

NORTH CAROLINA GENERAL ASSEMBLY  
1979 SESSION

CHAPTER 487  
HOUSE BILL 353

AN ACT TO REWRITE THE PHYSICAL THERAPY PRACTICE ACT.

The General Assembly of North Carolina enacts:

**Section 1.** Article 18 of Chapter 90 of the North Carolina General Statutes is amended and rewritten to read as follows:

"ARTICLE 18.

"Physical Therapy.

"§ 90-256. **Definitions.** — In this Article, unless the context otherwise requires, the following definitions shall apply:

- (1) 'Board' means the North Carolina Board of Physical Therapy Examiners.
- (2) 'Physical therapy' means the evaluation or treatment of any person by the employment of the effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purposes of preventing, correcting, or alleviating a physical or mental disability. Physical therapy includes the performance of specialized tests of neuromuscular function, administration of specialized therapeutic procedures, interpretation and implementation of referrals from licensed medical doctors and dentists, and establishment and modification of physical therapy programs for patients.
- (3) 'Physical therapist' means any person who practices physical therapy in accordance with the provisions of this Article.
- (4) 'Physical therapist assistant' (or 'physical therapy assistant') means any person who assists in the practice of physical therapy in accordance with the provisions of this Article, and who works under the supervision of a physical therapist by performing such patient-related activities as assigned to him by a physical therapist which are commensurate with his education and training, but not the interpretation and implementation of referrals from licensed medical doctors and dentists, the performance of evaluations, and determination and modification of treatment programs.
- (5) 'Physical therapy aide' means any nonlicensed person who is supervised on the premises by a physical therapist or physical therapist assistant when performing simple mechanical or machine-assisted acts in the care of the patient which are commensurate with his on-the-job training but do not require the knowledge and skill of a physical therapist or physical therapist assistant.

"§ 90-257. **Board of examiners.** — The North Carolina Board of Physical Therapy Examiners is hereby created. The board shall consist of seven members, including one medical doctor licensed and residing in North Carolina, four physical therapists, and two physical therapist assistants. The medical doctor, physical therapists and physical therapist assistants shall be appointed by the Governor from a list compiled by the North Carolina Physical Therapy Association, Inc., following a poll of all physical therapists and physical therapist assistants licensed and residing in North Carolina. Each physical therapist member of the board shall be

licensed and reside in this State; provided that he shall have not less than three years' experience as a physical therapist immediately preceding his appointment and shall be actively engaged in the practice of physical therapy in North Carolina during his incumbency. Each physical therapist assistant member shall be licensed and reside in this State; provided that he shall have not less than three years' experience as a physical therapist assistant immediately preceding his appointment and shall be actively engaged in practice as a physical therapist assistant in North Carolina during his incumbency.

Members shall be appointed to serve three year terms, or until their successors are appointed, to commence on January 1 in respective years; provided that members of the board on July 1, 1979, shall continue to serve for the remainder of their terms, respectively, or until their successors are appointed. In the event that a member of the board for any reason shall become ineligible to or cannot complete his term of office, another appointment shall be made by the Governor in accordance with the procedure stated above to fill the remainder of the term. No member may serve for more than two successive three-year terms.

The board each year shall designate one of its physical therapist members as chairman and one member as secretary-treasurer. Each member of the board shall receive such per diem compensation and reimbursement for travel and subsistence as shall be set for licensing boards generally.

**"§ 90-257.1. Powers of the board** — The board shall have the following general powers and duties:

- (1) examine and determine the qualifications and fitness of applicants for a license to practice physical therapy in this State;
- (2) issue, renew, deny, suspend, or revoke licenses to practice physical therapy in this State or otherwise discipline licensed physical therapists and physical therapist assistants;
- (3) conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensed physical therapists or physical therapist assistants exist;
- (4) employ such professional, clerical or special personnel necessary to carry out the provisions of this Article, and may purchase or rent necessary office space, equipment and supplies;
- (5) conduct administrative hearings in accordance with Article 3 of Chapter 150A of the General Statutes when a 'contested case' as defined in G.S. 150A-2(2) arises under this Article;
- (6) appoint from its own membership one or more members to act as representatives of the board at any meeting where such representation is deemed desirable;
- (7) establish reasonable fees for applications for examination, certificates of licensure and renewal, and other services provided by the board;
- (8) adopt, amend, or repeal any rules or regulations necessary to carry out the purposes of this Article and the duties and responsibilities of the board.

The powers and duties enumerated above are granted for the purpose of enabling the board to safeguard the public health, safety and welfare against unqualified or incompetent practitioners of physical therapy, and are to be liberally construed to accomplish this objective.

**"§ 90-258. Records to be kept; copies of record.** — The board shall keep a record of proceedings under this Article and a record of all persons licensed under it. The record shall show the name of every living licensee, his last known place of business and last known place of residence and the date and number of his licensure certificate as a physical therapist or physical therapist assistant. Any interested person in the State is entitled to obtain a copy of that record on application to the board and payment of such reasonable charge as may be fixed by it based on the costs involved.

"§ 90-259. **Disposition of funds.** — All fees and other moneys collected and received by the board shall be used for the purposes of implementing this Article. The financial records of the board shall be subjected to an annual audit and paid for out of the funds of the board.

"§ 90-260. **Qualifications of applicants for examination; application; fee.** — Any person who desires to be licensed under this Article and who

- (1) is of good moral character;
- (2) if an applicant for physical therapy licensure, has been graduated from a physical therapy program accredited by an agency recognized by either the U.S. Office of Education or the Council on Postsecondary Accreditation; and
- (3) if an applicant for physical therapist assistant licensure, has been graduated from a physical therapist assistant educational program accredited by an agency recognized by either the U.S. Office of Education or the Council on Postsecondary Education; or has had training or experience deemed equivalent to such an educational program by the board; provided that such training or experience must be completed by July 1, 1982;

may make application on a form furnished by the board for examination for licensure as a physical therapist or physical therapist assistant. At the time of making such application, the applicant shall pay to the secretary-treasurer of the board the fee prescribed by the board, no portion of which shall be returned.

"§ 90-261. **Licensure of foreign-trained physical therapists.** — Any person who has been trained as a physical therapist in a foreign country and desires to be licensed under this Article and who

- (1) is of good moral character;
- (2) holds a diploma from an educational program for physical therapists approved by the board;
- (3) submits documentary evidence to the board that he has completed a course of professional instruction substantially equivalent to that obtained by an applicant for licensure under G.S. 90-260; and
- (4) demonstrates satisfactory proof of proficiency in the English language; may make application on a form furnished by the board for examination as a foreign-trained physical therapist. At the time of making such application, the applicant shall pay to the secretary-treasurer of the board the fee prescribed by the board, no portion of which shall be returned.

"§ 90-262. **Certificates of licensure.** — (a) The board shall furnish a certificate of licensure to each applicant successfully passing the examination for licensure as a physical therapist or physical therapist assistant, respectively.

(b) The board shall furnish a certificate of licensure to any person who is a physical therapist or physical therapist assistant registered or licensed under the laws of another state or territory, if the individual's qualifications were at the date of his registration or licensure substantially equal to the requirements under this Article. When making such application, the applicant shall pay to the secretary-treasurer of the board the fee prescribed by the board, no portion of which shall be returned.

"§ 90-263. **Renewal of license; lapse; revival.** — (a) Every licensed physical therapist or physical therapist assistant shall, during the month of January of every year, apply to the board for a renewal of licensure and pay to the secretary-treasurer the prescribed fee. Licenses that are not so renewed shall automatically lapse.

(b) The manner in which lapsed licenses shall be revived or extended shall be established by the board in its discretion.

"§ 90-264. **Fees.** — The board is authorized to charge and collect fees established by its rules and regulations, but fees shall not exceed the following schedule for the specified items:

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| (1) Each application for examination | \$100.00 |
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(2) Certificate of licensure pursuant to G.S. 90-262(b) \$75.00

(3) License renewal \$25.00

**"§ 90-265. Exemptions from licensure; certain practices exempted.** — (a) The following persons shall be permitted to practice physical therapy in this State without obtaining a license under this Article upon the terms and conditions specified herein:

- (1) students enrolled in accredited physical therapist or physical therapist assistant educational programs, while engaged in completing a clinical requirement for graduation, which must be performed under the supervision of a licensed physical therapist;
- (2) physical therapists licensed in other jurisdictions while enrolled in graduate educational programs in this State that include the evaluation and treatment of patients as part of their experience required for credit, so long as the student is not at the same time gainfully employed in this State as a physical therapist;
- (3) practitioners of physical therapy employed in the United States Armed Services, United States Public Health Service, Veterans Administration or other federal agency;
- (4) physical therapists or physical therapist assistants licensed in other jurisdictions who are teaching or participating in special physical therapy education projects, demonstrations or courses in this State, in which their participation in the evaluation and treatment of patients is minimal;
- (5) a physical therapy aide while in the performance of those acts and practices specified in G.S. 90-256(5).

(b) Nothing in this Article shall be construed to prohibit:

- (1) any act in the practice of his profession by a person duly licensed in this State;
- (2) the administration of simple massages and the operation of health clubs so long as not intended to constitute or represent the practice of physical therapy;
- (3) the performance by any person of simple mechanical or machine-assisted acts in the physical care of a patient, not requiring the knowledge and skill of a physical therapist, under orders or directions of a licensed medical doctor or dentist.

**"§ 90-266. Unlawful practice.** — If any person shall:

- (1) practice, attempt to practice, teach, consult, or supervise in physical therapy or hold himself out as being able to do so in this State without first having obtained a license from the board;
- (2) use in connection with his name any letters, words, or insignia indicating or implying that he is a physical therapist or physical therapist assistant unless he is licensed in accordance with this Article;
- (3) practice or attempt to practice physical therapy while his license is revoked or suspended;
- (4) practice physical therapy except by referral from a licensed medical doctor or dentist;
- (5) violate any of the provisions of this Article;

said person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both fined and imprisoned, in the discretion of the court. Each act of such unlawful practice shall constitute a distinct and separate offense.

**"§ 90-267. Disciplinary authority in board.** — Grounds for disciplinary action shall include but not be limited to the following:

- (1) the employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license, or the renewal thereof;
- (2) the use of drugs or intoxicating liquors to an extent which affects professional competency;
- (3) conviction of an offense under any municipal, State, or federal narcotic or controlled substance law, until proof of rehabilitation can be established;
- (4) conviction of a felony or other public offense involving moral turpitude, until proof of rehabilitation can be established;
- (5) an adjudication of insanity or incompetency, until proof of recovery from the condition can be established;
- (6) engaging in any act or practice violative of any of the provisions of this Article or of any of the rules and regulations adopted by the board, or aiding, abetting or assisting any other person in the violation of the same;
- (7) the commission of an act or acts of malpractice, gross negligence or incompetence in the practice of physical therapy;
- (8) practice as a licensed physical therapist or physical therapist assistant without a valid certificate of renewal;
- (9) engaging in conduct that could result in harm or injury to the public.

**"§ 90-268. Enjoining illegal practices.** — (a) The board may, if it finds that any person is violating any of the provisions of this Article, apply in its own name to the superior court for a temporary or permanent restraining order or injunction to restrain such person from continuing such illegal practices. All such actions by the board for injunctive relief shall be governed by the Rules of Civil Procedure and Article 37, Chapter 1 of the General Statutes.

(b) The venue for actions brought under this section shall be the superior court of any county in which such illegal or unlawful acts are alleged to have been committed, in the county in which the defendants in such action reside, or in the county in which the board maintains its offices and records.

**"§ 90-269. Title.** — This Article may be cited as the 'Physical Therapy Practice Act'.

**"§ 90-270. Osteopaths, chiropractors, and podiatrists not restricted.** — Nothing in this Article shall restrict the use of physical therapy modalities by licensed osteopaths, chiropractors, or podiatrists."

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.