WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED
Committee Substitute for
SENATE BILL NO. 358

(By Mr. [Signature]

Original Sponsor)

PASSED March 13, 1976

In Effect [signature]

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/31/76
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.

The Legislature of the state of West Virginia hereby determines and finds that in the public interest persons should not engage in the practice of physical therapy or act as physical therapy assistants without the requisite experience and training and without adequate regulation and control; and that it is necessary to protect the citizens of this state from the unauthorized, unqualified and unregulated practice of physical therapy. It is therefore declared to be the public policy of this state that the practice of physical therapy affects the general welfare and public interest of the state and its citizens; that persons without the necessary qualifications, training and education and persons not of good character should not engage in the practice of physical therapy
or act as physical therapy assistants; and that the evils
of such unauthorized and unqualified practice may be
best prevented and the interests of the public best
served by regulating and controlling such practice as
provided in this article.

§30-20-2. Definitions.

1 Unless the context in which used clearly requires a
different meaning, as used in this article:
2 (a) "Applicant" means any person making application
for an original or renewal license or a temporary permit
under the provisions of this article.
3 (b) "Board" means the West Virginia board of physical
therapy.
4 (c) "Licensed physical therapist" means any physical
therapist holding a license or temporary permit issued
under the provisions of this article or under the former
provisions of this article.
5 (d) "Licensed physical therapy assistant" means any
physical therapy assistant holding a license or temporary
permit issued under the provisions of this article.
6 (e) "Licensee" means any person holding a license
or temporary permit issued under the provisions of
this article or under the former provisions of this
article.
7 (f) "Physical therapy" means the therapeutic treat-
ment of any person by the use of massage, mechanical
stimulation, heat, cold, light, air, water, electricity, sound
and exercise, including mobilization of the joints and
training in functional activities, for the purpose of cor-
recting or alleviating any physical or mental condition
or preventing the development of any physical or mental
disability, and the performance of neuro-muscular-skeletal
tests and measurements as an aid in diagnosis, evaluation
or determination of the existence of and the extent of
any body malfunction: Provided, That electromyography
examination and electrodiagnostic studies other than
the determination of chronaxia and strength duration
curves shall not be performed except under the super-
vision of a physician electromyographer and electro-
diagnostician. Physical therapy does not include the use of radiology and radium for diagnostic and therapeutic purposes, or the use of electricity for surgical purposes, including cauterization.

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

(h) "Physical therapy aide" means a person, other than a physical therapy assistant, who assists a licensed physical therapist in the practice of physical therapy under the direct supervision of such licensed physical therapist and who also performs activities supportive of but not involving assistance in the practice of physical therapy.

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

(j) "Physical therapy assistant" means a person who assists in the practice of physical therapy by performing patient-related activities delegated to him by a licensed physical therapist and performed under the direct supervision of such licensed physical therapist and which are commensurate with his education and training, including physical therapy procedures, but not the interpretation of referrals, performance of evaluation procedures or determination and modification of patient programs.

(j) "Practice of physical therapy" means the rendering or offering to render for a fee, salary or other compensation, monetary or otherwise, any service involving physical therapy. However, for the purpose of section three of this article, the term "practice of physical therapy" shall not include:

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

(2) The activities of a student of physical therapy, physical therapy extern or physical therapy intern, which activities are a part of and are engaged in pursuant to a course of study at an institution of higher learning, including, but not limited to, activities conducted at the institution of higher learning and activities con-
ducted outside the institution if under the direct supervision of a licensed physical therapist; or

(3) The activities of a physical therapy aide if all activities of such physical therapy aide involving assistance in the practice of physical therapy are performed under the direct supervision of a licensed physical therapist; or

(4) The administration of simple massages and the operation of health clubs so long as not intended to 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.

(a) No person shall engage in, offer to engage in or hold himself out to the public as being engaged in, the practice of physical therapy in this state unless he is a licensed physical therapist: Provided, That the foregoing prohibition shall not apply to the activities of a licensed physical therapy assistant performed in accordance with the definitional requirements of a physical therapy assistant as specified in subdivision (1), section two of this article. No person shall use in connection with his name the words "physical therapy technician," "registered physical therapist," "physical therapist," "licensed physical therapist" or "physiotherapist" or use the initials "R.P.T.," "P.T.T.," "P.T." or any other letters, words or insignia which induces or tends to induce the belief that such person is qualified to engage or is engaged in the practice of physical therapy, unless he is a licensed physical therapist. No person shall use in connection with his name the words "physical therapy assistant," "registered physical therapy assistant" or "licensed physical therapy assistant" or use the initials "P.T.A.," "A.P.T." or any other letters, words or insignia which induces or tends to induce the belief that such person is qualified to act or is acting as a physical therapy assistant, unless he is a licensed physical therapy assistant. No firm, association or corporation shall, except through a licensee or licensees, render any service or engage in any activity which if rendered or engaged
in by any individual would constitute the practice of physical therapy.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who practiced physical therapy in this state for five continuous years prior to July one, one thousand nine hundred sixty-three, and who was eligible to qualify for a license under the former provisions of this article by successful completion of a written examination provided by the board and who has not yet successfully completed such examination, may continue to practice physical therapy without a license or temporary permit issued under the provisions of this article, and notwithstanding that such person does not meet the educational requirement specified in subdivision (5), subsection (a), section six of this article, may continue to take such examination: Provided, however, That unless and until such person passes such examination, such person shall not use in connection with his name the words "physical therapy technician," "registered physical therapist," "physical therapist," "licensed physical therapist" or "physiotherapist" or use the initials "R.P.T.," "P.T.T.," "P.T." or any other letters, words or insignia which induces or tends to induce the belief that such person is a licensed physical therapist.

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

(d) Nothing contained within this article shall prohibit any person licensed in this state under any other article of this code from engaging in the practice for which he is licensed.

(e) Nothing contained within this article shall be construed as authorizing a physical therapist, or physical therapy assistant, or any other person to practice medicine, surgery, osteopathy, homeopathy, chiropractics, naturopathy or any other form, branch or method of healing as authorized by the laws of the state of West Virginia.

(f) A licensed physical therapist shall not treat persons by physical therapy or otherwise other than upon
referral by a licensed physician or surgeon, dentist, osteopathic physician and surgeon or chiropodist-podiatrist. A licensed physical therapy assistant shall not practice physical therapy other than in accordance with the definitional requirements of a physical therapy assistant as specified in subdivision (i), section two of this article.

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

(a) The West Virginia state board of examiners and registration of physical therapists heretofore created shall continue in existence but on and after the effective date of this article shall be known and designated as "the West Virginia board of physical therapy," and shall consist of five members appointed by the governor by and with the advice and consent of the Senate. The three members of the board in office on the effective date of this article shall, unless sooner removed, continue to serve until their terms expire and until their successors have been appointed and have qualified. On or before July one, one thousand nine hundred seventy-six, the governor shall appoint one member to serve until June thirty, one thousand nine hundred seventy-nine, and one member to serve until June thirty, one thousand nine hundred eighty, or until their successors have been appointed and have qualified. As the terms of the three members of the board in office on the effective date of this article expire and as the terms of the two members to be appointed by the governor on or before July one, one thousand nine hundred seventy-six, expire, members shall be appointed for overlapping terms of five years, so that one term expires each year, or until their successors have been appointed and have qualified. Any vacancy shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant and any such appointment shall be made within sixty days of the occurrence of such vacancy. The governor may remove any member
of the board in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

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

(c) The board shall elect from its membership a chairman and secretary who shall serve at the will and pleasure of the board. A majority of the members of the board shall constitute a quorum and meetings shall be held at the call of the chairman or upon the written request of three members at such time and place as designated in such call or request, and, in any event, the board shall meet at least once annually to conduct the examinations hereinafter provided for and to transact such other business as may come before it. Members may be paid such reasonable compensation as the board may from time to time determine, and in addition may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties, which compensation and expenses shall be paid in accordance with the provisions of subsection (b), 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 for a license or temporary permit to engage in the practice of physical therapy or to act as a physical therapy assistant, as the case may be;

3 (2) Prepare or approve, conduct and grade or provide for the grading of, an apt and proper written or written and oral examination of applicants for a license to engage in the practice of physical therapy and a separate examination of applicants for a license to act as a physical therapy assistant;
(3) Determine the time and place for any such examinations and the passing score for each such separate examination;

(4) Promulgate reasonable rules and regulations implementing the provisions of this article and the powers and duties conferred upon the board hereby, including, but not limited to, (1) reasonable rules and regulations establishing standards to insure that the activities of a licensed physical therapy assistant are performed in accordance with the definitional requirements of a physical therapy assistant as specified in subdivision (1), section two of this article, which reasonable rules and regulations shall require that there shall be no more than two physical therapy assistants licensed to practice in this state for every physical therapist so licensed and shall require that no more than two physical therapy assistants be performing under the direct supervision of a licensed physical therapist at any one time, and (2) reasonable rules and regulations establishing standards to insure that those activities of a physical therapy aide involving assistance in the practice of physical therapy are performed under the direct supervision of a licensed physical therapist, which reasonable rules and regulations shall require that a licensed physical therapist be on the premises at all times while such activities of the physical therapy aide are being performed, all of which reasonable rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code;

(5) Issue, renew, deny, suspend or revoke licenses and temporary permits to engage in the practice of physical therapy or licenses and temporary permits to act as physical therapy assistants in accordance with the provisions of this article and, in accordance with the administrative procedures hereinafter provided, may renew, affirm, reverse, vacate or modify its order with respect to any such denial, suspension or revocation;

(6) Investigate alleged violations of any provision of this article, any reasonable rule and regulation promulgated hereunder and any order or final decision of the board and take appropriate disciplinary action against
any licensee for the violation thereof or institute appropriate legal action for the enforcement of any provision of this article, any reasonable rule and regulation promulgated hereunder and any order or final decision of the board or take such disciplinary action and institute such legal action;

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

(8) Maintain a register listing the name of every licensed physical therapist and licensed physical therapy assistant, his last known place of business or employment and last known residence, and the date and certificate number of his license; prepare annually from such register a list of every such licensed physical therapist and licensed physical therapy assistant; furnish such list free of charge to the superintendents or administrator of every known hospital in this state and every licensed physician or surgeon, dentist, osteopathic physician and surgeon or chiropodist-podiatrist in this state who requests the same; and furnish such list to any other interested person who makes application therefor and who pays to the board the reasonable cost of the copy of such list;

(9) Keep accurate and complete records of its proceedings, certify the same as may be appropriate and submit to the governor a report on the transactions of the board including an accounting of all money received and disbursed;

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

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

(b) All moneys paid to the board shall be accepted by a person designated by the board and deposited by him with the treasurer of the state and credited to an
account to be known as the “West Virginia Board of Physical Therapy.” The compensation of and the reimbursement of all reasonable and necessary expenses actually incurred by the members of the board and all other costs and expenses incurred by the board in the administration of this article shall be paid from such fund, and no part of the state’s general revenue fund shall be expended for such purpose.

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

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

1. Be at least eighteen years of age;
2. Be of good moral character;
3. Not be addicted to the intemperate use of alcohol or narcotic drugs or other controlled substances;
4. Not have been convicted of a felony in any state or federal court in this or any other state within ten years preceding the date of application for license, which conviction remains unreversed; and not have been convicted of a felony in any state or federal court in this or any other state at any time if the offense for which he was convicted related to the practice of physical therapy, which conviction remains unreversed;
5. Present evidence that he is a graduate of a school of physical therapy approved by the American physical therapy association and the board: Provided, That any person who received his education in physical therapy outside of the United States may qualify for a license by fulfilling the requirements specified by the American physical therapy association and the board, including successful completion of a period of supervised clinical experience; and
6. Either have passed the examination prescribed by the board for a license to engage in the practice of physical therapy, or be entitled to be licensed without examination as provided in subsection (d) of this section.
(b) To be eligible for a license to act as a physical therapy assistant, the applicant must:

1. Satisfy the requirements of subdivisions (1) through (4), subsection (a) of this section;
2. Present evidence that he is a graduate of a two-year college level education program for physical therapy assistants which meets the standards established by the American physical therapy association and the board;
3. Either have passed the examination prescribed by the board for a license to act as a physical therapy assistant, or be entitled to be licensed without examination as provided in subsection (d) of this section.

(c) Although an applicant does not meet the educational requirement specified in subdivision (2), subsection (b) of this section, the board may, nevertheless, issue a license to act as a physical therapy assistant to such applicant if such applicant (i) presents evidence that he has a high school diploma or its equivalent; (ii) meets the requirements of subdivision (1), subsection (b) of this section; (iii) presents sufficient and satisfactory written evidence to the board on or before July one, one thousand nine hundred seventy-nine, that such applicant has been employed as a physical therapy aide under the supervision of a licensed physical therapist in this state on a full-time basis for a continuous period of at least two years, or for cumulative periods of time either full-time or part-time which equal two years full-time employment, between January one, one thousand nine hundred seventy-one, and July one, one thousand nine hundred seventy-nine; and (iv) successfully passes the examination required for a license to act as a physical therapy assistant: Provided, however, That such applicant shall be afforded only two opportunities to pass such examination.

(d) The board may issue a license to practice physical therapy or a license to act as a physical therapy assistant, without examination, to any applicant who holds a valid license or is registered to engage in the practice of
physical therapy or to act as a physical therapy assistant, as the case may be, issued to him under the laws of another state or territory or possession of the United States: Provided further, That the applicant's qualifications are in the opinion of the board equal to or greater than the requirements of this article and the rules and regulations promulgated by the board.

(e) Any applicant for a license under the provisions of subsection (a), (b), (c) or (d) of this section shall submit an application therefor at such time, in such manner, on such forms and containing such information as the board shall from time to time by reasonable rule and regulation prescribe and pay to the board a nonrefundable application fee of sixty dollars in the case of an application for a license to engage in the practice of physical therapy and thirty dollars in the case of an application for a license to act as a physical therapy assistant.

§30-20-7. Examination of applicants.

1 The board shall give the prescribed examination to applicants for a license to engage in the practice of physical therapy and the prescribed examination to applicants for a license to act as a physical therapy assistant, who meet the appropriate other requirements of section six of this article. The examination for a license to engage in the practice of physical therapy shall include a written examination which shall test the applicant's advanced knowledge of anatomical, biological and physical sciences, physical therapy procedures and theory and such other subjects as the board may deem appropriate to test the applicant's fitness to engage in the practice of physical therapy. The examination for a license to act as a physical therapy assistant shall include a written examination which shall test the applicant's knowledge of anatomical, biological and physical science, physical therapy procedures and theory: Provided, That the examination given to applicants for a license to act as a physical therapy assistant under subsection (c), section six of this article, shall be prepared and graded by the board and shall test only the applicant's knowledge of physical therapy procedures and
theory. All examinations shall be held within this state, at least once each year, at such time and place as the board shall determine. Except as provided in subsection (c), section six of this article, there shall be no limit to the number of times that an applicant may make application for and take the required examination for a license to engage in the practice of physical therapy or the required examination to act as a physical therapy assistant: Provided, however, That for each such application, the applicant shall pay the appropriate application fee prescribed in subsection (e), section six of this article.

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

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

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

(c) A licensee desiring to cease engaging in the practice of physical therapy temporarily or to cease acting temporarily as a physical therapy assistant 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 his name remains on this list, such person shall not 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.


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

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

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

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

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

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

(a) The board may at any time upon its own motion, and shall upon the written complaint of any person, conduct an investigation to determine whether there are any grounds for the suspension or revocation of a license or temporary permit issued under the provisions of this article.
(b) The board shall suspend or revoke any license or temporary permit when it finds the holder thereof has:

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

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

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

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

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

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

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

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

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

(10) In the case of a physical therapist, practiced physical therapy other than upon the referral by a licensed physician or surgeon, dentist, osteopathic physician and surgeon or chiropodist-podiatrist; or employed a physical therapy assistant who is not a licensed physical therapy assistant; or employed or utilized a licensed physical therapy assistant or physical therapy aide without complying with the provisions of this article or the rules and regulations of the board; or

(11) In the case of a physical therapy assistant, practiced physical therapy other than in accordance with the
definitional requirements of a physical therapy assistant
as specified in subdivision (i), section two of this article.

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


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

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

(c) Upon receipt of a written demand for such hearing,
the board shall set a time and place therefor not less than
ten nor more than thirty days thereafter. Any scheduled
hearing may be continued by the board upon its own mo-
tion or for good cause shown by the person demanding the
hearing.

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

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

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

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

(h) The decision of the board shall be final unless re-
versed, vacated or modified upon judicial review thereof
in accordance with the provisions of section twelve of this
article.
§30-20-12. Judicial review; appeal to supreme court of appeals; legal representation for board.

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

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

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

§30-20-13. Penalties.

Any person who violates any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or any final decision of the board shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

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

Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or final decision of the board, the board may apply in the name of the state to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and
any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section thirteen of this article.

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

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

The board shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit court by the prosecuting attorneys of the several counties as well, all without additional compensation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within Approved this the 21st day of March, 1976

Governor