

HB 4140

2010 APR -1 PM 4: 26

CLERK OF COURTS
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WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4140**

(By Delegates Morgan, Stephens, Swartzmiller,
Staggers, Martin, Givens, Hartman,
Ross, C. Miller, Manypenny and Hatfield)



Passed March 13, 2010

In Effect Ninety Days From Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 4140

(BY DELEGATES MORGAN, STEPHENS, SWARTZMILLER,
STAGGERS, MARTIN, GIVENS, HARTMAN,
ROSS, C. MILLER, MANYPENNY AND HATFIELD)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to repeal §30-20-8a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-20-1, §30-20-2, §30-20-3, §30-20-4, §30-20-5, §30-20-6, §30-20-7, §30-20-8, §30-20-9, §30-20-10, §30-20-11, §30-20-12, §30-20-13, §30-20-14 and §30-20-15 of said code; and to amend said code by adding thereto seven new sections, designated §30-20-16, §30-20-17, §30-20-18, §30-20-19, §30-20-20, §30-20-21 and §30-20-22, all relating to the Board of Physical Therapy; prohibiting the practice of physical therapy without a license; providing other applicable sections; providing definitions; providing for board composition; setting forth the powers and duties of the board; clarifying rulemaking authority; continuing a special revenue account; establishing license requirements; clarifying a scope of practice; providing for licensure for persons licensed in another state; establishing renewal requirements; providing permit requirements; establishing a special volunteer license; clarifying requirements for a license that is delinquent, expired or inactive; providing exemptions from licensure; requiring

2010 APR -1 PM 4:26

CHRISTOPHER L. MORGAN
SECRETARY OF STATE

display of license; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §30-20-8a of the Code of West Virginia, 1931, as amended, be repealed; that §30-20-1, §30-20-2, §30-20-3, §30-20-4, §30-20-5, §30-20-6, §30-20-7, §30-20-8, §30-20-9, §30-20-10, §30-20-11, §30-20-12, §30-20-13, §30-20-14 and §30-20-15 of said code be amended and reenacted; and that said code be amended by adding thereto seven new sections, designated §30-20-16, §30-20-17, §30-20-18, §30-20-19, §30-20-20, §30-20-21 and §30-20-22, all to read as follows:

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-1. Unlawful acts.

1 (a) It is unlawful for any person to practice or offer to
2 practice physical therapy in this state without a license or
3 permit issued under the provisions of this article, or
4 advertise or use any title or description tending to convey
5 the impression that they are a physical therapist or a
6 physical therapist assistant unless the person has been duly
7 licensed or permitted under the provisions of this article, and
8 the license or permit has not expired, been suspended or
9 revoked.

10 (b) A business entity may not render any service or
11 engage in any activity which, if rendered or engaged in by an
12 individual, would constitute the practice of physical therapy,
13 except through a licensee or permittee.

14 (c) A person who is not licensed under this article as a
15 physical therapist may not characterize himself or herself as
16 a “physical therapist”, “physiotherapist”, or “doctor of
17 physical therapy”, nor may a person use the designation
18 “PT”, “DPT”, “LPT”, “CPT”, or “RPT”.

19 (d) A person who is not licensed under this article as a
20 physical therapist assistant may not characterize himself or
21 herself as a “physical therapist assistant”, nor may a person
22 use the designation “PTA”.

§30-20-2. Applicable law.

1 The practices licensed under the provisions of this article
2 and the Board of Physical Therapy are subject to article one
3 of this chapter, the provisions of this article, and any rules
4 promulgated hereunder.

§30-20-3. Definitions.

1 As used in this article:

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

5 (2) “Board” means the West Virginia Board of Physical
6 Therapy.

7 (3) “Business entity” means any firm, partnership,
8 association, company, corporation, limited partnership,
9 limited liability company or other entity providing physical
10 therapy services.

11 (4) “Consultation” means a physical therapist renders an
12 opinion or advice to another physical therapist or health care
13 provider through telecommunications.

14 (5) "Direct supervision" means the actual physical
15 presence of the physical therapist in the immediate treatment
16 area where the treatment is being rendered.

17 (6) "General supervision" means the physical therapist
18 must be available at least by telecommunications.

19 (7) "License" means a physical therapist license or
20 license to act as a physical therapist assistant issued under the
21 provisions of this article.

22 (8) "Licensee" means a person holding a license under
23 the provisions of this article.

24 (9) "On-site supervision" means the supervising physical
25 therapist is continuously on-site and present in the building
26 where services are provided, is immediately available to the
27 person being supervised, and maintains continued
28 involvement in appropriate aspects of each treatment session.

29 (10) "Permit" or "temporary permit" means a temporary
30 permit issued under the provisions of this article.

31 (11) "Permittee" means any person holding a temporary
32 permit issued pursuant to the provisions of this article.

33 (12) "Physical therapy aide" means a person trained
34 under the direction of a physical therapist who performs
35 designated and routine tasks related to physical therapy
36 services under the direction supervision of a physical
37 therapist.

38 (13) "Physical therapist" means a person engaging in the
39 practice of physical therapy who holds a license or permit
40 issued under the provisions of this article.

41 (14) “Physical therapist assistant” means a person
42 holding a license or permit issued under the provisions of this
43 article who assists in the practice of physical therapy by
44 performing patient related activities delegated to him or her
45 by a physical therapist and performs under the supervision of
46 a physical therapist and which patient related activities
47 commensurate with his or her education and training,
48 including physical therapy procedures, but not the
49 performance of evaluative procedures or determination and
50 modification of the patient plan of care.

51 (15) “Practice of physical therapy” or “physiotherapy”
52 means the care and services as described in section nine of
53 this article.

54 (16) “Telecommunication” means audio, video or data
55 communication.

§30-20-4. West Virginia Board of Physical Therapy.

1 (a) The West Virginia Board of Physical Therapy is
2 continued. The members of the board in office on July 1,
3 2010, shall, unless sooner removed, continue to serve until
4 their respective terms expire and until their successors have
5 been appointed and qualified.

6 (b) To be effective July 1, 2010, the Governor shall
7 appoint, by and with the advice and consent of the Senate:

8 (1) One person who is a physical therapist assistant for a
9 term of five years; and

10 (2) One citizen member, who is not licensed under the
11 provisions of this article and who does not perform any
12 services related to the practice of the professions regulated
13 under the provisions of this article or have a financial interest
14 in any health care profession, for a term of three years.

15 (c) Commencing July 1, 2010, the board shall consist of
16 the following seven members:

17 (1) Five physical therapists;

18 (2) One physical therapist assistant; and

19 (3) One citizen member.

20 (d) After the initial appointment term, the term shall be
21 for five years. All appointments to the board shall be made
22 by the Governor by and with the advice and consent of the
23 Senate.

24 (e) Each licensed member of the board, at the time of his
25 or her appointment, must have held a license in this state for
26 a period of not less than five years immediately preceding the
27 appointment.

28 (f) Each member of the board must be a resident of this
29 state during the appointment term.

30 (g) A member may not serve more than two consecutive
31 full terms. A member may continue to serve until a successor
32 has been appointed and has qualified.

33 (h) A vacancy on the board shall be filled by appointment
34 by the Governor for the unexpired term of the member whose
35 office is vacant and the appointment shall be made within
36 sixty days of the vacancy.

37 (i) The Governor may remove any member from the
38 board for neglect of duty, incompetency or official
39 misconduct.

40 (j) A licensed member of the board immediately and
41 automatically forfeits membership to the board if his or her
42 license to practice is suspended or revoked.

43 (k) Any member of the board immediately and
44 automatically forfeits membership to the board if he or she is
45 convicted of a felony under the laws of any jurisdiction or
46 becomes a nonresident of this state.

47 (l) The board shall elect annually one of its members as
48 chairperson who serves at the will of the board.

49 (m) Each member of the board is entitled to
50 compensation and expense reimbursement in accordance with
51 article one of this chapter.

52 (n) A majority of the members of the board constitutes a
53 quorum.

54 (o) The board shall hold at least two annual meetings.
55 Other meetings may be held at the call of the chairperson or
56 upon the written request of two members, at the time and
57 place as designated in the call or request.

58 (p) Prior to commencing his or her duties as a member of
59 the board, each member shall take and subscribe to the oath
60 required by section five, article four of the Constitution of
61 this state.

§30-20-5. Powers and duties of the board.

1 (a) The board has all the powers and duties set forth in
2 this article, by rule, in article one of this chapter and
3 elsewhere in law.

4 (b) The board shall:

5 (1) Hold meetings, conduct hearings and administer
6 examinations;

7 (2) Establish requirements for licenses and permits;

8 (3) Establish procedures for submitting, approving and
9 rejecting applications for licenses and permits;

10 (4) Determine the qualifications of any applicant for
11 licenses and permits;

12 (5) Prepare, conduct, administer and grade examinations
13 for licenses;

14 (6) Determine the passing grade for the examinations;

15 (7) Maintain records of the examinations the board or a
16 third party administers, including the number of persons
17 taking the examinations and the pass and fail rate;

18 (8) Hire, discharge, establish the job requirements and fix
19 the compensation of the executive secretary;

20 (9) Maintain an office, and hire, discharge, establish the
21 job requirements and fix the compensation of employees,
22 investigators and contracted employees necessary to enforce
23 the provisions of this article;

24 (10) Investigate alleged violations of the provisions of
25 this article, legislative rules, orders and final decisions of the
26 board;

27 (11) Conduct disciplinary hearings of persons regulated
28 by the board;

29 (12) Determine disciplinary action and issue orders;

30 (13) Institute appropriate legal action for the enforcement
31 of the provisions of this article;

32 (14) Maintain an accurate registry of names and
33 addresses of all persons regulated by the board;

34 (15) Keep accurate and complete records of its
35 proceedings, and certify the same as may be necessary and
36 appropriate;

37 (16) Establish the continuing education requirements for
38 licensees;

39 (17) Issue, renew, combine, deny, suspend, restrict,
40 revoke or reinstate licenses and permits;

41 (18) Establish a fee schedule;

42 (19) Propose rules in accordance with the provisions of
43 article three, chapter twenty-nine-a of this code to implement
44 the provisions of this article; and

45 (20) Take all other actions necessary and proper to
46 effectuate the purposes of this article.

47 (c) The board may:

48 (1) Contract with third parties to administer examinations
49 required under the provisions of this article;

50 (2) Sue and be sued in its official name as an agency of
51 this state; and

52 (3) Confer with the Attorney General or his or her
53 assistant in connection with legal matters and questions.

§30-20-6. Rulemaking.

1 (a) The board shall propose rules for legislative approval,
2 in accordance with the provisions of article three, chapter
3 twenty-nine-a of this code, to implement the provisions of
4 this article, including:

5 (1) Standards and requirements for licenses and permits;

6 (2) Procedures for examinations and reexaminations;

7 (3) Requirements for third parties to prepare or
8 administer, or both, examinations and reexaminations;

9 (4) Educational and experience requirements;

10 (5) The passing grade on the examinations;

11 (6) Standards for approval of courses and curriculum;

12 (7) Procedures for the issuance and renewal of licenses
13 and permits;

14 (8) A fee schedule;

15 (9) The scope of practice and supervision of physical
16 therapist assistants;

17 (10) Responsibilities of a physical therapist and physical
18 therapist assistant concerning the practice and supervision of
19 physical therapy aides;

20 (11) Continuing education requirements for licensees;

21 (12) Establishing a maximum ratio of physical therapist
22 assistants, or physical therapy aides involved in the practice

23 of physical therapy, or any combinations that can be
24 supervised by a physical therapist at any one time;

25 (13) Exceptions to the ratio of physical therapist
26 assistants a physical therapist may supervise including
27 emergencies, safety and temporary situations;

28 (14) Permitting a physical therapist assistant to directly
29 supervise a physical therapy aide in an emergency situation;

30 (15) The procedures for denying, suspending, restricting,
31 revoking, reinstating or limiting the practice of licensees and
32 permittees;

33 (16) Adopt a standard for ethics;

34 (17) Requirements for inactive or revoked licenses or
35 permits; and

36 (18) Any other rules necessary to effectuate the
37 provisions of this article.

38 (b) The board shall promulgate emergency rules pursuant
39 to the provisions of section fifteen, article three, chapter
40 twenty-nine-a of this code, to establish a maximum ratio of
41 physical therapist assistants, or physical therapy aides
42 involved in the practice of physical therapy, or any
43 combinations that can be supervised by a physical therapist
44 at any one time.

45 (c) All of the board's rules in effect on July 1, 2010, shall
46 remain in effect until they are amended or repealed and
47 references to provisions of former enactments of this article
48 are interpreted to mean provisions of this article.

§30-20-7. Fees; special revenue account; administrative fines.

1 (a) All fees and other moneys, except administrative
2 fines, received by the board shall be deposited in a separate
3 special revenue fund in the State Treasury designated the
4 “West Virginia Board of Physical Therapy Fund”, which is
5 continued. The fund is used by the board for the
6 administration of this article. Except as may be provided in
7 article one of this chapter, the board retains the amount in the
8 special revenue account from year to year. No compensation
9 or expense incurred under this article is a charge against the
10 General Revenue Fund.

11 (b) Any amounts received as fines pursuant to this article
12 shall be deposited into the General Revenue Fund of the State
13 Treasury.

§30-20-8. License to practice physical therapy.

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

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have graduated from an accredited school of physical
7 therapy approved by the Commission on Accreditation in
8 Physical Therapy Education or a successor organization;

9 (5) Pass a national examination as approved by the board;

10 (6) Not be an alcohol or drug abuser, as these terms are
11 defined in section eleven, article one-a, chapter twenty-seven
12 of this code: *Provided*, That an applicant in an active
13 recovery process, which may, in the discretion of the board,

14 be evidenced by participation in a twelve-step program or
15 other similar group or process, may be considered;

16 (7) Not have been convicted of a felony in any
17 jurisdiction within ten years preceding the date of application
18 for license which conviction remains unreversed;

19 (8) Not have been convicted of a misdemeanor or felony
20 in any jurisdiction if the offense for which he or she was
21 convicted related to the practice of physical therapy, which
22 conviction remains unreversed; and

23 (9) Has fulfilled any other requirement specified by the
24 board.

25 (b) A physical therapist shall use the letters "PT"
26 immediately following his or her name to designate licensure
27 under this article.

28 (c) A license to practice physical therapy issued by the
29 board prior to July 1, 2010, is considered a license issued
30 under this article: *Provided*, That a person holding a license
31 issued prior to July 1, 2010, must renew the license pursuant
32 to the provisions of this article.

§30-20-9. Scope of practice of a physical therapist.

1 A physical therapist may:

2 (1) Examine, evaluate and test patients or clients with
3 mechanical, physiological and developmental impairments,
4 functional limitations, and disabilities or other health and
5 movement related conditions in order to determine a
6 diagnosis, prognosis and plan of treatment intervention, and
7 to assess the ongoing effects of intervention: *Provided*, That
8 electromyography examination and electrodiagnostic studies

9 other than the determination of chronaxia and strength
10 duration curves shall not be performed except under the
11 supervision of a physician electromyographer and
12 electrodiagnostician;

13 (2) Alleviate impairments, functional limitations and
14 disabilities by designing, implementing and modifying
15 treatment interventions that may include, but are not limited
16 to: therapeutic exercise; functional training in self-care in
17 relation to motor control function; mobility; in home,
18 community or work integration or reintegration; manual
19 therapy techniques including mobilization of the joints;
20 therapeutic massage; fabrication of assistive, adaptive,
21 orthotic, prosthetic, protective and supportive devices and
22 equipment; airway clearance techniques; integumentary
23 protection and repair techniques; patient-related instruction;
24 mechanical and electrotherapeutic modalities; and physical
25 agent or modalities including, but not limited to, heat, cold,
26 light, air, water and sound;

27 (3) Reduce the risk of injury, impairment, functional
28 limitation and disability, including the promotion and
29 maintenance of fitness, health and wellness in populations of
30 all ages; and

31 (4) Engage in administration, consultation and research.

§30-20-10. License to act as a physical therapist assistant.

1 (a) To be eligible for a license to act as a physical
2 therapist assistant, the applicant must:

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have graduated from a two-year college level
7 education program for physical therapist assistants which
8 meets the standards established by the Commission on
9 Accreditation in Physical Therapy Education and the board;

10 (5) Have passed the examination approved by the board
11 for a license to act as a physical therapist assistant;

12 (6) Not be an alcohol or drug abuser, as these terms are
13 defined in section eleven, article one-a, chapter twenty-seven
14 of this code: *Provided*, That an applicant in an active
15 recovery process, which may, in the discretion of the board,
16 be evidenced by participation in a twelve-step program or
17 other similar group or process, may be considered;

18 (7) Not have been convicted of a felony in any
19 jurisdiction within ten years preceding the date of application
20 for license which conviction remains unreversed;

21 (8) Not have been convicted of a misdemeanor or felony
22 in any jurisdiction if the offense for which he or she was
23 convicted related to the practice of physical therapy, which
24 conviction remains unreversed; and

25 (10) Meet any other requirements established by the
26 board.

27 (b) A physical therapist assistant shall use the letters
28 "PTA" immediately following his or her name to designate
29 licensure under this article.

30 (c) A license to act as a physical therapist assistant issued
31 by the board prior to July 1, 2010, is considered a license
32 issued under this article: *Provided*, That a person holding a

33 license issued prior to July 1, 2010, must renew the license
34 pursuant to the provisions of this article.

§30-20-11. License to practice physical therapy from another jurisdiction.

1 (a) The board may issue a license to practice physical
2 therapy to an applicant who holds a valid license or other
3 authorization to practice physical therapy from another state,
4 if the applicant:

5 (1) Holds a license or other authorization to practice
6 physical therapy in another state which was granted after
7 completion of educational requirements substantially
8 equivalent to those required in this state;

9 (2) Passed an examination that is substantially equivalent
10 to the examination required in this state;

11 (3) Does not have charges pending against his or her
12 license or other authorization to practice, and has never had
13 a license or other authorization to practice revoked;

14 (4) Has not previously failed an examination for a license
15 to practice physical therapy in this state;

16 (5) Has paid the applicable fee;

17 (6) Is a citizen of the United States or is eligible for
18 employment in the United States; and

19 (7) Has fulfilled any other requirement specified by the
20 board.

21 (b) The board may issue a license to practice physical
22 therapy to an applicant who has been educated outside of the
23 United States, if the applicant:

24 (1) Provides satisfactory evidence that the applicant's
25 education is substantially equivalent to the educational
26 requirements for physical therapists under the provisions of
27 this article;

28 (2) Provides written proof that the applicant's school of
29 physical therapy is recognized by its own ministry of
30 education;

31 (3) Has undergone a credentials evaluation as directed by
32 the board that determines that the candidate has met uniform
33 criteria for educational requirements as further established by
34 rule;

35 (4) Has paid the applicable fee;

36 (5) Is eligible for employment in the United States; and

37 (6) Complete any additional requirements as required by
38 the board.

39 (c) The board may issue a restricted license to an applicant
40 who substantially meets the criteria established in subsection
41 (b) of this section.

§30-20-12. Temporary permits.

1 (a) Upon completion of the application and payment of
2 the nonrefundable fees, the board may issue a temporary
3 permit, for a period not to exceed 90 days, to an applicant to
4 practice as a physical therapist in this state or act as a
5 physical therapist assistant in this state, if the applicant has
6 completed the educational requirements set out in this article,
7 pending the examination and who works under a supervising
8 physical therapist with the scope of the supervision to be
9 defined by legislative rule.

10 (b) The temporary permit expires thirty days after the
11 board gives written notice to the permittee of the results of
12 the first examination held following the issuance of the
13 temporary permit, if the permittee receives a passing score on
14 the examination. The permit shall expire immediately if the
15 permittee receives a failing score on the examination.

16 (c) A temporary permit may be revoked by a majority
17 vote of the board.

18 (d) An applicant may be issued only one temporary
19 permit, and upon the expiration of the temporary permit, may
20 not practice as a physical therapist or act as physical therapist
21 assistant until he or she is fully licensed under the provisions
22 of this article.

**§30-20-13. Special volunteer physical therapist license, physical
therapist assistant license; civil immunity for
voluntary services rendered to indigents.**

1 (a) There is established a special volunteer license for
2 physical therapists or physical therapist assistants, as the case
3 may be, retired or retiring from active practice who wish to
4 donate their expertise for the care and treatment of indigent
5 and needy patients in the clinical setting of clinics organized,
6 in whole or in part, for the delivery of health care services
7 without charge. The special volunteer license provided by
8 this section shall be issued by the West Virginia Board of
9 Physical Therapy to physical therapists or physical therapist
10 assistants licensed or otherwise eligible for licensure under
11 this article and the legislative rules promulgated hereunder
12 without the payment of an application fee, license fee or
13 renewal fee, and the initial license shall be issued for the
14 remainder of the licensing period, and renewed consistent
15 with the boards other licensing requirements. The board shall
16 develop application forms for the special volunteer license

17 provided in this section which shall contain the applicant's
18 acknowledgment that:

19 (1) The applicant's practice under the special volunteer
20 license will be exclusively devoted to providing physical
21 therapy care to needy and indigent persons in West Virginia;

22 (2) The applicant may not receive any payment or
23 compensation, either direct or indirect, or have the
24 expectation of any payment or compensation, for any
25 physical therapy services rendered under the special
26 volunteer license;

27 (3) The applicant shall supply any supporting
28 documentation that the board may reasonably require; and

29 (4) The applicant shall continue to participate in
30 continuing education as required by the board for special
31 volunteer physical therapists or physical therapist assistants
32 license, as the case may be.

33 (b) Any physical therapist or physical therapist assistant
34 who renders any physical therapy service to indigent and
35 needy patients of a clinic organized, in whole or in part, for
36 the delivery of health care services without charge under a
37 special volunteer license authorized under subsection (a) of
38 this section without payment or compensation or the
39 expectation or promise of payment or compensation is
40 immune from liability for any civil action arising out of any
41 act or omission resulting from the rendering of the physical
42 therapy service at the clinic unless the act or omission was
43 the result of gross negligence or willful misconduct on the
44 part of the physical therapist or physical therapist assistant.
45 In order for the immunity under this subsection to apply,
46 there must be a written agreement between the physical
47 therapist or physical therapist assistant and the clinic stating

48 that the physical therapist or physical therapist assistant will
49 provide voluntary uncompensated physical therapy services
50 under the control of the clinic to patients of the clinic before
51 the rendering of any services by the physical therapist or
52 physical therapist assistant at the clinic: *Provided*, That any
53 clinic entering into such written agreement is required to
54 maintain liability coverage of not less than one million
55 dollars per occurrence.

56 (c) Notwithstanding the provisions of subsection (b) of
57 this section, a clinic organized, in whole or in part, for the
58 delivery of health care services without charge is not relieved
59 from imputed liability for the negligent acts of a physical
60 therapist or physical therapist assistant rendering voluntary
61 physical therapy services at or for the clinic under a special
62 volunteer license authorized under this section.

63 (d) For purposes of this section, “otherwise eligible for
64 licensure” means the satisfaction of all the requirements for
65 licensure for a physical therapist or physical therapist
66 assistant, as the case may be, except the fee requirements.

67 (e) Nothing in this section may be construed as requiring
68 the board to issue a special volunteer license to any physical
69 therapist or physical therapist assistant whose license is or
70 has been subject to any disciplinary action or to any physical
71 therapist or physical therapist assistant who has surrendered
72 a license or caused a license to lapse, expire and become
73 invalid in lieu of having a complaint initiated or other action
74 taken against his or her license, or who has elected to place
75 a license in inactive status in lieu of having a complaint
76 initiated or other action taken against his or her license or
77 who has been denied a license.

78 (f) Any policy or contract of liability insurance providing
79 coverage for liability sold, issued or delivered in this state to

80 any physical therapist or physical therapist assistant covered
81 under the provisions of this article shall be read so as to
82 contain a provision or endorsement whereby the company
83 issuing such policy waives or agrees not to assert as a defense
84 on behalf of the policy holder or any beneficiary there of the
85 policy, to any claim covered by the terms of the policy within
86 the policy limits, the immunity from liability of the insured
87 by reason of the care and treatment of needy and indigent
88 patients by a physical therapist or physical therapist assistant
89 who holds a special volunteer license.

§30-20-14. Renewal requirements.

1 (a) All persons regulated by this article shall annually or
2 biannually before January 1, renew his or her license by
3 completing a form prescribed by the board and submitting
4 any other information required by the board.

5 (b) The board shall charge a fee for each renewal of a
6 license and shall charge a late fee for any renewal not paid by
7 the due date.

8 (c) The board shall require as a condition of renewal that
9 each licensee complete continuing education.

10 (d) The board may deny an application for renewal for
11 any reason which would justify the denial of an original
12 application for a license.

§30-20-15. Delinquent and expired license requirements.

1 (a) If a license is not renewed when due, then the board
2 shall automatically place the licensee on delinquent status.

3 (b) The fee for a person on delinquent status shall
4 increase at a rate, determined by the board, for each month or

5 fraction thereof that the renewal fee is not paid, up to a
6 maximum of thirty-six months.

7 (c) Within thirty-six months of being placed on
8 delinquent status, if a licensee wants to return to active
9 practice, he or she must complete all the continuing education
10 requirements and pay all the applicable fees as set by rule.

11 (d) After thirty-six months of being placed on delinquent
12 status, a license is automatically placed on expired status and
13 cannot be renewed. A person whose license has expired must
14 reapply for a new license.

§30-20-16. Inactive license requirements.

1 (a) A licensee who does not want to continue an active
2 practice shall notify the board in writing and be granted
3 inactive status.

4 (b) A person granted inactive status is not subject to the
5 payment of any fee and may not practice physical therapy or
6 act as a physical therapist assistant in this state.

7 (c) When the person wants to return to the practice of
8 physical therapy or act as a physical therapist assistant, the
9 person shall submit an application for renewal along with all
10 applicable fees as set by rule.

§30-20-17. Exemptions from licensure.

1 (a) The following persons are exempt from licensing
2 requirements under the provisions of this article:

3 (1) A person who practices physical therapy pursuant to
4 a course of study at an institution of higher learning,
5 including, but not limited to, activities conducted at the

6 institution of higher learning and activities conducted outside
7 the institution if under the on-site supervision of a physical
8 therapist;

9 (2) A person who practices physical therapy in the United
10 States Armed Services, United States Public Health Service
11 or Veterans Administration pursuant to federal regulations
12 for state licensure of health care providers;

13 (3) A physical therapist who is licensed in another
14 jurisdiction of the United States or credentialed to practice
15 physical therapy in another country if that person is teaching,
16 demonstrating or providing physical therapy services in
17 connection with teaching or participating in an educational
18 seminar of no more than sixty calendar days in a calendar
19 year;

20 (4) A physical therapist who is licensed in another state
21 if that person is consulting;

22 (5) A physical therapist who is licensed in another
23 jurisdiction, if that person by contract or employment is
24 providing physical therapy to individuals affiliated with or
25 employed by established athletic teams, athletic organizations
26 or performing arts companies temporarily practicing,
27 competing or performing in the state for no more than sixty
28 calendar days in a calendar year;

29 (6) A physical therapist who is licensed in another
30 jurisdiction who enters this state to provide physical therapy
31 during a declared local, state or national disaster or
32 emergency. This exemption applies for no longer than sixty
33 calendar days in a calendar year following the declaration of
34 the emergency. The physical therapist shall notify the board
35 of their intent to practice;

36 (7) A physical therapist licensed in another jurisdiction
37 who is forced to leave his or her residence or place of
38 employment due to a declared local, state or national disaster
39 or emergency and due to the displacement seeks to practice
40 physical therapy. This exemption applies for no longer than
41 sixty calendar days in a calendar year following the
42 declaration of the emergency. The physical therapist shall
43 notify the board of their intent to practice; and

44 (8) A person administering simple massages and the
45 operation of health clubs so long as not intended to constitute
46 or represent the practice of physical therapy.

47 (9) A physical therapist assistant assisting an exempt
48 physical therapist.

49 (10) Nothing contained in this article prohibits a person
50 from practicing within his or her scope of practice as
51 authorized by law.

§30-20-18. Display of license.

1 (a) The board shall prescribe the form for a license and
2 permit, and may issue a duplicate license or permit upon
3 payment of a fee.

4 (b) Any person regulated by the article shall
5 conspicuously display his or her license or permit at his or
6 her principal business location.

**§30-20-19. Complaints; investigations; due process procedure;
grounds for disciplinary action.**

1 (a) The board may upon its own motion based on credible
2 information, and shall upon the written complaint of any
3 person, cause an investigation to be made to determine

4 whether grounds exist for disciplinary action under this
5 article or the legislative rules promulgated pursuant to this
6 article.

7 (b) Upon initiation or receipt of the complaint, the board
8 shall provide a copy of the complaint to the licensee or
9 permittee.

10 (c) After reviewing any information obtained through an
11 investigation, the board shall determine if probable cause
12 exists that the licensee or permittee has violated subsection
13 (g) of this section or rules promulgated pursuant to this
14 article.

15 (d) Upon a finding that probable cause exists that the
16 licensee or permittee has violated subsection (g) of this
17 section or rules promulgated pursuant to this article, the
18 board may enter into a consent decree or hold a hearing for
19 the suspension or revocation of the license or permit or the
20 imposition of sanctions against the licensee or permittee.
21 Any hearing shall be held in accordance with the provisions
22 of this article.

23 (e) Any member of the board or the executive secretary
24 of the board may issue subpoenas and subpoenas duces
25 tecum to obtain testimony and documents to aid in the
26 investigation of allegations against any person regulated by
27 the article.

28 (f) Any member of the board or its executive secretary
29 may sign a consent decree or other legal document on behalf
30 of the board.

31 (g) The board may, after notice and opportunity for
32 hearing, deny or refuse to renew, suspend, restrict or revoke
33 the license or permit of, or impose probationary conditions

34 upon or take disciplinary action against, any licensee or
35 permittee for any of the following reasons once a violation
36 has been proven by a preponderance of the evidence:

37 (1) Obtaining a license or permit by fraud,
38 misrepresentation or concealment of material facts;

39 (2) Being convicted of a felony or other crime involving
40 moral turpitude;

41 (3) Being guilty of unprofessional conduct which placed
42 the public at risk, as defined by legislative rule of the board;

43 (4) Intentional violation of a lawful order or legislative
44 rule of the board;

45 (5) Having had a license or other authorization revoked
46 or suspended, other disciplinary action taken, or an
47 application for licensure or other authorization revoked or
48 suspended by the proper authorities of another jurisdiction;

49 (6) Aiding or abetting unlicensed practice; or

50 (7) Engaging in an act while acting in a professional
51 capacity which has endangered or is likely to endanger the
52 health, welfare or safety of the public.

53 (h) For the purposes of subsection (g) of this section,
54 effective July 1, 2010, disciplinary action may include:

55 (1) Reprimand;

56 (2) Probation;

57 (3) Restrictions;

58 (4) Administrative fine, not to exceed \$1,000 per day per
59 violation;

60 (5) Mandatory attendance at continuing education
61 seminars or other training;

62 (6) Practicing under supervision or other restriction; or

63 (7) Requiring the licensee or permittee to report to the
64 board for periodic interviews for a specified period of time.

65 (i) In addition to any other sanction imposed, the board
66 may require a licensee or permittee to pay the costs of the
67 proceeding.

§30-20-20. Procedures for hearing; right of appeal.

1 (a) Hearings are governed by the provisions of section
2 eight, article one of this chapter.

3 (b) The board may conduct the hearing or elect to have an
4 administrative law judge conduct the hearing.

5 (c) If the hearing is conducted by an administrative law
6 judge, at the conclusion of a hearing he or she shall prepare
7 a proposed written order containing findings of fact and
8 conclusions of law. The proposed order may contain
9 proposed disciplinary actions if the board so directs. The
10 board may accept, reject or modify the decision of the
11 administrative law judge.

12 (d) Any member or the executive secretary of the board
13 has the authority to administer oaths, examine any person
14 under oath and issue subpoenas and subpoenas duces tecum.

15 (e) If, after a hearing, the board determines the licensee
16 or permittee has violated provisions of this article or the
17 board's rules, a formal written decision shall be prepared
18 which contains findings of fact, conclusions of law and a
19 specific description of the disciplinary actions imposed.

§30-20-21. Judicial review.

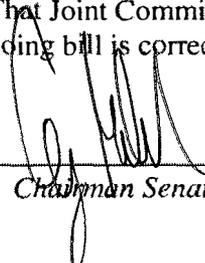
1 Any licensee or permittee adversely affected by a
2 decision of the board entered after a hearing may obtain
3 judicial review of the decision in accordance with section
4 four, article five, chapter twenty-nine-a of this code, and may
5 appeal any ruling resulting from judicial review in
6 accordance with article six, chapter twenty-nine-a of this
7 code.

§30-20-22. Criminal proceedings; penalties.

1 (a) When, as a result of an investigation under this article
2 or otherwise, the board has reason to believe that a licensee
3 or permittee has committed a criminal offense under this
4 article, the board may bring its information to the attention of
5 an appropriate law-enforcement official.

6 (b) A person violating section one of this article is guilty
7 of a misdemeanor and, upon conviction thereof, shall be
8 fined not less than \$100 nor more than \$5,000 or confined in
9 jail not more than six months, or both fined and confined.

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



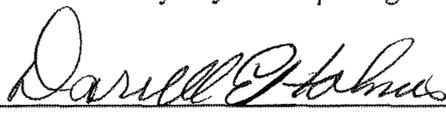
Chairman Senate Committee



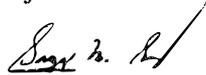
Chairman House Committee

Originating in the House.

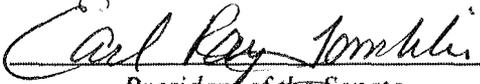
In effect ninety days from passage.



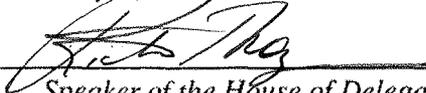
Clerk of the Senate



Clerk of the House of Delegates



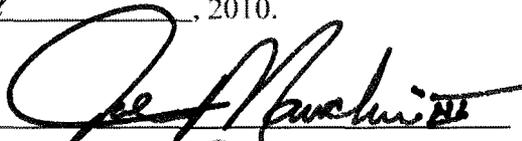
President of the Senate



Speaker of the House of Delegates

2010 APR -1 PM 4:26
DEPARTMENT OF STATE

The within is approved this the 1st
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2010

Time 1:40 pm