

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
S.P. 571 - L.D. 1453

An Act to Amend the Physical Therapist Practice Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §3111, sub-§3, as enacted by PL 1979, c. 555, §2, is amended to read:

3. Physical therapist. "Physical therapist" means a person who ~~practices~~ is licensed pursuant to this chapter to practice physical therapy.

Sec. 2. 32 MRSA §3111, sub-§4, as enacted by PL 1979, c. 555, §2, is amended to read:

4. Physical therapist assistant. "Physical therapist assistant" means a person who is licensed pursuant to this chapter and who assists a physical therapist in specific components of treatment, prevention and educational interventions within the practice of physical therapy.

Sec. 3. 32 MRSA §3111, sub-§5, as amended by PL 2007, c. 402, Pt. N, §1, is further amended to read:

5. Physical therapy or physiotherapy. "Physical therapy" ~~is or~~ "physiotherapy" means the ~~practice~~ provision of services in the scope of which practice that is set forth in section 3111-A.

Sec. 4. 32 MRSA §3111, sub-§6, as enacted by PL 1979, c. 555, §2, is amended to read:

6. Practice of physical therapy. "Practice of physical therapy" means the rendering ~~of or offering to render any service involving physical therapy for a fee, salary or other compensation, monetary or otherwise, paid directly or indirectly to detect, assess, prevent, correct, alleviate or limit physical disability, bodily malfunction and pain from injury, disease or any other bodily condition.~~

Sec. 5. 32 MRSA §3111, sub-§7, as amended by PL 1983, c. 468, §9, is further amended to read:

7. Referral. "Referral" means the request of ~~a~~ an advanced practice registered nurse, certified nurse midwife, physician assistant, naturopathic doctor or doctor of medicine,

surgery, osteopathy, podiatry or dentistry or any other health care provider acting within the scope of that health care provider's license to a physical therapist to accept one of his that health care provider's patients for treatment.

Sec. 6. 32 MRSA §3113-A, as amended by PL 1991, c. 885, Pt. E, §41 and affected by §47, is further amended to read:

§3113-A. License required; limitations and exceptions

A person may not practice or profess to be authorized to practice physical therapy or physiotherapy as a physical therapist in this State or use the words "physical therapist" or "physiotherapist" or the letters "P.T." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist unless that person is licensed in accordance with the provisions of this chapter.

~~After one year from the effective date of this chapter, a~~ A person may not act or profess to be able to act as a physical therapist assistant or physiotherapist assistant in this State or use the words "physical therapist assistant" or the letters "P.T.A." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist assistant unless that person is licensed in accordance with the provisions of this chapter.

Nothing in this chapter may be construed as authorizing a physical therapist or physical therapist assistant, licensed or not licensed, to practice medicine, osteopathy, dentistry, chiropractic or any other form of healing, except that physical therapists may utilize manipulative techniques if practiced within the scope of their profession. ~~Physical therapists may not apply manipulative thrust to the vertebrae of the spine except upon consultation with, and referral by, a duly licensed doctor of medicine, surgery, chiropractic or osteopathy.~~ A licensed physical therapist or physical therapist assistant may not administer drugs except upon the referral of a duly licensed doctor of medicine, surgery, osteopathy, podiatry or dentistry, ~~and or other licensed health care provider who has authority to prescribe drugs.~~ A licensed physical therapist may not use roentgen rays or radium or use electricity for surgical purposes. A licensed physical therapist assistant may act only under the direction of a physical therapist licensed to practice in this State.

When treating a patient without referral from a an advanced practice registered nurse, certified nurse midwife, physician assistant, naturopathic doctor or doctor of medicine, osteopathy, podiatry, dentistry or chiropractic, the physical therapist or physical therapist assistant is subject to the following requirements.

1. No medical diagnosis. A physical therapist or physical therapist assistant may not make a medical diagnosis. The physical therapist or physical therapist assistant shall refer to an advanced practice registered nurse, certified nurse midwife, physician assistant, naturopathic doctor or a licensed doctor of medicine, osteopathy, podiatry, dentistry or chiropractic a patient whose physical condition, either at the initial evaluation or during subsequent treatment, the physical therapist or physical therapist assistant determines to be beyond the scope of the practice of the physical therapist or physical therapist assistant.

2. No improvement. If no improvement in the patient is documented by the physical therapist or physical therapist assistant within 30 days of initiation of treatment and the condition the physical therapist or physical therapist assistant is treating has not been medically diagnosed in the last 90 days, the physical therapist or physical therapist assistant shall consult with or refer the patient to an advanced practice registered nurse, certified

nurse midwife, physician assistant, naturopathic doctor or a licensed doctor of medicine, osteopathy, podiatry, dentistry or chiropractic.

3. Length of treatment. For treatment required beyond 120 days for a condition that has not been medically diagnosed, the physical therapist or physical therapist assistant shall consult with, or refer the patient to, an advanced practice registered nurse, certified nurse midwife, physician assistant, naturopathic doctor or a licensed doctor of medicine, surgery, osteopathy, podiatry, dentistry or chiropractic. The physical therapist or physical therapist assistant shall document the action taken.

4. Exception. The requirements to refer a patient in subsections 2 and 3 do not apply to:

A. Services provided for purposes of health promotion, injury prevention, wellness, fitness, athletic performance or maintenance therapy;

B. Patients diagnosed within the previous 9 months with a chronic neuromuscular or developmental condition when the services are being provided for problems or symptoms associated with that previously diagnosed condition; or

C. Services provided pursuant to an individualized education plan or individual family service plan under federal law.

~~An~~ In accordance with this section and except as provided in subsection 4, an employer is not liable under Title 39-A, section 206 for charges for services of a physical therapist or physical therapist assistant unless the employee has been referred to that practitioner by an advanced practice registered nurse, certified nurse midwife, physician assistant, naturopathic doctor or a licensed doctor of medicine, surgery, osteopathy, chiropractic, podiatry or dentistry.

Sec. 7. 32 MRSA §3113-B, sub-§3, as enacted by PL 1991, c. 178, §3, is amended to read:

3. Persons employed by licensed doctors. Any person employed by and under the control of a duly licensed doctor in that doctor's office from administering ~~physical therapy modalities, providing as long as~~ that person does not profess to be a physical therapist or, ~~physiotherapist, physical therapist assistant or physiotherapist assistant~~ or use words or letters to indicate that the person is a licensed physical therapist or physical therapist assistant;

Sec. 8. 32 MRSA §3116, as amended by PL 2007, c. 402, Pt. N, §8, is further amended to read:

§3116. License renewal

All licenses must be renewed ~~biennially on or before March 31st of each even-numbered year or at such other times as the Commissioner of Professional and Financial Regulation may designate upon application by the licensee accompanied by the renewal fee as set under section 3116-A. Any license not renewed by March 31st the date set by the commissioner~~ automatically expires. The board may renew an expired license if the renewal notice is returned within 90 days of the expiration date and upon payment of a late fee in addition to the renewal fee as set under section 3116-A. A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its

discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of that expiration.

Sec. 9. 32 MRSA §3116-B is enacted to read:

§3116-B. Continuing education requirements for license renewal

The board shall establish by rule continuing education requirements as a condition of renewal of a license as authorized under Title 10, section 8003, subsection 5-A, paragraph D.

Sec. 10. 32 MRSA §3121 is enacted to read:

§3121. Criminal history record information; fees

1. Background check. The board shall request a background check for each person who submits an application for initial licensure or licensure by endorsement under this chapter. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and, once approved and authorized by the federal Department of Justice, from the Federal Bureau of Investigation. The following provisions apply.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

C. An applicant shall submit to having fingerprints taken. The State Police, upon payment of a fee established by the board by rule by the applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

E. State and federal criminal history record information may be used by the board for the purpose of screening each applicant. A board action against an applicant under this subsection is subject to the provisions of Title 5, chapter 341.

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to any other person or entity.

G. An applicant whose license has expired and who has not applied for renewal may request in writing that the State Bureau of Identification remove the applicant's

fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the applicant's fingerprints from the fingerprint file and provide written confirmation of that removal.

2. Rules. The board, following consultation with the State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.