WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

Committee Substitute for
HOUSE BILL No. 29

(By Committee on the Judiciary)

PASSED March 9, 1963

In Effect July 1, 1963

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JOE F. BURDETT
SECRETARY OF STATE
ENROLLED
COMMITTEE SUBSTITUTE

For

House Bill No. 29
[Originating in the Committee on the Judiciary]

[Passed March 9, 1963; in effect July 1, 1963.]

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, relating to the registration of physical therapists, prohibiting certain acts by unregistered physical therapists and providing penalties therefor.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nineteen, to read as follows:

Section 1. Definitions.—The following words and phrases as used in this article shall have the following meanings unless the context otherwise requires:

1. "Physical therapy" shall mean the therapeutic treatment of any person by the use of massage, mechanical stimulation, heat, cold, light, air, water, electricity, sound, therapeutic exercises, including mobilization and training in functional activities, and the performance of tests and measurements as an aid in diagnosis or evaluation of function, for the purpose of limiting or preventing disability and alleviating or correcting any physical or mental condition. The use of roentgen rays and radium for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term, "physical therapy" as used in this article.

2. "Physical therapist" shall mean a person who practices physical therapy.

3. "Board" shall mean the state board of examiners.
Sec. 2. License Required.—Six months after the effective date of this article, no person shall practice nor hold himself out as being able to practice physical therapy in this state unless he is licensed in accordance with the provisions of this article: Provided, however, That nothing in this article shall prohibit any person licensed in this state under any other article from engaging in the practice for which he is licensed.

Sec. 3. Board of Physical Therapists, Powers and Duties.—There is hereby created the state board of examiners and registration of physical therapists to administer the licensing of physical therapists as defined in and set out in this article. The board shall consist of three members who shall be physical therapists. Immediately after the effective date of this article, the members of the board shall be appointed by the governor, by and with the advice and consent of the senate. Each member shall be appointed from a list of persons submitted by the West Virginia chapter of the American physical therapy association. Each physical therapist member shall be qualified under the provisions of this article, have
at least three years experience and be actively practicing in this state during the period of his incumbency. The term of appointments shall be one member for one year, one for two years, one for three years and thereafter each appointment shall be for a term of three years. The board shall designate one of its members as president and one as secretary-treasurer. Members of the board shall each receive ten dollars for every day actually spent in the performance of their duties and in addition thereto shall be reimbursed for their reasonable and necessary expenses in the performance of the same.

The board shall keep a record of its proceedings under this article and a register of all persons licensed under it. The register shall show the name of every living registrant, his last known place of business and last known place of residence, and the date and number of his registration and certificate as a licensed physical therapist. The board shall during the month of January of every year compile a list of physical therapists authorized to practice physical therapy and on request shall mail a copy of the list to the superintendent or administrator
of every known hospital and every licensed doctor or surgeon in the state. Any other interested person in the state is entitled to obtain a copy of that list on application to the board and payment of such amount as may be fixed by the board.

The board or its authorized representative shall investigate every alleged violation of this article coming to its notice and shall report to the prosecuting attorney all cases that in the judgment of the board warrant prosecution.

Sec. 4. License, Qualifications; Fee.—To be eligible for license by the board as a physical therapist, each applicant must:

a. Be at least twenty-one years old.
b. Be of good moral character.
c. Not be addicted to the intemperate use of alcohol or narcotic drugs.
d. Be a citizen of the United States or have obtained a declaration of intention of becoming a citizen.
e. Present evidence that he is a graduate of a school of physical therapy approved by the American physical
therapy association and the board: *Provided, however,*
That any person who received his education in physical
therapy outside of the United States may qualify for a
license by fulfilling those requirements of the American
physical therapy association and the medical board, in-
cluding successful completion of a period of supervised
clinical experience and a written examination provided
by the board: *Provided further,* That on or before the
thirtieth day of June, one thousand nine hundred sixty-
six, any person who has practiced physical therapy in
this state for five continuous years prior to the effective
date of this article under the prescription and direction
of a licensed physician or surgeon may qualify for a
license by successful completion of a written examina-
tion provided by the board.

f. Either (1) pass to the satisfaction of the board an
examination conducted by it to determine his fitness for
practice as a physical therapist; or (2) be entitled to be
licensed without examination as provided in section seven
of this article.

Unless entitled to be licensed under section seven of
this article, a person who desires to be licensed as a
physical therapist shall apply to the board, in writing, on a blank furnished by the board. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by this section. He shall pay to the board a fee of twenty-five dollars at the time of filing his application, no part of which shall be refunded.

Sec. 5. Examination Required.—The board shall examine applicants for registration as physical therapists at such times and places as it may determine, provided, that the board shall meet at least once each year for this purpose. The examination shall include a written examination which shall test the applicant’s knowledge of basic sciences, clinical science, physical therapy procedures and theory and such other subjects as the board may deem useful to test the applicant’s fitness to practice physical therapy as defined in this article.

Sec. 6. Certificate of Registration; Temporary Permit; Fee.—The board shall register as a physical therapist each applicant who proves to the satisfaction of the board his fitness for a license under the terms of this article.
It shall issue to each person licensed a certificate of registration, which shall be prima facie evidence of the right of the person to whom it is issued to represent himself as a physical therapist, subject to the conditions and limitations of this article.

The board, may upon request, issue to each properly qualified applicant for registration a temporary permit which shall authorize each applicant to practice physical therapy until the next meeting of the board. The applicant shall pay a fee of ten dollars for this privilege, none of which shall be refunded, nor shall it be applied to the fee for regular registration.

Sec. 7. Registration Without Examination; Endorsement.—The board shall register as a physical therapist any person who (1) applies for such registration after the effective date of this article, and (2) at the time of the effective date of this article is a member of or is eligible for membership in the American physical therapy association or the American registry of physical therapists; and (3) is residing in the state at the time of the effective date of this article. At the time of making such
applications, such applicant shall pay the board a fee of twenty dollars.

The board shall license as a physical therapist, without examination, on the payment of a fee of twenty-five dollars, any applicant for registration who is a physical therapist registered or licensed under the laws of another state, territory, or the District of Columbia, if the requirements for registration or license of physical therapists in the state, territory, or the District of Columbia, in which the applicant was registered or licensed, were at the date of his registration substantially equal to the requirements in this article and if he meets all existing rules and regulations set by the Board.

Sec. 8. Renewal of Registration; Fee.—Every physical therapist shall renew his license on or before January one of each year by payment of a fee of five dollars. Any license that is not so renewed shall automatically lapse. The board may in its discretion renew a lapsed license on the payment of all unpaid fees.

A person licensed under the provisions of this article desiring to retire from practice temporarily, shall send
a written notice to the board. Upon receipt of such notice, the board shall place the name of such person upon the inactive list. While remaining on this list the person shall not be subject to the payment of any fee and shall not practice physical therapy in the state. When such person desires to resume practice, application for renewal of license and payment of renewal fee for the current year shall be made to the board.

Sec. 9. Denial, Revocation and Suspension of License.

-The board, after due notice and hearing, may refuse to license any applicant and may refuse to renew the license of any person, and may suspend or revoke the license of any person:

(a) Who uses narcotic drugs or alcohol to the extent that it affects his professional competency.

(b) Who has been convicted of violating any state or federal narcotic law.

(c) Who is, in the judgment of the board, guilty of immoral or unprofessional conduct.

(d) Who has been convicted of a felony or a crime involving moral turpitude.
(e) Who is guilty, in the judgment of the board, of gross negligence in his practice as a physical therapist.

(f) Who has obtained or attempted to obtain license by fraud or wilful misrepresentation.

(g) Who has been declared mentally incompetent by a court of competent jurisdiction, or

(h) Who has treated or undertaken to treat human beings otherwise than by physical therapy and as authorized by this article, or who has undertaken to practice independent of the prescription, or direction of a licensed doctor of medicine or surgery without limitation.

Sec. 10. Unauthorized Practice of Physical Therapy; Penalty.—Any person who is not licensed under this article as a physical therapist or whose license has been suspended or revoked, or whose license has lapsed and has not been renewed, who uses in connection with his name the words “physical therapy technician”, “registered physical therapist”, “physical therapist”, or “physiotherapist” or uses the initials r.p.t., p.t.t., p.t., or any other letters, words or insignia indicating or implying that he is a licensed physical therapist, or who in any other way,
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11 orally or in writing or in print or by sign directly or by
12 implication, represents himself as a licensed physical
13 therapist, shall be guilty of a misdemeanor and for each
14 offense upon conviction by any court of competent juris-
15 diction, shall be fined not less than one hundred dollars
16 nor more than five hundred, or imprisoned in the county
17 jail for a period of not less than thirty nor more than
18 ninety days, or both, at the discretion of the court, and
19 each day of such violation shall constitute a separate
20 offense.

Sec. 11. False Oath; Penalty.—Any person who will-
2 fully makes a false oath or affirmation in any case in
3 which an oath or affirmation is required by this article, or
4 who obtains or attempts to obtain a license by any fraudu-
5 lent representation shall be guilty of a misdemeanor and
6 for each offense, upon conviction by any court of com-
7 petent jurisdiction, shall be fined not less than one hun-
8 dred dollars nor more than five hundred dollars, or
9 imprisoned in the county jail for a period of not less than
10 thirty days nor more than ninety days, or both, at the
11 discretion of the court.
Sec. 12. Practice of Physical Therapy.—A person licensed under this article as a physical therapist shall not treat persons by physical therapy or otherwise except under the direction, and prescription of a licensed doctor of medicine or surgery. Nothing in this article shall be construed as authorizing a physical therapist or any other person to practice medicine, surgery, osteopathy, homeopathy, chiropractics, naturopathy, magnetic healing or any other form, branch, or method of healing as authorized by the laws of the state of West Virginia. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail for a period of not less than thirty days nor more than ninety days, or both, at the discretion of the court.

Nothing in this article shall be construed to prevent a person duly licensed to practice in the state of West Virginia under any other act from engaging in the practice for which he or she is duly licensed nor shall
this article be construed to limit or prevent the practice
of any form of therapy, massaging, or related treatment
by any person not licensed under this article, if such
person does not in any way represent himself in any
manner to be a licensed physical therapist.

Sec. 13. Collections and Expenditures; Disposition of
Funds.—All money collected under the provisions of this
article shall be deposited in the state treasury as pro-
vided by law, and shall be credited to the board in a
special fund to be known as "Board of Physical Ther-
apists Special Fund". All money in such fund shall be
expended only for the administration and enforcement
of the provisions of this article, except that at the end of
each fiscal year there shall be transferred from this fund
to the general revenue fund of the state ten per cent of
all money collected by the committee during the year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Ray Parker
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect, July 1, 1963, passage.

Herman Wise
Clerk of the Senate

C.A. Blankenship
Clerk of the House of Delegates

Howard W. Cannon
President of the Senate

Johannes Singleton
Speaker House of Delegates

The within Approved this the 16th
day of March, 1963.

Governor