic amounts or without valid medical indication;
- 30 (24) Willfully and without legal justification, fails to cooperate with a
31 lawful investigation conducted by the Board; or

1 (25) Fails to meet accepted standards in delivering physical therapy or
2 limited physical therapy care.

3 13-317.

4 (a) Except as otherwise provided in the Administrative Procedure Act, before
5 the Board takes any action under [§ 13-316] § **13-315** of this subtitle, it shall give the
6 individual against whom the action is contemplated an opportunity for a hearing
7 before the Board.

8 13-318.

9 (a) Except as provided in this section for an action under [§ 13-316] §
10 **13-315** of this subtitle, any person aggrieved by a final decision of the Board in a
11 contested case, as defined in the Administrative Procedure Act, may:

12 (1) Appeal that decision to the Board of Review; and

13 (2) Then take any further appeal allowed by the Administrative
14 Procedure Act.

15 (b) (1) Any person aggrieved by a final decision of the Board under [§
16 13-316] § **13-315** of this subtitle may not appeal to the Secretary or Board of Review
17 but may take a direct judicial appeal.

18 (2) The appeal shall be made as provided for judicial review of final
19 decisions in the Administrative Procedure Act.

20 13-318.1.

21 (a) An action may be maintained in the name of this State or the Board to
22 enjoin:

23 (1) The unauthorized practice of physical therapy; or

24 (2) Conduct that is ground for disciplinary action under [§ 13-316] §
25 **13-315** of this subtitle.

26 13-407.1.

27 If, after a hearing under § 13-317 of this title, the Board finds that there are
28 grounds under [§ 13-316] § **13-315** of this title to suspend or revoke a license to
29 practice physical therapy or limited physical therapy, to reprimand a licensee, or to
30 refuse to license an applicant, the Board may impose a penalty not exceeding \$5,000 in
31 addition to suspending or revoking the license or reprimanding the licensee.

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 13–314
2 through 13–316.1, respectively, of Article – Health Occupations of the Annotated Code
3 of Maryland be renumbered to be Section(s) 13–313 through 13–316, respectively.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2008.