

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bearden**

A Bill

SENATE BILL 778

For An Act To Be Entitled

8 "AN ACT TO AMEND THE ARKANSAS PHYSICAL THERAPY ACT,
9 ARKANSAS CODE §§ 17-92-101, ET SEQ. TO REDEFINE THE
10 PENALTIES FOR THE UNLAWFUL PRACTICE OF PHYSICAL THERAPY;
11 TO EXPAND THE POWERS OF THE STATE BOARD OF PHYSICAL
12 THERAPY; TO CHANGE THE LICENSING FEES; AND FOR OTHER
13 PURPOSES."

Subtitle

16 "AN ACT TO AMEND THE ARKANSAS PHYSICAL THERAPY ACT."

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. Arkansas Code Annotated §17-92-103 is amended to read as
21 follows:

22 "§17-92-103. Penalties.

23 (a) (1) *Except as otherwise provided for by law, it shall be unlawful*
24 *for any person, unless licensed or registered under this chapter, to practice*
25 *or offer to practice physical therapy, or in any way represent himself as a*
26 *physical therapist or physical therapist assistant.*

27 (2) Any person who violates any of the provisions of this chapter
28 shall be deemed guilty of a Class A misdemeanor and upon conviction shall be
29 punished by a fine of not less than one hundred dollars (\$100) nor more than
30 one thousand dollars (\$1,000) or imprisonment in the county jail for a term of
31 not less than thirty (30) days nor more than one (1) year, or by both.

32 (3) Each day of such unlawful practice shall constitute a
33 separate offense.

34 (4) It shall be the duty of all lawfully constituted officers of
35 the state and all of its political subdivisions to enforce the provisions of

1 this chapter and prosecute any persons violating them.

2 (b) (1) The Arkansas State Board of Physical Therapy is authorized to
3 levy a civil penalty against any person licensed under the provisions of this
4 chapter upon a finding that the person has violated any of the provisions of
5 this chapter or any regulations promulgated by the board.

6 (2) No civil penalty assessed by the board shall be less than one
7 hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

8 (3) In addition to any other sanctions authorized by this
9 chapter, the board may impose a civil penalty as provided above against any
10 unlicensed person practicing or offering to practice any actions requiring
11 licensure pursuant to the provisions of this chapter."

12

13 SECTION 2. Arkansas Code Annotated §17-92-201(e) is amended to read as
14 follows:

15 "(e) The members of the board shall be paid fifty dollars (\$50.00) per
16 day and actual expenses while attending meetings or other official duties of
17 the board."

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19 SECTION 3. Arkansas Code Annotated §17-92-202 is amended to read as
20 follows:

21 "§17-92-202. Powers and duties.

22 (a) The board shall pass upon the qualifications of applicants for
23 licensure of physical therapists and physical therapist assistants, provide
24 and conduct all examinations, determine the applicants who successfully pass
25 the examinations, and license applicants who meet the qualifications provided
26 in this chapter.

27 (b) In addition to other powers and duties set forth in this chapter,
28 the board shall:

29 (1) Adopt reasonable rules and regulations and require the
30 payment of license fees adequate to carry out the purposes of this chapter;

31 (2) Investigate reported violations of this chapter and take such
32 steps as may be necessary to enforce this chapter;

33 (3) Keep a record of its proceedings and a record of all persons
34 registered by it. The register shall show the name of every registrant, his
35 last known place of business, his last known place of residence, and the date

1 and number of his license; and

2 (4) (A) Compile a list of all licensed physical therapists and
3 physical therapist assistants in the State of Arkansas, which list shall be
4 printed annually.

5 (B) It shall furnish a copy of the list to all persons
6 requesting it upon the payment of such fee as may be fixed by the board to
7 compensate for the cost of printing the list.

8 (c) The board is authorized to issue subpoena to compel the attendance
9 of persons before the board and for the production of documents.

10 (d) The failure of any person to comply with the provisions of any
11 valid subpoena issued by the board may be punished as contempt by any
12 appropriate court and may also be grounds for disciplinary action by the
13 board."

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15 SECTION 4. Arkansas Code Annotated §17-92-101 et seq., is amended by
16 adding the following section:

17 "§17-92-204.

18 Examinations administered by the Board are deemed confidential and not
19 subject to disclosure under the provisions of the Arkansas Freedom of
20 Information Act, §§ 25-19-101, et seq."

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22 SECTION 5. Arkansas Code Annotated §17-92-303(d) is amended as follows:

23 "(d) (1) A license or reregistration fee in an amount to be determined
24 by the board shall be paid to the board by each physical therapist who holds a
25 license to practice physical therapy in the State of Arkansas. The
26 reregistration fee shall be paid no later than March 1 of each year.

27 (2) Failure to reregister and pay the fee by March 1 shall cause
28 the license of any person so failing to reregister to expire automatically.

29 (3) Any delinquent licentiate may be reinstated by paying all
30 delinquent fees and a penalty in an amount to be determined by the board for
31 each year or part of a year he has been delinquent."

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33 SECTION 6. Arkansas Code Annotated §17-92-308 is amended as follows:

34 "§17-92-308. Revocation, suspension, or denial - Grounds.

35 (a) After due notice and hearing, the board may suspend or revoke the

1 license of any person licensed under the provisions of this chapter who:

2 (1) Is habitually drunk or who is addicted to the use of narcotic
3 drugs;

4 (2) Has been convicted of violating any state or federal narcotic
5 law;

6 (3) Is, in the judgment of the board, guilty of immoral or
7 unprofessional conduct;

8 (4) Has been convicted of any crime involving moral turpitude;

9 (5) Is guilty, in the judgment of the board, of gross negligence
10 in his practice;

11 (6) Has obtained, or attempted to obtain, registration by fraud
12 or material misrepresentation;

13 (7) Has been declared insane by a court of competent jurisdiction
14 and has not thereafter been lawfully declared sane;

15 (8) Has treated, or undertaken to treat, ailments of human beings
16 otherwise than by physical therapy and as authorized by this chapter, or has
17 undertaken to practice independent of the referral of a person licensed to
18 practice medicine and surgery without limitation; or

19 (9) (A) Engages, directly or indirectly, in the division,
20 transferring, assigning, rebating, or refunding of fees received for
21 professional services or gratuity with any physician or health care
22 practitioner who referred a patient, or with any relative or business
23 associate of the referring person, without appropriate disclosure to the
24 patient so referred. Nothing in this subdivision (a) (9) shall be construed as
25 prohibiting the members of any regularly and properly organized business
26 entity recognized by Arkansas law and comprised of physical therapists from
27 making any division of their total fees among themselves as they determine by
28 contract necessary to defray their joint operating costs.

29 (B) This subdivision (a) (9) shall not apply to any physical
30 therapist employed by a licensed physician on July 15, 1991, during the term
31 of such employment, nor shall it apply to physical therapy positions on the
32 premises of Arkansas licensed hospitals and nursing homes.

33 (10) Is in violation of any provisions of this chapter or any
34 regulation promulgated by the board.

35 (b) The procedure in all disciplinary proceedings shall be as

1 prescribed by the Administrative Procedures Act, §§ 25-15-201, et seq."

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3 SECTION 7. All provisions of this act of a general and permanent nature
4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
5 Revision Commission shall incorporate the same in the Code.

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7 SECTION 8. If any provision of this act or the application thereof to
8 any person or circumstance is held invalid, such invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this
11 act are declared to be severable.

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13 SECTION 9. All laws and parts of laws in conflict with this act are
14 hereby repealed.

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/s/Senator Bearden

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