

ENGROSSED HOUSE
BILL NO. 2709

By: Jackson of the House
and
Corn of the Senate

(professions and occupations - amending 59 O.S.,
Sections 887.2, 887.4, 887.5 and 887.16 - Physical
Therapy Practice Act - repealing 59 O.S., Section
887.13 - licenses - codification -
effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 887.2, is
amended to read as follows:

Section 887.2 As used in the Physical Therapy Practice Act:

1. "Physical therapy" means the use of selected knowledge and skills in planning, organizing and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, encompassing preventive measures, screening, tests in aid of diagnosis by a licensed doctor of medicine, osteopathy, chiropractic, dentistry or podiatry, or a physician assistant, and evaluation and invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular and cardiopulmonary function, as it relates to physical therapy. Physical therapy includes screening or evaluations performed to determine the degree of impairment of relevant aspects such as, but not limited to, nerve and muscle function including transcutaneous bioelectrical potentials, motor development, functional capacity and respiratory or circulatory efficiency. Physical therapy also includes physical therapy treatment performed upon referral by a

licensed doctor of medicine, osteopathy, dentistry, chiropractic or podiatry, or a physician assistant including, but not limited to, exercises for increasing or restoring strength, endurance, coordination and range of motion, stimuli to facilitate motor activity and learning, instruction in activities of daily living and the use of assistive devices and the application of physical agents to relieve pain or alter physiological status. The use of roentgen rays and radium for diagnostic or therapeutic purposes, the use of electricity for surgical purposes, including cauterization and colonic irrigations are not authorized under the term "physical therapy" as used in this chapter;

2. "Physical therapist assistant" means a person who assists in the practice of physical therapy subject to the direction and supervision of a licensed physical therapist, who meets all the educational requirements, and who is licensed pursuant to the provisions of the Physical Therapy Practice Act;

3. "Licensed physical therapist" means a person who is licensed as required in the Physical Therapy Practice Act and who regularly practices physical therapy;

4. "Board" means the State Board of Medical Licensure and Supervision; ~~and~~

5. "Committee" means the Physical Therapy Committee; and

6. "Disciplinary Board" means the Physical Therapy Disciplinary Board.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 887.4, is amended to read as follows:

Section 887.4 A. There is hereby established a Physical Therapy Committee to assist the State Board of Medical Licensure and Supervision in conducting examinations for applicants and to advise the Board on all matters pertaining to the licensure, education, and continuing education of physical therapists and physical therapist assistants and the practice of physical therapy.

B. 1. The Physical Therapy Committee shall consist of five (5) members who shall be appointed by the State Board of Medical Licensure and Supervision as follows:

- a. three members shall be licensed physical therapists,
- b. one member shall be a licensed physical therapist assistant, and
- c. one member shall be a lay person.

2. Except for the lay appointee, each appointee shall be selected from a list of three persons submitted for each vacancy by the Oklahoma Chapter of the American Physical Therapy Association.

- a. Members serving on the Committee on the effective date of this act may continue serving until expiration of their terms of office and may be reappointed if eligible pursuant to the provisions of this act. Members of the original Physical Therapy Committee shall have been appointed for staggered terms of one (1), two (2), and three (3) years, respectively. Terms of office of each appointed member shall expire July 1 of that year in which they expire regardless of the calendar date when such appointments were made. Subsequent appointments shall be made for a term of three (3) years or until their successors are appointed and qualified.
- b. The lay member and physical therapist assistant member initially appointed to fill the two new positions created pursuant to this act shall be appointed for staggered terms of office which will expire July 1, 1998, and July 1, 1999. Thereafter, members appointed to these positions shall serve for terms of three (3) years or until their successors are appointed and qualified.

c. Vacancies shall be filled by the Board in the same manner as the original appointment.

3. Each member of the Committee shall be a resident of this state. The physical therapist and physical therapist assistant members shall be licensed pursuant to the Physical Therapy Practice Act for at least ~~three (3)~~ five (5) years prior to appointment to the Committee. The lay member shall not be a physical therapist or a licensed health care professional or be related by adoption, blood, or marriage within the third degree of consanguinity to a physical therapist or a licensed health care professional.

4. Members of the Committee shall be reimbursed for all actual and necessary expenses incurred in the performance of duties required by the Physical Therapy Practice Act in accordance with the provisions of the State Travel Reimbursement Act.

C. The Committee shall have the power and duty to:

1. Assist in selecting and conducting examinations for licensure, and in determining which applicants successfully passed such examination;

2. Advise the Board on all matters pertaining to the licensure, education, and continuing education requirements for, and practice of physical therapy in this state; and

3. Maintain a current list of approved schools of physical therapy and physical therapist assistants; ~~and~~

~~4. Assist and advise in all hearings involving physical therapists or physical therapist assistants who are deemed to be in violation of the Physical Therapy Practice Act.~~

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 887.4a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established a Physical Therapy Disciplinary Board to hear and decide all matters concerning revocation or suspension of licensure, adjudicate complaints against

practitioners, and impose sanctions, where appropriate, in all matters involving physical therapists or physical therapist assistants.

B. 1. The Physical Therapy Disciplinary Board shall consist of five (5) members who shall be appointed by the State Board of Medical Licensure and Supervision as follows:

- a. three members shall be licensed physical therapists,
- b. one member shall be a licensed physical therapist assistant, and
- c. one member shall be a lay person.

2. Except for the lay appointee, each appointee shall be selected from a list of three persons submitted for each vacancy by the Oklahoma Chapter of the American Physical Therapy Association.

- a. Members of the Physical Therapy Disciplinary Board shall be appointed for staggered terms of one (1), two (2), and three (3) years, respectively. Terms of office of each appointed member shall expire July 1 of that year in which the term of the members expire regardless of the calendar date when the appointments were made. Subsequent appointments shall be made for a term of three (3) years or until member successors are appointed and qualified.
- b. The lay member and physical therapist assistant member shall be appointed and shall serve terms of three (3) years.
- c. Vacancies shall be filled by the Board in the same manner as the original appointment.

3. Each member of the Disciplinary Board shall be a resident of this state. The physical therapist and physical therapist assistant members shall be licensed pursuant to the Physical Therapy Practice Act for at least five (5) years prior to appointment to the Disciplinary Board. The lay member shall not be a physical

therapist or a licensed health care professional or be related by adoption, blood, or marriage within the third degree of consanguinity to a physical therapist or a licensed health care professional.

4. Members of the Disciplinary Board shall be reimbursed for all actual and necessary expenses incurred in the performance of duties required by the Physical Therapy Practice Act in accordance with the provisions of the State Travel Reimbursement Act.

C. The Disciplinary Board shall have the power and duty to:

1. Conduct hearings involving physical therapists or physical therapist assistants as required by the provisions of Article II of the Administrative Procedures Act;

2. Report to the district attorney having jurisdiction or the Attorney General any act committed by any person which may constitute a misdemeanor pursuant to the provisions of the Physical Therapy Practice Act;

3. Initiate prosecution and civil proceedings; and

4. Suspend, revoke, or deny the license of any physical therapist and physical therapist assistant for violation of any provisions of the Physical Therapy Practice Act or rules promulgated by the Board pursuant to this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 887.4b of Title 59, unless there is created a duplication in numbering, reads as follows:

The Disciplinary Board may suspend or revoke the license of any physical therapist or physical therapist assistant, after notice and hearing in accordance with Article II of the Administrative Procedures Act, who has:

1. Practiced physical therapy outside of their scope of practice;

2. Treated or attempted to treat ailments or other health conditions of human beings other than by physical therapy as authorized by the Physical Therapy Practice Act;

3. Failed to refer patients to other health care providers if symptoms are known to be present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the standards of practice as specified in the rules promulgated by the Board pursuant to the provisions of the Physical Therapy Practice Act;

4. Used drugs, narcotics, medication, or intoxicating liquors to an extent which affects the professional competency of the applicant or licensee;

5. Been convicted of a felony or of a crime involving moral turpitude;

6. Obtained or attempted to obtain a license as a physical therapist or physical therapist assistant by fraud or deception;

7. Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;

8. Been adjudged mentally incompetent by a court of competent jurisdiction and has not subsequently been lawfully declared sane;

9. Been guilty of conduct unbecoming a person licensed as a physical therapist or physical therapist assistant or guilty of conduct detrimental to the best interests of the public or the profession;

10. Been guilty of any act in conflict with the ethics of the profession of physical therapy; or

11. Had his or her license suspended or revoked in another state.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 887.5, is amended to read as follows:

Section 887.5 The State Board of Medical ~~Examiners~~ Licensure and Supervision shall have the power and duty to:

1. Promulgate the rules ~~and regulations~~ necessary for the performance of its duties pursuant to the provisions of the Physical Therapy Practice Act;

2. Determine, as recommended by the Committee, the qualifications of applicants for licensure, conduct all examinations, and determine which applicants successfully passed such examinations;

3. Issue a license to each applicant who passes the examination in accordance with standards promulgated by the Board pursuant to the Physical Therapy Practice Act, and who is otherwise in compliance with the Physical Therapy Practice Act. A license shall also be issued to persons who qualify for such license pursuant to the provisions of Sections 887.9 and 887.10 of this title. Said licenses shall be subject to annual renewal as provided by the Physical Therapy Practice Act;

~~4. Make such investigations and inspections as are necessary to ensure compliance with the Physical Therapy Practice Act and the rules and regulations of the Board promulgated pursuant to the act;~~

~~5. Conduct hearings as required by the provisions of the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes;~~

~~6. Report to the district attorney having jurisdiction or the Attorney General any act committed by any person which may constitute a misdemeanor pursuant to the provisions of the Physical Therapy Practice Act;~~

~~7. Initiate prosecution and civil proceedings;~~

~~8. Suspend, revoke or deny the license of any physical therapist and physical therapist assistant for violation of any provisions of the Physical Therapy Practice Act or rules and regulations promulgated by the Board pursuant to this act;~~

9. Maintain a record listing the name of each physical therapist and physical therapist assistant licensed in this state;

~~10.~~ 5. Compile a list of physical therapists and physical therapist assistants licensed to practice in this state. Said list shall be available to any person upon application to the Board and the payment of such fee as determined by the Board for the reasonable expense thereof pursuant to the provisions of the Physical Therapy Practice Act; and

~~11.~~ 6. Make such expenditures and employ such personnel as it may deem necessary for the administration of the provisions of the Physical Therapy Practice Act.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 887.16, is amended to read as follows:

Section 887.16 A. No person shall advertise, in any manner, or otherwise represent himself as a physical therapist or physical therapist assistant or as a provider of physical therapy services unless such person is licensed pursuant to the provisions of the Physical Therapy Practice Act.

B. Any person who violates any provision of the Physical Therapy Practice Act shall be found guilty of a misdemeanor and upon conviction shall be subject to punishment pursuant to the provisions of Section 491 of this title and to one or more of the following actions which may be taken by the ~~State~~ Physical Therapy Disciplinary Board of Medical Examiners in consultation with the Physical Therapy Committee:

1. Revocation of license;
2. Suspension of license not to exceed six (6) months from the date of hearing;
3. Invocation of restrictions in the form of probation as defined by the Disciplinary Board; or
4. For emergency situations where the question of whether continued right to practice is a threat to public welfare, utilization of procedures as outlined in Section 481 et seq. of this title regarding physicians.

SECTION 7. REPEALER 59 O.S. 2001, Section 887.13, is hereby repealed.

SECTION 8. This act shall become effective November 1, 2006.

Passed the House of Representatives the 14th day of March, 2006.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2006.

Presiding Officer of the Senate