

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

Committee Substitute For
HOUSE BILL No. 29

(By ~~the~~ *Committee on the Judiciary*—)



PASSED March 9, 1963

In Effect July 1, 1963. ~~Passage~~



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JOE F. BURDETT
SECRETARY OF STATE

#29

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

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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:

Article 19. Physical Therapists.

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

4 1. "Physical therapy" shall mean the therapeutic
5 treatment of any person by the use of massage, mechani-
6 cal stimulation, heat, cold, light, air, water, electricity,
7 sound, therapeutic exercises, including mobilization and
8 training in functional activities, and the performance of
9 tests and measurements as an aid in diagnosis or evalu-
10 ation of function, for the purpose of limiting or prevent-
11 ing disability and alleviating or correcting any physical
12 or mental condition. The use of roentgen rays and radium
13 for diagnostic and therapeutic purposes, and the use of
14 electricity for surgical purposes, including cauterization,
15 are not authorized under the term, "physical therapy" as
16 used in this article.

17 2. "Physical therapist" shall mean a person who prac-
18 tices physical therapy.

19 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

14 at least three years experience and be actively practicing
15 in this state during the period of his incumbency. The
16 term of appointments shall be one member for one year,
17 one for two years, one for three years and thereafter
18 each appointment shall be for a term of three years.
19 The board shall designate one of its members as president
20 and one as secretary-treasurer. Members of the board
21 shall each receive ten dollars for every day actually spent
22 in the performance of their duties and in addition thereto
23 shall be reimbursed for their reasonable and necessary
24 expenses in the performance of the same.

25 The board shall keep a record of its proceedings under
26 this article and a register of all persons licensed under
27 it. The register shall show the name of every living
28 registrant, his last known place of business and last
29 known place of residence, and the date and number of
30 his registration and certificate as a licensed physical
31 therapist. The board shall during the month of January
32 of every year compile a list of physical therapists author-
33 ized to practice physical therapy and on request shall mail
34 a copy of the list to the superintendent or administrator

35 of every known hospital and every licensed doctor or
36 surgeon in the state. Any other interested person in the
37 state is entitled to obtain a copy of that list on appli-
38 cation to the board and payment of such amount as may
39 be fixed by the board.

40 The board or its authorized representative shall in-
41 vestigate every alleged violation of this article coming
42 to its notice and shall report to the prosecuting attorney
43 all cases that in the judgment of the board warrant
44 prosecution.

Sec. 4. License, Qualifications; Fee.—To be eligible

2 for license by the board as a physical therapist, each
3 applicant must:

- 4 a. Be at least twenty-one years old.
- 5 b. Be of good moral character.
- 6 c. Not be addicted to the intemperate use of alcohol
7 or narcotic drugs.
- 8 d. Be a citizen of the United States or have obtained
9 a declaration of intention of becoming a citizen.
- 10 e. Present evidence that he is a graduate of a school
11 of physical therapy approved by the American physical

12 therapy association and the board: *Provided, however,*
13 That any person who received his education in physical
14 therapy outside of the United States may qualify for a
15 license by fulfilling those requirements of the American
16 physical therapy association and the medical board, in-
17 cluding successful completion of a period of supervised
18 clinical experience and a written examination provided
19 by the board: *Provided further,* That on or before the
20 thirtieth day of June, one thousand nine hundred sixty-
21 six, any person who has practiced physical therapy in
22 this state for five continuous years prior to the effective
23 date of this article under the prescription and direction
24 of a licensed physician or surgeon may qualify for a
25 license by successful completion of a written examina-
26 tion provided by the board.

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

32 Unless entitled to be licensed under section seven of
33 this article, a person who desires to be licensed as a

34 physical therapist shall apply to the board, in writing,
 35 on a blank furnished by the board. He shall embody
 36 in that application evidence under oath, satisfactory to
 37 the board, of his possessing the qualifications preliminary
 38 to examination required by this section. He shall pay to
 39 the board a fee of twenty-five dollars at the time of filing
 40 his application, no part of which shall be refunded.

Sec. 5. Examination Required.—The board shall exam-
 2 ine applicants for registration as physical therapists at
 3 such times and places as it may determine, provided,
 4 that the board shall meet at least once each year for this
 5 purpose. The examination shall include a written ex-
 6 amination which shall test the applicant's knowledge of
 7 basic sciences, clinical science, physical therapy pro-
 8 cedures and theory and such other subjects as the board
 9 may deem useful to test the applicant's fitness to practice
 10 physical therapy as defined in this article.

**Sec. 6. Certificate of Registration; Temporary Permit;
 2 Fee.**—The board shall register as a physical therapist
 3 each applicant who proves to the satisfaction of the board
 4 his fitness for a license under the terms of this article.

5 It shall issue to each person licensed a certificate of regis-
6 tration, which shall be prima facie evidence of the right
7 of the person to whom it is issued to represent himself
8 as a physical therapist, subject to the conditions and
9 limitations of this article.

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

Sec. 7. Registration Without Examination; Endorse-
2 **ment.**—The board shall register as a physical therapist
3 any person who (1) applies for such registration after
4 the effective date of this article, and (2) at the time of
5 the effective date of this article is a member of or is
6 eligible for membership in the American physical therapy
7 association or the American registry of physical ther-
8 apists; and (3) is residing in the state at the time of the
9 effective date of this article. At the time of making such

10 applications, such applicant shall pay the board a fee of
11 twenty dollars.

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

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

7 A person licensed under the provisions of this article
8 desiring to retire from practice temporarily, shall send

9 a written notice to the board. Upon receipt of such
10 notice, the board shall place the name of such person
11 upon the inactive list. While remaining on this list the
12 person shall not be subject to the payment of any fee
13 and shall not practice physical therapy in the state.
14 When such person desires to resume practice, application
15 for renewal of license and payment of renewal fee for
16 the current year shall be made to the board.

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

2 —The board, after due notice and hearing, may refuse to
3 license any applicant and may refuse to renew the license
4 of any person, and may suspend or revoke the license of
5 any person:

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

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

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

12 (d) Who has been convicted of a felony or a crime
13 involving moral turpitude.

14 (e) Who is guilty, in the judgment of the board, of
15 gross negligence in his practice as a physical therapist.

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

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

20 (h) Who has treated or undertaken to treat human
21 beings otherwise than by physical therapy and as au-
22 thorized by this article, or who has undertaken to prac-
23 tice independent of the prescription, or direction of a li-
24 censed doctor of medicine or surgery without limitation.

Sec. 10. Unauthorized Practice of Physical Therapy;

2 **Penalty.**—Any person who is not licensed under this
3 article as a physical therapist or whose license has been
4 suspended or revoked, or whose license has lapsed and
5 has not been renewed, who uses in connection with his
6 name the words “physical therapy technician”, “registered
7 physical therapist”, “physical therapist”, or “physio-
8 therapist” or uses the initials r.p.t., p.t.t., p.t., or any other
9 letters, words or insignia indicating or implying that he
10 is a licensed physical therapist, or who in any other way,

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

22 this article be construed to limit or prevent the practice
23 of any form of therapy, massaging, or related treatment
24 by any person not licensed under this article, if such
25 person does not in any way represent himself in any
26 manner to be a licensed physical therapist.

Sec. 13. Collections and Expenditures; Disposition of

2 **Funds.**—All money collected under the provisions of this
3 article shall be deposited in the state treasury as pro-
4 vided by law, and shall be credited to the board in a
5 special fund to be known as "Board of Physical Ther-
6 apists Special Fund". All money in such fund shall be
7 expended only for the administration and enforcement
8 of the provisions of this article, except that at the end of
9 each fiscal year there shall be transferred from this fund
10 to the general revenue fund of the state ten per cent of
11 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

Edith L. Randall

Chairman House Committee

Originated in the House.

Takes effect, July 1 - 1963 passage.

Howard Meyer

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Harvard W. Carson

President of the Senate

Julius W. Sledge

Speaker House of Delegates

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

W. W. Carson

Governor

