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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976



ENROLLED

Committee Substitute for

SENATE BILL NO. 358

(By Mr. *Leath*, *Leight*, & *Johnson*)
original sponsors)



PASSED *March 13* 1976

In Effect *twenty days from* Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE *3/31/76*

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 358

(MR. BROTHERTON, MR. PRESIDENT, and MR. ROGERSON,
original sponsors)

[Passed March 13, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact article twenty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the practice of physical therapy, licensing of persons engaging in the practice of physical therapy and the licensing of persons to act as physical therapy assistants; providing legislative findings and declarations of public policy; defining terms; requiring license for persons engaging in the practice of physical therapy and for persons acting as physical therapy assistants; providing an exception; relating to the circumstances under which a firm, association or corporation may engage in the practice of physical therapy; prohibiting unauthorized practice of physical therapy; continuing the West Virginia state board of examiners and registration of physical therapists; changing the name of such board to the West Virginia board of physical therapy; increasing number of members of the board from three to five; relating to the appointment, qualifications, terms of office, oath, removal and payment of compensation and expenses of members of the board; relating to officers, meetings and quorum of the board; specifying powers and duties of the board; relating to the receipt and disbursement of funds by the board; establishing qualifications for the issuance of a license or temporary permit to engage in the practice of physical

therapy; establishing qualifications for the issuance of a license or temporary permit to act as a physical therapy assistant; providing for examination of applicants; providing for the issuance of licenses and temporary permits, renewals thereof and fees therefor; authorizing the board to suspend or revoke a license or temporary permit and establishing the grounds therefor; authorizing said board to hold hearings; providing a time and place for such hearings; expressly providing that the provisions of chapter twenty-nine-a of the code shall govern such hearings; authorizing the board to issue subpoenas and subpoenas duces tecum in connection with such hearings; providing an automatic stay or suspension of certain orders of the board pending such hearings; relating to the costs for such hearings; providing for judicial review of decisions of the board entered following such hearings; providing for appeals to the supreme court of appeals; providing for legal counsel for the board; establishing criminal penalties; and providing for injunctive relief.

Be it enacted by the Legislature of West Virginia:

That article twenty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-1. Legislative findings and declaration of public policy.

1 The Legislature of the state of West Virginia hereby
2 determines and finds that in the public interest persons
3 should not engage in the practice of physical therapy
4 or act as physical therapy assistants without the requisite
5 experience and training and without adequate regula-
6 tion and control; and that it is necessary to protect the
7 citizens of this state from the unauthorized, unqualified
8 and unregulated practice of physical therapy. It is there-
9 fore declared to be the public policy of this state that
10 the practice of physical therapy affects the general wel-
11 fare and public interest of the state and its citizens;
12 that persons without the necessary qualifications, train-
13 ing and education and persons not of good character
14 should not engage in the practice of physical therapy

15 or act as physical therapy assistants; and that the evils
16 of such unauthorized and unqualified practice may be
17 best prevented and the interests of the public best
18 served by regulating and controlling such practice as
19 provided in this article.

§30-20-2. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this article:

3 (a) "Applicant" means any person making application
4 for an original or renewal license or a temporary permit
5 under the provisions of this article.

6 (b) "Board" means the West Virginia board of physical
7 therapy.

8 (c) "Licensed physical therapist" means any physical
9 therapist holding a license or temporary permit issued
10 under the provisions of this article or under the former
11 provisions of this article.

12 (d) "Licensed physical therapy assistant" means any
13 physical therapy assistant holding a license or temporary
14 permit issued under the provisions of this article.

15 (e) "Licensee" means any person holding a license
16 or temporary permit issued under the provisions of
17 this article or under the former provisions of this
18 article.

19 (f) "Physical therapy" means the therapeutic treat-
20 ment of any person by the use of massage, mechanical
21 stimulation, heat, cold, light, air, water, electricity, sound
22 and exercise, including mobilization of the joints and
23 training in functional activities, for the purpose of cor-
24 recting or alleviating any physical or mental condition
25 or preventing the development of any physical or mental
26 disability, and the performance of neuro-muscular-skeletal
27 tests and measurements as an aid in diagnosis, evaluation
28 or determination of the existence of and the extent of
29 any body malfunction: *Provided*, That electromyography
30 examination and electrodiagnostic studies other than
31 the determination of chronaxia and strength duration
32 curves shall not be performed except under the super-
33 vision of a physician electromyographer and electro-

34 diagnostician. Physical therapy does not include the use
35 of radiology and radium for diagnostic and therapeutic
36 purposes, or the use of electricity for surgical purposes,
37 including cauterization.

38 (g) "Physical therapist" means a person who engages
39 in the practice of physical therapy.

40 (h) "Physical therapy aide" means a person, other than
41 a physical therapy assistant, who assists a licensed physi-
42 cal therapist in the practice of physical therapy under
43 the direct supervision of such licensed physical thera-
44 pist and who also performs activities supportive of
45 but not involving assistance in the practice of physical
46 therapy.

47 (1) As contained in this section, the term "direct
48 supervision" shall mean the actual physical presence of
49 the physical therapist.

50 (i) "Physical therapy assistant" means a person who
51 assists in the practice of physical therapy by performing
52 patient-related activities delegated to him by a licensed
53 physical therapist and performed under the direct super-
54 vision of such licensed physical therapist and which are
55 commensurate with his education and training, including
56 physical therapy procedures, but not the interpretation
57 of referrals, performance of evaluation procedures or
58 determination and modification of patient programs.

59 (j) "Practice of physical therapy" means the render-
60 ing or offering to render for a fee, salary or other
61 compensation, monetary or otherwise, any service in-
62 volving physical therapy. However, for the purpose of
63 section three of this article, the term "practice of physical
64 therapy" shall not include:

65 (1) Teaching physical therapy as part of employment
66 at an institution of higher learning; or

67 (2) The activities of a student of physical therapy,
68 physical therapy extern or physical therapy intern, which
69 activities are a part of and are engaged in pursuant to
70 a course of study at an institution of higher learning,
71 including, but not limited to, activities conducted at
72 the institution of higher learning and activities con-

73 ducted outside the institution if under the direct super-
74 vision of a licensed physical therapist; or

75 (3) The activities of a physical therapy aide if all
76 activities of such physical therapy aide involving assis-
77 tance in the practice of physical therapy are performed
78 under the direct supervision of a licensed physical
79 therapist; or

80 (4) The administration of simple massages and the
81 operation of health clubs so long as not intended to
82 constitute or represent the practice of physical therapy.

§30-20-3. License required; exception; firms, associations and corporations engaging in the practice of physical therapy; unauthorized practice of physical therapy.

1 (a) No person shall engage in, offer to engage in or
2 hold himself out to the public as being engaged in,
3 the practice of physical therapy in this state unless he
4 is a licensed physical therapist: *Provided*, That the fore-
5 going prohibition shall not apply to the activities of a
6 licensed physical therapy assistant performed in accor-
7 dance with the definitional requirements of a physical
8 therapy assistant as specified in subdivision (1), sec-
9 tion two of this article. No person shall use in connec-
10 tion with his name the words "physical therapy techni-
11 cian," "registered physical therapist," "physical therapist,"
12 "licensed physical therapist" or "physiotherapist" or use
13 the initials "R.P.T.," "P.T.T.," "P.T." or any other letters,
14 words or insignia which induces or tends to induce the
15 belief that such person is qualified to engage or is
16 engaged in the practice of physical therapy, unless he
17 is a licensed physical therapist. No person shall use in
18 connection with his name the words "physical therapy
19 assistant," "registered physical therapy assistant" or
20 "licensed physical therapy assistant" or use the initials
21 "P.T.A.," "A.P.T." or any other letters, words or insignia
22 which induces or tends to induce the belief that such
23 person is qualified to act or is acting as a physical
24 therapy assistant, unless he is a licensed physical therapy
25 assistant. No firm, association or corporation shall, ex-
26 cept through a licensee or licensees, render any service
27 or engage in any activity which if rendered or engaged

28 in by any individual would constitute the practice of
29 physical therapy.

30 (b) Notwithstanding the provisions of subsection (a)
31 of this section, any person who practiced physical therapy
32 in this state for five continuous years prior to July
33 one, one thousand nine hundred sixty-three, and who
34 was eligible to qualify for a license under the former
35 provisions of this article by successful completion of
36 a written examination provided by the board and who
37 has not yet successfully completed such examination,
38 may continue to practice physical therapy without a
39 license or temporary permit issued under the provisions
40 of this article, and notwithstanding that such person does
41 not meet the educational requirement specified in sub-
42 division (5), subsection (a), section six of this article,
43 may continue to take such examination: *Provided, how-*
44 *ever,* That unless and until such person passes such
45 examination, such person shall not use in connection
46 with his name the words "physical therapy technician,"
47 "registered physical therapist," "physical therapist,"
48 "licensed physical therapist" or "physiotherapist" or use
49 the initials "R.P.T.," "P.T.T.," "P.T." or any other letters,
50 words or insignia which induces or tends to induce the
51 belief that such person is a licensed physical therapist.

52 (c) No person shall act, nor hold himself out as being
53 able to act, as a physical therapy assistant unless he
54 is a licensed physical therapy assistant.

55 (d) Nothing contained within this article shall pro-
56 hibit any person licensed in this state under any other
57 article of this code from engaging in the practice for
58 which he is licensed.

59 (e) Nothing contained within this article shall be
60 construed as authorizing a physical therapist, or physical
61 therapy assistant, or any other person to practice medi-
62 cine, surgery, osteopathy, homeopathy, chiropractics,
63 naturopathy or any other form, branch or method of
64 healing as authorized by the laws of the state of West
65 Virginia.

66 (f) A licensed physical therapist shall not treat per-
67 sons by physical therapy or otherwise other than upon

68 referral by a licensed physician or surgeon, dentist,
69 osteopathic physician and surgeon or chiropodist-
70 podiatrist. A licensed physical therapy assistant shall not
71 practice physical therapy other than in accordance with
72 the definitional requirements of a physical therapy assis-
73 tant as specified in subdivision (i), section two of this
74 article.

**§30-20-4. West Virginia board of physical therapy continued;
members, terms, meetings, officers, oath, compensa-
tion and expenses; general provisions.**

1 (a) The West Virginia state board of examiners and
2 registration of physical therapists heretofore created shall
3 continue in existence but on and after the effective date
4 of this article shall be known and designated as "the
5 West Virginia board of physical therapy," and shall
6 consist of five members appointed by the governor by
7 and with the advice and consent of the Senate. The
8 three members of the board in office on the effective
9 date of this article shall, unless sooner removed, con-
10 tinue to serve until their terms expire and until their
11 successors have been appointed and have qualified. On
12 or before July one, one thousand nine hundred seventy-
13 six, the governor shall appoint one member to serve
14 until June thirty, one thousand nine hundred seventy-
15 nine, and one member to serve until June thirty, one
16 thousand nine hundred eighty, or until their successors
17 have been appointed and have qualified. As the terms
18 of the three members of the board in office on the ef-
19 fective date of this article expire and as the terms of
20 the two members to be appointed by the governor on
21 or before July one, one thousand nine hundred seventy-
22 six, expire, members shall be appointed for overlapping
23 terms of five years, so that one term expires each year,
24 or until their successors have been appointed and have
25 qualified. Any vacancy shall be filled by appointment
26 by the governor for the unexpired term of the member
27 whose office shall be vacant and any such appointment
28 shall be made within sixty days of the occurrence of
29 such vacancy. The governor may remove any member

30 of the board in case of incompetency, neglect of duty,
31 gross immorality or malfeasance in office.

32 (b) Each member of the board must be licensed under
33 the provisions of this article or under the former pro-
34 visions of this article, have at least three years' experi-
35 ence as a physical therapist and be actively engaged
36 in the practice of physical therapy. Members may be
37 reappointed for any number of terms. Before entering
38 upon the performance of this duty, each member shall
39 take and subscribe to the oath prescribed by section
40 five, article four of the constitution of this state.

41 (c) The board shall elect from its membership a chair-
42 man and secretary who shall serve at the will and
43 pleasure of the board. A majority of the members
44 of the board shall constitute a quorum and meetings
45 shall be held at the call of the chairman or upon the
46 written request of three members at such time and place
47 as designated in such call or request, and, in any event,
48 the board shall meet at least once annually to con-
49 duct the examinations hereinafter provided for and to
50 transact such other business as may come before it.
51 Members may be paid such reasonable compensation
52 as the board may from time to time determine, and in
53 addition may be reimbursed for all reasonable and neces-
54 sary expenses actually incurred in the performance of
55 their duties, which compensation and expenses shall be
56 paid in accordance with the provisions of subsection (b),
57 section five of this article.

§30-20-5. Powers and duties of board; funds of board.

1 (a) The board shall:

2 (1) Examine applicants and determine their eligibility
3 for a license or temporary permit to engage in the prac-
4 tice of physical therapy or to act as a physical therapy
5 assistant, as the case may be;

6 (2) Prepare or approve, conduct and grade or pro-
7 vide for the grading of, an apt and proper written or
8 written and oral examination of applicants for a license
9 to engage in the practice of physical therapy and a
10 separate examination of applicants for a license to act
11 as a physical therapy assistant;

12 (3) Determine the time and place for any such exami-
13 nations and the passing score for each such separate
14 examination;

15 (4) Promulgate reasonable rules and regulations imple-
16 menting the provisions of this article and the powers
17 and duties conferred upon the board hereby, including,
18 but not limited to, (1) reasonable rules and regulations
19 establishing standards to insure that the activities of
20 a licensed physical therapy assistant are performed in
21 accordance with the definitional requirements of a physi-
22 cal therapy assistant as specified in subdivision (i), sec-
23 tion two of this article, which reasonable rules and
24 regulations shall require that there shall be no more than
25 two physical therapy assistants licensed to practice in
26 this state for every physical therapist so licensed and
27 shall require that no more than two physical therapy
28 assistants be performing under the direct supervision of
29 a licensed physical therapist at any one time, and (2)
30 reasonable rules and regulations establishing standards
31 to insure that those activities of a physical therapy aide
32 involving assistance in the practice of physical therapy
33 are performed under the direct supervision of a licensed
34 physical therapist, which reasonable rules and regula-
35 tions shall require that a licensed physical therapist be
36 on the premises at all times while such activities of the
37 physical therapy aide are being performed, all of which
38 reasonable rules and regulations shall be promulgated
39 in accordance with the provisions of article three, chap-
40 ter twenty-nine-a of this code;

41 (5) Issue, renew, deny, suspend or revoke licenses and
42 temporary permits to engage in the practice of physical
43 therapy or licenses and temporary permits to act as
44 physical therapy assistants in accordance with the pro-
45 visions of this article and, in accordance with the ad-
46 ministrative procedures hereinafter provided, may renew,
47 affirm, reverse, vacate or modify its order with respect
48 to any such denial, suspension or revocation;

49 (6) Investigate alleged violations of any provision of
50 this article, any reasonable rule and regulation promul-
51 gated hereunder and any order or final decision of the
52 board and take appropriate disciplinary action against

53 any licensee for the violation thereof or institute appro-
54 priate legal action for the enforcement of any provision
55 of this article, any reasonable rule and regulation promul-
56 gated hereunder and any order or final decision of the
57 board or take such disciplinary action and institute such
58 legal action;

59 (7) Purchase or rent necessary office space, equipment
60 and supplies and employ, direct, discharge and define
61 the duties of an executive secretary and other full-time
62 or part-time professional, clerical or other personnel
63 necessary to effectuate the provisions of this article;

64 (8) Maintain a register listing the name of every
65 licensed physical therapist and licensed physical therapy
66 assistant, his last known place of business or employment
67 and last known residence, and the date and certificate
68 number of his license; prepare annually from such regis-
69 ter a list of every such licensed physical therapist and
70 licensed physical therapy assistant; furnish such list free
71 of charge to the superintendent or administrator of every
72 known hospital in this state and every licensed physician
73 or surgeon, dentist, osteopathic physician and surgeon or
74 chiroprapist-podiatrist in this state who requests the same;
75 and furnish such list to any other interested person who
76 makes application therefor and who pays to the board
77 the reasonable cost of the copy of such list;

78 (9) Keep accurate and complete records of its pro-
79 ceedings, certify the same as may be appropriate and
80 submit to the governor a report on the transactions of
81 the board including an accounting of all money received
82 and disbursed;

83 (10) Whenever it deems it appropriate, confer with
84 the attorney general or his assistants in connection with
85 all legal matters and questions, whose responsibility it
86 shall be to render all legal assistance required; and

87 (11) Take such other action as may be reasonably
88 necessary and appropriate to effectuate the provisions
89 of this article.

90 (b) All moneys paid to the board shall be accepted
91 by a person designated by the board and deposited by
92 him with the treasurer of the state and credited to an

93 account to be known as the "West Virginia Board of
 94 Physical Therapy." The compensation of and the reim-
 95 bursement of all reasonable and necessary expenses
 96 actually incurred by the members of the board and all
 97 other costs and expenses incurred by the board in the
 98 administration of this article shall be paid from such
 99 fund, and no part of the state's general revenue fund
 100 shall be expended for such purpose.

§30-20-6. Qualifications of applicants for license; application fee.

1 (a) To be eligible for a license to engage in the
 2 practice of physical therapy, the applicant must:

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

4 (2) Be of good moral character;

5 (3) Not be addicted to the intemperate use of alcohol
 6 or narcotic drugs or other controlled substances;

7 (4) Not have been convicted of a felony in any state
 8 or federal court in this or any other state within ten
 9 years preceding the date of application for license, which
 10 conviction remains unreversed; and not have been con-
 11 victed of a felony in any state or federal court in this
 12 or any other state at any time if the offense for which
 13 he was convicted related to the practice of physical
 14 therapy, which conviction remains unreversed;

15 (5) Present evidence that he is a graduate of a school
 16 of physical therapy approved by the American physical
 17 therapy association and the board: *Provided*, That any
 18 person who received his education in physical therapy
 19 outside of the United States may qualify for a license
 20 by fulfilling the requirements specified by the American
 21 physical therapy association and the board, including
 22 successful completion of a period of supervised clinical
 23 experience; and

24 (6) Either have passed the examination prescribed by
 25 the board for a license to engage in the practice of
 26 physical therapy, or be entitled to be licensed with-
 27 out examination as provided in subsection (d) of this
 28 section.

29 (b) To be eligible for a license to act as a physical
30 therapy assistant, the applicant must:

31 (1) Satisfy the requirements of subdivisions (1) through
32 (4), subsection (a) of this section;

33 (2) Present evidence that he is a graduate of a two-
34 year college level education program for physical therapy
35 assistants which meets the standards established by the
36 American physical therapy association and the board;
37 and

38 (3) Either have passed the examination prescribed by
39 the board for a license to act as a physical therapy assis-
40 tant, or be entitled to be licensed without examination
41 as provided in subsection (d) of this section.

42 (c) Although an applicant does not meet the educa-
43 tional requirement specified in subdivision (2), subsec-
44 tion (b) of this section, the board may, nevertheless,
45 issue a license to act as a physical therapy assistant
46 to such applicant if such applicant (i) presents evidence
47 that he has a high school diploma or its equivalent; (ii)
48 meets the requirements of subdivision (1), subsection (b)
49 of this section; (iii) presents sufficient and satisfactory
50 written evidence to the board on or before July one,
51 one thousand nine hundred seventy-nine, that such appli-
52 cant has been employed as a physical therapy aide under
53 the supervision of a licensed physical therapist in this
54 state on a full-time basis for a continuous period of at
55 least two years, or for cumulative periods of time either
56 full-time or part-time which equal two years full-time
57 employment, between January one, one thousand nine
58 hundred seventy-one, and July one, one thousand nine
59 hundred seventy-nine; and (iv) successfully passes the
60 examination required for a license to act as a physical
61 therapy assistant: *Provided, however,* That such appli-
62 cant shall be afforded only two opportunities to pass
63 such examination.

64 (d) The board may issue a license to practice physical
65 therapy or a license to act as a physical therapy assistant,
66 without examination, to any applicant who holds a valid
67 license or is registered to engage in the practice of

68 physical therapy or to act as a physical therapy assistant,
69 as the case may be, issued to him under the laws of
70 another state or territory or possession of the United
71 States: *Provided further*, That the applicant's qualifica-
72 tions are in the opinion of the board equal to or greater
73 than the requirements of this article and the rules and
74 regulations promulgated by the board.

75 (e) Any applicant for a license under the provisions
76 of subsection (a), (b), (c) or (d) of this section shall
77 submit an application therefor at such time, in such
78 manner, on such forms and containing such information
79 as the board shall from time to time by reasonable rule
80 and regulation prescribe and pay to the board a nonre-
81 fundable application fee of sixty dollars in the case of
82 an application for a license to engage in the practice of
83 physical therapy and thirty dollars in the case of an
84 application for a license to act as a physical therapy
85 assistant.

§30-20-7. Examination of applicants.

1 The board shall give the prescribed examination to ap-
2 plicants for a license to engage in the practice of physical
3 therapy and the prescribed examination to applicants for
4 a license to act as a physical therapy assistant, who meet
5 the appropriate other requirements of section six of this
6 article. The examination for a license to engage in the
7 practice of physical therapy shall include a written exam-
8 ination which shall test the applicant's advanced knowl-
9 edge of anatomical, biological and physical sciences, physi-
10 cal therapy procedures and theory and such other subjects
11 as the board may deem appropriate to test the applicant's
12 fitness to engage in the practice of physical therapy. The
13 examination for a license to act as a physical therapy
14 assistant shall include a written examination which shall
15 test the applicant's knowledge of anatomical, biological
16 and physical science, physical therapy procedures and
17 theory: *Provided*, That the examination given to appli-
18 cants for a license to act as a physical therapy assistant
19 under subsection (c), section six of this article, shall be
20 prepared and graded by the board and shall test only the
21 applicant's knowledge of physical therapy procedures and

22 theory. All examinations shall be held within this state, at
23 least once each year, at such time and place as the board
24 shall determine. Except as provided in subsection (c), sec-
25 tion six of this article, there shall be no limit to the num-
26 ber of times that an applicant may make application for
27 and take the required examination for a license to engage
28 in the practice of physical therapy or the required exami-
29 nation to act as a physical therapy assistant: *Provided,*
30 *however,* That for each such application, the applicant
31 shall pay the appropriate application fee prescribed in
32 subsection (e), section six of this article.

**§30-20-8. Issuance of license; renewal of license; renewal fee;
display of license.**

1 (a) Whenever the board finds that an applicant meets
2 all of the requirements of this article for a license to en-
3 gage in the practice of physical therapy or to act as a
4 physical therapy assistant, as the case may be, it shall
5 forthwith issue to him such license; and otherwise the
6 board shall deny the same.

7 (b) Every licensee shall renew his license on or before
8 January one of each year by payment of a fee of twenty
9 dollars in the case of a license to engage in the practice
10 of physical therapy and ten dollars in the case of a license
11 to act as a physical therapy assistant. Any license which
12 is not so renewed shall automatically lapse. A license
13 which has lapsed may be renewed within five years of its
14 expiration date by payment to the board of the appropri-
15 ate renewal fee for each year or part thereof during which
16 the license was not renewed. After the expiration of such
17 five-year period, a license may be renewed only by com-
18 plying with the provisions herein relating to the issuance
19 of an original license.

20 (c) A licensee desiring to cease engaging in the practice
21 of physical therapy temporarily or to cease acting tempo-
22 rarily as a physical therapy assistant shall send a written
23 notice to the board. Upon receipt of such notice, the board
24 shall place the name of such person upon the inactive list.
25 While his name remains on this list, such person shall not
26 be subject to the payment of any fee and shall not engage

27 in the practice of physical therapy or act as a physical ther-
28 apy assistant, as the case may be, in this state. When such
29 person again desires to engage in the practice of physical
30 therapy or to act as a physical therapy assistant, applica-
31 tion for renewal of the license and the payment of a re-
32 newal fee for the then current year shall be made to the
33 board.

34 (d) The board may deny any application for renewal
35 of a license for any reason which would justify the denial
36 of an original application for a license.

37 (e) The board shall prescribe the form of licenses and
38 each license shall be conspicuously displayed by the
39 licensee at his principal place of practice, or, in the case of
40 a license to act as a physical therapy assistant, at his place
41 of employment.

42 (f) Any license issued under the former provisions of
43 this article, which license remains unsuspended and un-
44 revoked, shall be valid and considered for all purposes as
45 having been issued under the provisions of this article and
46 may be renewed, suspended or revoked as licenses issued
47 under the provisions of this article, and any license issued
48 under the former provisions of this article which has
49 lapsed or shall hereafter lapse shall be subject to the pro-
50 visions of subsection (b) of this section pertaining to the
51 lapse of a license issued under the provisions of this article
52 and the renewal thereof.

§30-20-9. Temporary permits.

1 (a) Upon proper application and the payment of a
2 nonrefundable fee of twenty dollars, the board may issue,
3 without examination, a temporary permit to engage in
4 the practice of physical therapy in this state:

5 (1) Pending examination, to any applicant who meets
6 the requirements of subdivisions (1) through (5), sub-
7 section (a), section six of this article, which temporary
8 permit shall expire thirty days after the board gives
9 written notice of the results of the examination held
10 next following the issuance of such temporary permit,
11 but upon such expiration, one additional temporary
12 permit may be obtained by such applicant, upon proper

13 application therefor and the payment of a nonrefundable
14 fee of twenty dollars; and

15 (2) To an applicant who is not a resident of this state
16 and who meets the requirements of subdivisions (1)
17 through (5), subsection (a), section six of this article,
18 which temporary permit shall be valid only for a period
19 of ninety days in the calendar year in which issued and
20 such permit may not be renewed nor another thereof
21 issued to the same person in the same calendar year.

22 (b) Upon proper application and the payment of a
23 nonrefundable fee of ten dollars, the board may issue,
24 without examination, a temporary permit to act as a
25 physical therapy assistant in this state:

26 (1) Pending examination, to an applicant who meets
27 the requirements of subdivisions (1) and (2), subsection
28 (b), section six of this article, which temporary permit
29 shall expire thirty days after the board gives written
30 notice of the results of the examination held next follow-
31 ing the issuance of such temporary permit, but upon
32 such expiration, one additional temporary permit may
33 be obtained by such applicant, upon proper application
34 therefor and the payment of a nonrefundable fee of ten
35 dollars; and

36 (2) To an applicant who is not a resident of this state
37 and who meets the requirements of subdivisions (1) and
38 (2), subsection (b), section six of this article, which
39 temporary permit shall be valid only for a period of
40 ninety days in the calendar year in which issued and
41 such permit may not be renewed nor another thereof
42 issued to the same person in the same calendar year.

§30-20-10. Suspension or revocation of license or temporary permit.

1 (a) The board may at any time upon its own motion,
2 and shall upon the written complaint of any person,
3 conduct an investigation to determine whether there
4 are any grounds for the suspension or revocation of a
5 license or temporary permit issued under the provisions
6 of this article.

7 (b) The board shall suspend or revoke any license or
8 temporary permit when it finds the holder thereof has:

9 (1) Used narcotic drugs, other controlled substances
10 or alcohol to the extent that it affects his professional
11 competency; or

12 (2) Been convicted of violating any state or federal
13 law relating to controlled substances, which conviction
14 remains unreversed; or

15 (3) Been, in the judgment of the board, guilty of
16 immoral or unprofessional conduct; or

17 (4) Been convicted of a felony or a crime involving
18 moral turpitude; or

19 (5) Been declared mentally incompetent by a court
20 of competent jurisdiction; or

21 (6) Obtained or attempted to obtain a license issued
22 under the provisions of this article by fraud or willful
23 misrepresentation; or

24 (7) Been grossly negligent in the practice of physical
25 therapy or in acting as a physical therapy assistant, as
26 the case may be; or

27 (8) Treated or undertaken to treat a human being
28 otherwise than by physical therapy and as authorized
29 by this article; or

30 (9) Failed or refused to comply with the provisions
31 of this article or any reasonable rule and regulation
32 promulgated by the board hereunder or any order or
33 final decision of the board; or

34 (10) In the case of a physical therapist, practiced
35 physical therapy other than upon the referral by a
36 licensed physician or surgeon, dentist, osteopathic physi-
37 cian and surgeon or chiropracist-podiatrist; or employed
38 a physical therapy assistant who is not a licensed physi-
39 cal therapy assistant; or employed or utilized a licensed
40 physical therapy assistant or physical therapy aide with-
41 out complying with the provisions of this article or the
42 rules and regulations of the board; or

43 (11) In the case of a physical therapy assistant, prac-
44 ticed physical therapy other than in accordance with the

45 definitional requirements of a physical therapy assistant
46 as specified in subdivision (i), section two of this article.

47 (c) The board shall also suspend or revoke any license
48 or temporary permit if it finds the existence of any
49 grounds which would justify the denial of an application
50 for a license or temporary permit if application were
51 then being made for it.

§30-20-11. Procedures for hearing.

1 (a) Whenever the board shall deny an application for
2 any original or renewal license or any application for a
3 temporary permit or shall suspend or revoke any license
4 or temporary permit it shall make and enter an order to
5 that effect and serve a copy thereof on the applicant or
6 licensee, as the case may be, by certified mail, return re-
7 ceipt requested. Such order shall state the grounds for
8 the action taken and shall require that any license or
9 temporary permit suspended or revoked thereby shall
10 be returned to the board by the holder within twenty
11 days after receipt of said copy of said order.

12 (b) Any person adversely affected by any such order
13 shall be entitled to a hearing thereon (as to all issues not
14 excluded from the definition of a "contested case" as set
15 forth in article one, chapter twenty-nine-a of this code)
16 if, within twenty days after receipt of a copy thereof, he
17 files with the board a written demand for such hearing. A
18 demand for hearing shall operate automatically to stay or
19 suspend the execution of any order suspending or re-
20 voking a license or temporary permit or denying an appli-
21 cation for a renewal license or denying a temporary
22 permit to act as a physical therapy assistant. The board
23 may require the person demanding such hearing to give
24 reasonable security for the costs thereof, and, if such per-
25 son does not substantially prevail at such hearing, such
26 costs shall be assessed against him and may be collected
27 by a civil action or other proper remedy.

28 (c) Upon receipt of a written demand for such hearing,
29 the board shall set a time and place therefor not less than
30 ten nor more than thirty days thereafter. Any scheduled
31 hearing may be continued by the board upon its own mo-

32 tion or for good cause shown by the person demanding the
33 hearing.

34 (d) All of the pertinent provisions of article five, chap-
35 ter twenty-nine-a of this code shall apply to and govern the
36 hearing and the administrative procedures in connection
37 with and following such hearing, with like effect as if the
38 provisions of said article five were set forth in this sub-
39 section.

40 (e) Any such hearing shall be conducted by a quorum
41 of the board. For the purpose of conducting any such
42 hearing any member of the board shall have the power
43 and authority to issue subpoenas and subpoenas duces
44 tecum which shall be issued and served within the time
45 and for the fees and shall be enforced, as specified in sec-
46 tion one, article five of said chapter twenty-nine-a, and all
47 of the said section one provisions dealing with subpoenas
48 and subpoenas duces tecum shall apply to subpoenas and
49 subpoenas duces tecum issued for the purpose of a hear-
50 ing hereunder.

51 (f) At any such hearing the person who demanded the
52 same may represent himself or be represented by an at-
53 torney-at-law admitted to practice before any circuit
54 court of this state. Upon request by the board, it shall be
55 represented at any such hearing by the attorney general
56 or his assistants without additional compensation.

57 (g) After any such hearing and consideration of all of
58 the testimony, evidence and record in the case, the board
59 shall render its decision in writing. The written decision
60 of the board shall be accompanied by findings of fact and
61 conclusions of law as specified in section three, article five,
62 chapter twenty-nine-a of this code, and a copy of such
63 decision and accompanying findings and conclusions shall
64 be served by certified mail, return receipt requested, upon
65 the person demanding such hearing, and his attorney of
66 record, if any.

67 (h) The decision of the board shall be final unless re-
68 versed, vacated or modified upon judicial review thereof
69 in accordance with the provisions of section twelve of this
70 article.

§30-20-12. Judicial review; appeal to supreme court of appeals; legal representation for board.

1 Any person adversely affected by a decision of the board
2 rendered after a hearing held in accordance with the pro-
3 visions of section eleven of this article shall be entitled to
4 judicial review thereof. All of the pertinent provisions of
5 section four, article five, chapter twenty-nine-a of this
6 code shall apply to and govern such judicial review with
7 like effect as if the provisions of said section four were set
8 forth in this section.

9 The judgment of the circuit court shall be final unless
10 reversed, vacated or modified on appeal to the supreme
11 court of appeals in accordance with the provisions of sec-
12 tion one, article six, chapter twenty-nine-a of this code.

13 Legal counsel and services for the board in all appeal
14 proceedings in any circuit court and the supreme court of
15 appeals shall be provided by the attorney general or his
16 assistants and in any circuit court by the prosecuting
17 attorney of the county as well, all without additional
18 compensation.

§30-20-13. Penalties.

1 Any person who violates any provision of this article,
2 any reasonable rule and regulation promulgated here-
3 under or any order or any final decision of the board shall
4 be guilty of a misdemeanor, and, upon conviction thereof,
5 shall be fined not more than five hundred dollars, or im-
6 prisoned in the county jail not more than six months, or
7 both fined and imprisoned.

§30-20-14. Actions to enjoin violations.

1 Whenever it appears to the board that any person has
2 been or is violating or is about to violate any provision
3 of this article, any reasonable rule and regulation pro-
4 mulgated hereunder or any order or final decision of
5 the board, the board may apply in the name of the
6 state to the circuit court of the county in which the
7 violation or violations or any part thereof has occurred,
8 is occurring or is about to occur, or the judge thereof
9 in vacation, for an injunction against such person and

10 any other persons who have been, are or are about to
11 be, involved in any practices, acts or omissions, so in
12 violation, enjoining such person or persons from any
13 such violation or violations. Such application may be
14 made and prosecuted to conclusion whether or not any
15 such violation or violations have resulted or shall result
16 in prosecution or conviction under the provisions of
17 section thirteen of this article.

18 Upon application by the board, the circuit courts of
19 this state may by mandatory or prohibitory injunction
20 compel compliance with the provisions of this article,
21 the reasonable rules and regulations promulgated here-
22 under and all orders and final decisions of the board. The
23 court may issue a temporary injunction in any case
24 pending a decision on the merits of any application filed.

25 The judgment of the circuit court upon any application
26 permitted by the provisions of this section shall be final
27 unless reversed, vacated or modified on appeal to the
28 supreme court of appeals. Any such appeal shall be
29 sought in the manner and within the time provided by
30 law for appeals from circuit courts in other civil actions.

31 The board shall be represented in all such proceedings
32 by the attorney general or his assistants and in such
33 proceedings in the circuit court by the prosecuting at-
34 torneys of the several counties as well, all without
35 additional compensation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Chubb
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. C. Dillon, Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. B. Roberts, Jr.
President of the Senate

Lewis H. McManus
Speaker House of Delegates

The within *approved* this the *29th*
day of *March*, 1976

Archa Shaary, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/24/76

Time 3:45 p.m.