

No. 2002-6

AN ACT

SB 400

Amending the act of October 10, 1975 (P.L.383, No.110), entitled "An act relating to the practice of physical therapy," further providing for the State Board of Physical Therapy; providing for a certificate of authorization to practice physical therapy without the required referral; requiring professional liability insurance coverage and continuing education; and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2.1(a) of the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, added December 20, 1985 (P.L.500, No.117), is amended to read:

Section 2.1. State Board of Physical Therapy.—(a) The board shall consist of [~~nine~~] *eleven* members, all of whom shall be residents of Pennsylvania. [~~Five~~] *Six* members shall be physical therapists licensed to practice in this Commonwealth, each having had at least five years of experience as a physical therapist, three years of which must have immediately preceded the appointment to the board. One member shall be a physical therapist assistant currently registered with the board or an athletic trainer currently certified by the board[, ~~provided that the initial appointee shall be a physical therapist assistant who is currently listed with the board and who shall not be required to be registered until the provisions of section 9.1 have been implemented~~]. Two members shall be representatives of the public. One member shall be the Commissioner of Professional and Occupational Affairs. *One member shall be the Physician General of the Commonwealth or his designee.* The members of the board shall be appointed by the Governor, with the advice and consent of a majority of the members elected to the Senate.

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Section 2. Section 9 of the act, amended April 4, 1984 (P.L.196, No.41), is amended to read:

Section 9. Practice [~~and Referrals by Physicians.—Any~~] *of Physical Therapy.—(a) Except as provided in subsection (b), no* person licensed under this act as a physical therapist shall [~~not~~] treat human ailments by physical therapy or otherwise except by the referral of a person licensed as a physician; however, a physical therapist shall be permitted to accept the referral of a dentist or podiatrist licensed, for the treatment of a condition that is within the scope of practice of dentistry or podiatry. Nothing in this act shall be construed as authorization for a physical therapist to practice any branch of the healing arts except as described in this act. Any person violating the provisions of this act shall be guilty of a misdemeanor as described in section 12.

(b) Licensees who meet the standards set forth in this subsection may apply to the board for a certificate of authorization to practice physical therapy under this act without the required referral under subsection (a). A certificate of authorization to practice physical therapy without a referral under subsection (a) shall not authorize a physical therapist either to treat a condition in any person which is a nonneurologic, nonmuscular or nonskeletal condition or to treat a person who has an acute cardiac or acute pulmonary condition unless the physical therapist has consulted with the person's licensed physician, dentist or podiatrist regarding the person's condition and the physical therapy treatment plan or has referred the person to a licensed physician, dentist or podiatrist for diagnosis and referral. The certificate of authorization shall be issued only to licensed physical therapists practicing physical therapy. The certificate of authorization shall be displayed by the certificate holder in a manner conspicuous to the public. The renewal of the certificate of authorization shall coincide with the renewal of the license of the licensee. Licensees making application for a certificate of authorization shall present satisfactory evidence to the board of all of the following:

(1) That the licensee has:

(i) passed an examination for licensure to practice physical therapy, which examination included testing on the appropriate evaluative procedures to treat a person without a referral; or

(ii) passed an examination for licensure to practice physical therapy prior to 1990 and successfully completed a course approved by the board on the appropriate evaluative procedures to treat a person without a referral.

(2) That the licensee has:

(i) practiced physical therapy as a licensed physical therapist in the delivery of patient care in accordance with this act on a continuous basis for at least two years immediately preceding the application for a certificate of authorization;

(ii) been licensed under section 6(d.1) and has practiced physical therapy in the delivery of patient care as a licensed physical therapist in a reciprocal state on a continuous basis for at least two years immediately preceding the application for a certificate of authorization; or

(iii) provided proof of meeting the standards of clause (i) or (ii) of this paragraph through the application of any combination thereof.

(3) That the license of that licensee has been maintained in good standing.

(4) That the licensee has professional liability insurance in accordance with the following provisions:

(i) Beginning with the first license renewal period at least two years after the effective date of this subsection or upon first making application for a certificate of authorization, whichever occurs earlier, any licensee applying for and obtaining a certificate of authorization shall obtain and

maintain, to the satisfaction of the board, professional liability insurance coverage in the minimum amounts required to be maintained by physicians pursuant to the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act." The professional liability insurance coverage shall remain in effect as long as that licensee has a certificate of authorization.

(ii) A licensee shall notify the board within 30 days of the licensee's failure to be covered by the required insurance. Failure to notify the board shall be actionable under section 11 or 12. Further, the certificate of authorization of that licensee shall automatically be suspended upon failure to be covered by the required insurance and shall not be restored until submission to the board of satisfactory evidence that the licensee has the required professional liability insurance coverage.

(iii) The board shall accept from licensees as satisfactory evidence of insurance coverage under this subsection any or all of the following: self-insurance, personally purchased professional liability insurance, professional liability insurance coverage provided by the licensee's employer or any similar type of coverage.

(iv) The board shall adopt, by regulation, standards and procedures established by the Insurance Commissioner for self-insurance. In the absence of these standards and procedures, the board, after consultation with the Insurance Commissioner, shall establish standards and procedures by regulation for self-insurance under this subsection.

(c) (1) For each renewal of the certificate of authorization, the licensee shall complete within the immediately preceding two-year period at least 20 hours of continuing physical therapy education related to keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least ten of the 20 hours shall be in appropriate evaluative procedures to treat a person without a referral. The licensee shall provide the board with evidence of the completion of the continuing education.

(2) Continuing education programs and program providers under this subsection¹ shall be approved by the board in accordance with standards and criteria established by the board by regulation. The regulation shall include any fees necessary to implement this provision and provide for waiver of the continuing education requirement due to illness or hardship in any licensing renewal period.

(3) The requirements for continuing physical therapy education shall not apply until the first renewal of the certificate of authorization at least two years after the effective date of this subsection. No credit shall be given for any course in office management or practice building.

¹"paragraph" in enrolled bill.

(d) A physical therapist practicing physical therapy under this act shall refer patients to a licensed physician or other appropriate health care practitioner in any of the following cases:

(1) Cases where symptoms are present for which physical therapy is a contraindication.

(2) Cases for which treatment is outside the scope of practice of physical therapy.

(3) Cases for which treatment is beyond the education, expertise or experience of the physical therapist.

(e) A physical therapist may treat a person without a referral as provided for in subsection (b) for up to 30 days from the date of the first treatment. A physical therapist shall not treat a person beyond 30 days from the date of the first treatment unless he or she has obtained a referral from a licensed physician, dentist or podiatrist. The date of the first treatment for purposes of this subsection is the date the person is treated by any physical therapist treating without a referral.

(f) Nothing in this section shall be construed to require or preclude third-party insurance reimbursement. Nothing herein shall preclude an insurer or other third-party payor from requiring that a physical therapist obtain a referral from a licensed physician, dentist or podiatrist or that a physical therapist file an evaluation and treatment plan with the insurer or third-party payor as a precondition of reimbursement.

Section 3. Section 11(a)(1) of the act, amended December 20, 1985 (P.L.500, No.117), is amended to read:

Section 11. Refusal or Suspension or Revocation of License.—(a) The board shall refuse to issue a license to any person and after notice and hearing in accordance with rules and regulations, may suspend or revoke the license of any person who has:

(1) been found to have violated *any of the provisions of section 9;*

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Section 4. This act shall take effect in 60 days.

APPROVED—The 21st day of February, A.D. 2002.

MARK S. SCHWEIKER