

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of Senate Bill No. 938

"AN ACT TO REQUIRE THE ARKANSAS STATE BOARD OF PHYSICAL THERAPY TO
COMPLY WITH THE ADMINISTRATIVE PROCEDURE ACT."

Amendment No. 1 to Senate Bill No. 938.

Amend Senate Bill No. 938 as originally introduced:

Delete everything after the Enacting Clause and substitute the following:

"SECTION 1. Arkansas Code 17-93-102 is amended to read as follows:
17-93-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Practice of physical therapy" means:

(A) Examining and evaluating patients with mechanical, physiological and developmental impairments, functional limitations, and disability or other health-related conditions in order to determine a physical therapy diagnosis, prognosis, and planned therapeutic intervention.

(B) Alleviating impairments and functional limitations by designing, implementing, and modifying therapeutic interventions that include: therapeutic exercise, functional training in self-care as it relates to patient mobility and community access, manual therapy techniques, including soft tissue massage, manual traction, connective tissue massage, therapeutic massage, and mobilization (passive movement accomplished within normal range of motion of the joint, but excluding spinal manipulation and adjustment), assistive and adaptive devices and equipment as it relates to patient mobility and community access, physical agents, mechanical and electrotherapeutic modalities, and patient-related instruction. The therapeutic intervention of bronchopulmonary hygiene, and debridement and wound care requires a physician referral prior to initiation of treatment. Physical therapy shall not include radiology or electrosurgery.

(C) Preventing injury, impairments, functional limitations, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations.

(D) Engaging in consultation, testing, education and research.

(2) "Physical therapist" means a person who practices physical therapy as defined in this chapter having successfully completed a curriculum of physical therapy as accredited by ~~the Commission of Accreditation for Physical Therapy Education~~ a national accreditation agency approved by the board and having passed a nationally recognized licensing examination;

(3) "Board" means the Arkansas State Board of Physical Therapy;

(4) "Physical therapist assistant" means a person who assists in the

practice of physical therapy under the supervision of a physical therapist ~~and who has graduated from an accredited physical therapist assistant program~~ who has successfully completed a physical therapist assistant curriculum accredited by a national accreditation agency approved by the board and who has passed a nationally recognized licensing examination.

(A) The physical therapist assistant's function is:

(i) To assist the physical therapist in the patient-related activities;

(ii) To perform procedures delegated to him by the licensed physical therapists that are commensurate with his education and training;

(iii) To function as a participating team member who contributes to total patient care and assists the physical therapist in carrying out complete procedures and programs; and

(iv) To observe and report to his supervisor conditions, reactions, and responses related to his assigned duties.

(B) The physical therapist assistant shall not interpret the orders, perform evaluation procedures, or assume responsibility for planning patient care; ~~and~~

(5) "Physical therapy aide" means an unlicensed member of the physical therapy team who may perform treatments ~~reviewed and supervised weekly by an on-site physical therapist or physical therapist assistant.~~ under the direct supervision of a physical therapist or physical therapist assistant;

(6)(A) "Supervision" means that the supervising therapist retains moral, ethical, and legal responsibility for patient care and is readily available for consultation.

(B) The supervising therapist is not required to be on-site, but must be at least available by telecommunication; and

(7) "Direct supervision" means that the supervising therapist is on-site and available for consultation.

SECTION 2. Arkansas Code 17-93-201(a)(2), concerning the membership of the Arkansas State Board of Physical Therapy, is amended to read as follows:

(2) One (1) member shall not be actively engaged in or retired from the practice of physical therapy and shall serve as the representative of the public interest. ~~This member shall be a full voting member but shall not participate in the grading of examinations.~~

SECTION 3. Arkansas Code 17-93-202(a), concerning the powers and duties of the Arkansas State Board of Physical Therapy, is amended to read as follows:

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

Section 4. Arkansas Code 17-93-301 is amended to read as follows:
17-93-301. License required - Exceptions.

(a) It shall be unlawful for any person to practice physical therapy, physiotherapy, or to profess to be a physical therapist, physiotherapist, physical therapy technician, or to use the initials, "P.T.," "P.H.T.," or

"R. P. T.," or any other letters, words, abbreviations, or insignia indicating that he is a physical therapist or to practice or to assume the duties incident to physical therapy without first obtaining from the board a license authorizing the person to practice physical therapy in this state.

(b) It shall be unlawful for any person to practice as a physical therapist assistant or to profess to be a physical therapist assistant, physiotherapist, physical therapy technician, or to use the initials, "P. T. A." or any other letters, words, abbreviations, or insignia indicating that he or she is a physical therapist assistant without first obtaining from the board a license or temporary permit authorizing the person to practice as a physical therapist assistant in this state.

(c) Nothing in this chapter shall be deemed to prohibit any person licensed under any other act in this state from engaging in the practice for which he is licensed nor to prevent students who are enrolled in accredited physical therapy or physical therapist assistant education programs from performing acts of physical therapy incidental to their courses of study.

SECTION 5. Arkansas Code 17-93-303 is amended to read as follows:
17-93-303. Physical therapists.

(a)(1) The board shall register as a physical therapist each applicant who proves to the satisfaction of the board his fitness for licensure under the terms of this chapter.

(2) It shall issue a license to each person registered. This license shall be prima facie evidence of the right of that person to practice physical therapy subject to the conditions and limitations of this chapter.

~~(3) Every person receiving a license from the board shall have the license recorded in the office of the county clerk in the county where he is practicing or intends to practice. When the licensee moves to another county for the purpose of continuing the practice of physical therapy, he shall have his license recorded in the county to which he moves.~~

(b) Each physical therapist applicant must:

(1) Be at least twenty-one (21) years of age;

(2) Be of good moral character;

(3) Have been graduated by a school of physical therapy ~~approved by the American Physical Therapy Association~~ accredited by a national accreditation agency approved by the board; and

(4) Have passed a written examination selected, and approved, ~~and administered by the State Examining Committee for Physical Therapists by the board; and~~

(5) Submit a fee as determined by the board.

~~(c)(1) All examinations of applicants for all licenses to practice physical therapy shall be held at a time and a place provided by the committee.~~

~~(2)(c)(1)~~ Applicants Upon payment of a fee, applicants shall be given examinations on the following subjects: the applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, psychology, physics, neurology, orthopedics, pediatrics, surgery, medical ethics, and technical procedures in the practice of physical therapy as defined in this chapter, and any other subjects the board may determine to be necessary or desirable.

(2) The national examination shall test entry-level competency related to physical therapy theory, examination and evaluation, diagnosis,

prognosis, treatment intervention, prevention, and consultation.

~~(3) A fee as determined by the board must accompany the application.~~

(3)(A)(i) Upon payment of an appropriate fee, applicants who do not pass the examination after the first attempt may retake the examination one (1) additional time without reapplication for licensure.

(ii) The reexamination must take place within six (6) months after the first failure.

(B) Before being approved by the board for subsequent testing beyond two (2) attempts, the applicant shall reapply and demonstrate evidence satisfactory to the board of having successfully completed additional clinical training or course work or both as determined by the board.

~~(4)(A) Any applicant who fails an examination and is refused a license may take another examination within six (6) months upon payment of an additional fee.~~

~~(B) Any applicant who fails the second examination may take subsequent examinations within six (6) months upon the payment of an additional fee.~~

~~(C) Any applicant who fails three (3) examinations must take additional educational work in the areas of weakness as deemed necessary by the committee before being eligible for reexamination.~~

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

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

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

SECTION 6. Arkansas Code 17-93-304 is amended to read as follows:

17-93-304. Physical therapist assistants.

(a) The board shall register as a physical therapist assistant and shall issue a license to a person who:

(1) Satisfactorily passes the examination provided for in this chapter and otherwise meets the requirements for qualification contained in this chapter and pays the fee ~~provided for in § 17-93-303;~~ as determined by the board; or

(2) Was licensed under the rules of the Arkansas State Medical Board as a physical therapist assistant prior to March 28, 1979. ~~Those registered with the Arkansas State Medical Board as physical therapist assistant trainees prior to March 28, 1979, shall have two (2) opportunities to pass the proficiency examination administered by the State Examining Committee for Physical Therapists;~~

(3) ~~Submits an application signed by both the supervising physical therapist and the applicant; and~~

(4) ~~Submits payment of a fee in the amount to be determined by the board.~~

(b) Each physical therapist assistant applicant must ~~meet the~~

following conditions:

~~(1) When there is a graduating class from an Arkansas college-level associate degree program approved by the American Physical Therapy Association, graduation from such a program in Arkansas or other program approved by the American Physical Therapy Association will be a requirement for initial licensure, but those who have not completed the examination provision provided for in subdivision (a)(2) of this section shall have one (1) additional opportunity to complete the examination; and~~

~~(2) The applicant must have achieved a satisfactory grade on a proficiency examination selected, approved, and administered by the State Examining Committee for Physical Therapists. A fee as determined by the board must accompany the application.~~

(1) Be at least eighteen (18) years of age;

(2) Be of good moral character;

(3) Have been graduated by a school of physical therapy accredited by a national accreditation agency approved by the board;

(4) Have passed a written examination selected and approved by the board; and

(5) Submit a fee as determined by the board.

~~(c) All examinations of applicants for licenses to practice as a physical therapist assistant shall be held at a time and place provided by the State Examining Committee for Physical Therapists.~~

(c)(1)(A) Upon payment of an appropriate fee, applicants who do not pass the examination after the first attempt may retake the examination one (1) additional time without reapplication for licensure.

(B) The reexamination must take place within six (6) months after the first failure.

(2) Before being approved by the board for subsequent testing beyond two (2) attempts, the applicant shall reapply and demonstrate evidence satisfactory to the board of having successfully completed additional clinical training or course work or both as determined by the board.

(d)(1) Any applicant who graduated from an approved course and who fails the second examination may take subsequent examinations within six (6) months upon payment of any additional fee.

(2) Any applicant who fails three (3) examinations must take additional educational work in the areas of weakness as deemed necessary by the committee before being eligible for reexamination.

SECTION 7. Arkansas Code 17-93-305 is amended to read as follows:

17-93-305. Temporary permits.

~~(a) In cases of emergency, the secretary of~~ Under special circumstances, the board may issue a temporary permit without examination to practice as a physical therapist or as a physical therapist assistant to persons who are licensed in other states or otherwise meet the qualifications for licensure set forth in this chapter.

~~(b) The fee for the permit shall be in an amount to be determined by the board.~~

~~(c) This permit expires upon completion of the next administered examination whether or not the applicant passes the examination.~~

SECTION 8. Arkansas Code 17-93-308(a)(8), concerning grounds for revocation, suspension or denial of licenses by the Arkansas State Board of

Physical Therapy, is amended to read as follows:

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

SECTION 9. Arkansas Code 17-93-309 is amended to read as follows:

17-93-309. Revocation, suspension, or denial - Proceedings.

(a)(1) Any person may file a complaint with the board against any person having a license to practice as a physical therapist or as a physical therapist assistant in this state charging that person with having violated the provisions of § 17-93-308.

~~(2) The complaint shall set forth a specification of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he is charged.~~

(2) Once a complaint has been received in the board office, the board shall first send an advisory notice to the person allegedly committing the violation informing the person of the complaint, and a statement notifying the person that the person must reply to the board.

~~(3) When the complaint is filed, the secretary of the board shall mail a copy of it to the accused by registered mail at his last address of record with a written notice of the time and place of hearing, advising him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his defense.~~

(3)(A) If the board determines that there is a violation of this chapter of the regulations promulgated under this chapter, or both, the board shall prepare an order and notice of hearing advising the person of the date for the hearing to be held by the board.

(B) The order and notice of hearing shall be sent by certified mail with restricted delivery.

(b)(1) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense.

(2) The board shall not be bound by strict or technical rules of evidence but shall consider all evidence fully and fairly, provided that all oral testimony considered by the board is under oath.

~~(c) Appeal may be had by either of the parties from the decision of the board as now provided by law. All evidence considered by the board shall be reduced to writing and available for the purposes of appeal.~~

~~(d) Nothing herein shall be construed so as to deprive any person of his or her rights without full, fair, and impartial hearing."~~

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Bisbee

MF/RTK

RTK134

Secretary