

PHYSICAL THERAPY PRACTICE ACT: NORTH CAROLINA
Effective: December 30, 1985 // Fee Schedule Amended: 1999
Continuing Competence Amended: 2006 // Amended: October 1, 2013
(Posted 09-09-13; Newly adopted sections are highlighted)

Article 18B Physical Therapy

90-270.24. Definitions. In this Article, unless the context otherwise requires, the following definitions shall apply:

- (1) "Board" means the North Carolina Board of Physical Therapy Examiners.
- (2) "Physical therapist" means any person who practices physical therapy in accordance with the provisions of this Article.
- (3) "Physical therapist assistant" means any person who assists in the practice of physical therapy in accordance with the provisions of this Article, and who works under the supervision of a physical therapist by performing such patient-related activities assigned by a physical therapist which are commensurate with the physical therapist assistant's education and training, but an assistant's work shall not include the interpretation and implementation of referrals from licensed medical doctors or dentists, the performance of evaluations, or the determination or major modification of treatment programs.
- (4) "Physical therapy" means the evaluation or treatment of any person by the use of physical, chemical, or other properties of heat, light, water, electricity, sound, massage, or therapeutic exercise, or other rehabilitative procedures, with or without assistive devices, for the purposes of preventing, correcting, or alleviating a physical or mental disability. Physical therapy includes the performance of specialized tests of neuromuscular function, administration of specialized therapeutic procedures, interpretation and implementation of referrals from licensed medical doctors or dentists, and establishment and modification of physical therapy programs for patients. Evaluation and treatment of patients may involve physical measures, methods, or procedures as are found commensurate with physical therapy education and training and generally or specifically authorized by regulations of the Board. Physical therapy education and training shall include study of the skeletal manifestations of systemic disease. Physical therapy does not include the application of roentgen rays or radioactive materials, surgery, manipulation of the spine unless prescribed by a physician licensed to practice medicine in North Carolina, or medical diagnosis of disease.
- (5) "Physical therapy aide" means any nonlicensed person who aids in the practice of physical therapy in accordance with the provisions of this Article, and who at all times acts under the orders, direction, and on-site supervision of a licensed physical therapist or physical therapist assistant. An aide may perform physical therapy related activities which are assigned and are commensurate with an aide's training and abilities, but an aide's work shall not include the interpretation and implementation of referrals from licensed medical doctors or dentists, the performance of evaluations, the determination and modification of treatment programs, or any independent performance of any physical therapy procedures.

"§ 90-270.25. Board of Examiners.

The North Carolina Board of Physical Therapy Examiners is hereby created. The Board shall consist of eight members, including one medical doctor licensed and residing in North Carolina, four physical therapists, two physical therapist assistants, and one public member. The public member shall be appointed by the Governor and shall be a person who is not licensed under Chapter 90 who shall represent the interest of the public at large. The medical doctor, physical therapists, and physical therapist assistants shall be appointed by the Governor from a list compiled by the North Carolina Physical Therapy Association, Inc., following the use of a nomination procedure made available to all physical therapists and physical therapist assistants licensed and residing in North Carolina. In soliciting nominations and compiling its list, the Association will give consideration to geographic distribution, practice setting (institution, independent, academic, etc.), and other factors that will promote representation of all aspects of physical therapy practice on the Board. The records of the operation of the nomination procedure shall be filed with the Board, to be available for a period of six months following nomination, for reasonable inspection by any licensed practitioner. Each physical therapist member of the

Board shall be licensed and reside in this State; provided that the physical therapist shall have not less than three years' experience as a physical therapist immediately preceding appointment and shall be actively engaged in the practice of physical therapy in North Carolina during incumbency. Each physical therapist assistant member shall be licensed and reside in this State; provided that the physical therapist assistant shall have not less than three years' experience as a physical therapist assistant immediately preceding appointment and shall be actively engaged in practice as a physical therapist assistant in North Carolina during incumbency.

Members shall be appointed to serve three-year terms, or until their successors are appointed, to commence on January 1 in respective years. In the event that a member of the Board for any reason shall become ineligible to or cannot complete a term of office, another appointment shall be made by the Governor, in accordance with the procedure stated above, to fill the remainder of the term. No member may serve for more than two successive three-year terms.

The Board may immediately remove a member from the Board if the member is found by the remainder of the Board to have (i) ceased to meet the qualifications specified in this section, (ii) failed to attend three successive Board meetings without just cause, (iii) violated any of the 3 provisions of this Article or rules adopted by the Board, or (iv) otherwise engaged in immoral, dishonorable, unprofessional, or unethical conduct. Before removing a Board member for immoral, dishonorable, unprofessional, or unethical conduct, the Board shall further find that the relevant conduct has compromised the integrity of the Board.

The Board each year shall designate one of its physical therapist members as chairman and one member as secretary-treasurer. Each member of the Board shall receive such per diem compensation and reimbursement for travel and subsistence as shall be set for licensing boards generally.

"§ 90-270.26. Powers of the Board.

The Board shall have the following general powers and duties:

- (1) Examine and determine the qualifications and fitness of applicants for a license to practice physical therapy in this State.
- (2) Issue, renew, deny, suspend, or revoke licenses to practice physical therapy in this State, or reprimand or otherwise discipline licensed physical 18 therapists and physical therapist assistants.
- (3) Conduct confidential investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensed physical therapists or physical therapist assistants exist. Investigation records shall not be considered public records under Chapter 132 of the General Statutes. These records are privileged and are not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board or its employees or consultants, except as provided in this section. However, any Board decisions rendered, hearing notices and statements of charges, and any material received and admitted into evidence at Board hearings shall be public records, regardless of whether the notices, statements, or materials are developed or compiled as a result of an investigation; provided that identifying information concerning the treatment or delivery of professional services to a patient who has not consented to its public disclosure may be deleted or redacted.
- (3a) Establish mechanisms for assessing the continuing competence of licensed physical therapists or physical therapist assistants to engage in the practice of physical therapy, including approving rules requiring licensees to periodically, or in response to complaints or incident reports, submit to the Board: (i) evidence of continuing education experiences; (ii) evidence of minimum standard accomplishments; or (iii) evidence of compliance with other Board-approved measures, audits, or evaluations; and specify remedial actions if necessary or desirable to obtain license renewal or reinstatement.
- (4) Employ such professional, clerical or special personnel necessary to carry out the provisions of this Article, and may purchase or rent necessary office space, equipment and supplies.
- (5) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a "contested case" as defined in G.S. 150B-2(2) arises under this Article.
- (6) Appoint from its own membership one or more members to act as representatives of the Board at any meeting where such representation is deemed desirable.
- (7) Establish reasonable fees for applications for examination, certificates of licensure and renewal, and other services provided by the Board.

(8) Adopt, amend, or repeal any rules or regulations necessary to carry out the purposes of this Article and the duties and responsibilities of the Board.

(9) Request the Department of Justice to provide criminal history record checks pursuant to G.S. 90-270.29A in connection with licensure.

(10) Issue subpoenas, on signature of the Board Chair or Executive Director, to compel the attendance of any witness or the production of any documents relative to investigations or Board proceedings. Upon written request, the Board shall revoke a subpoena if, upon a hearing, it finds that the evidence sought does not relate to a matter in issue, the subpoena does not describe with sufficient particularity the evidence sought, or for any other reason in law the subpoena is invalid.

(11) Establish or participate in programs for aiding in the recovery and rehabilitation of physical therapists and physical therapist assistants who experience chemical or alcohol addiction or abuse or mental health problems.

(12) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

The powers and duties enumerated above are granted for the purpose of enabling the Board to safeguard the public health, safety and welfare against unqualified or incompetent practitioners of physical therapy, and are to be liberally construed to accomplish this objective. In instances where the Board makes a decision to discipline physical therapists or physical therapist assistants under powers set out by any of subsections (2) through (5) of this section, it may as part of its decision charge the reasonable costs of investigation and hearing to the person disciplined."

90-270.27. Records to be kept; copies of record.

The Board shall keep a record of proceedings under this Article and a record of all persons licensed under it. The record shall show the name, last known place of business and last known place of residence, and date and number of licensure certificate as a physical therapist or physical therapist assistant, for every living licensee. Any interested person in the State is entitled to obtain a copy of that record on application to the Board and payment of such reasonable charge as may be fixed by it based on the costs involved.

90-270.28. Disposition of funds.

All fees and other moneys collected and received by the Board shall be used for the purposes of implementing this Article. The financial records of the Board shall be subjected to an annual audit and paid for out of the funds of the Board.

90-270.29. Qualifications of applicants for examination; application; fee.

Any person who desires to be licensed under this Article and who:

- (1) Is of good moral character;
- (2) If an applicant for physical therapy licensure, has been graduated from a physical therapy program accredited by an agency recognized by either the U.S. Office of Education or the Council on Postsecondary Accreditation; and
- (3) If an applicant for physical therapist assistant licensure, has been graduated from a physical therapist assistant educational program accredited by an agency recognized by either the U.S. Office of Education or the Council on Postsecondary Accreditation; may make application on a form furnished by the Board for examination for licensure as a physical therapist or physical therapist assistant. At the time of making such application, the applicant shall pay to the secretary-treasurer of the Board the fee prescribed by the Board, no portion of which shall be returned.

"§ 90-270.29A. Criminal history record checks of applicants for licensure.

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant's criminal history record reveals one or more criminal convictions, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

If, after reviewing the factors, the Board determines that any of the grounds set forth in the subdivisions of G.S. 90-270.36 exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record that is relevant to the denial if disclosure of the information is permitted by applicable State and federal law. The Board shall not provide a copy of the criminal history record to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record."

"§ 90-270.30. Licensure of foreign-trained physical therapists.

Any person who has been trained as a physical therapist or physical therapist assistant in a foreign country and desires to be licensed under this Article and who:

- (1) Is of good moral character;
- (2) Holds a diploma from an educational program for physical therapists or physical therapist assistants approved by the Board;
- (3) Submits documentary evidence to the Board of completion of a course of instruction substantially equivalent to that obtained by an applicant for licensure under G.S. 90-270.29; and
- (4) Demonstrates satisfactory proof of proficiency in the English language;

may make application on a form furnished by the Board for examination as a foreign-trained physical therapist or physical therapist assistant. At the time of making such application, the applicant shall pay to the secretary-treasurer of the Board the fee prescribed by the Board, no portion of which shall be returned."

90-270.31. Certificates of licensure.

(a) The Board shall furnish a certificate of licensure to each applicant successfully passing the examination for licensure as a physical therapist or physical therapist assistant, respectively. Upon receipt of satisfactory evidence that an applicant has graduated, within six months prior to application, from a physical therapy or physical therapy assistant program accredited as required under G.S. 90-270.29, the Board may authorize the applicant to perform as a physical therapist or physical therapist assistant in this State, but only under the immediate supervision of a physical therapist licensed in this State, until a formal decision by the Board on the application for license. If a new graduate applicant that has been authorized to perform under supervision by a licensed physical therapist fails (without due cause as determined in the Board's discretion) to take the next succeeding examination, or if the applicant fails to pass the examination, and consequently does not become licensed, the authorization for the applicant to perform under supervision shall expire. Applicants approved by the Board for performance as physical therapists or physical therapist assistants while their applications are pending under circumstances described in this subsection shall be referred to as Physical Therapist Graduate or Physical Therapist Assistant Graduate.

(b) The Board shall furnish a certificate of licensure to any person who is a physical therapist or physical therapist assistant registered or licensed under the laws of another state or territory, if the individual's qualifications were at the date of his registration or licensure substantially equal to the requirements under this Article. When making such application, the applicant shall pay to the secretary-treasurer of the Board the fee prescribed by the Board, no portion of which shall be returned.

90-270.32. Renewal of license; lapse; revival.

(a) Every licensed physical therapist or physical therapist assistant shall, during the month of January of every year, apply to the Board for a renewal of licensure and pay to the secretary-treasurer the prescribed fee. Licenses that are not so renewed shall automatically lapse. The Board may decline to renew licenses of physical therapists or physical therapist assistants for failure to comply with any required continuing competency measures.

(b) The manner in which lapsed licenses shall be revived, reinstated, or extended shall be established by the Board in its discretion.

90-270.33. Fees.

The Board may collect fees established by its rules, but those fees shall not exceed the following schedule for the specified items:

- (1) Each application for licensure\$150.00
- (2) License renewal\$120.00
- (3) Transfer/verification/replace certificate\$30.00
- (4) Examination retake\$60.00
- (5) Late renewal\$20.00
- (6) Licensure revival (in addition to renewal)\$30.00
- (7) Directory\$10.00
- (8) Licensee lists or labels\$60.00

In all instances where the Board uses the services of a national testing service for preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services, in addition to its other fees.

90-270.34. Exemptions from licensure; certain practices exempted.

(a) The following persons shall be permitted to practice physical therapy or assist in the practice in this State without obtaining a license under this Article upon the terms and conditions specified herein:

- (1) Students enrolled in accredited physical therapist or physical therapist assistant educational programs, while engaged in completing a clinical requirement for graduation, which must be performed under the supervision of a licensed physical therapist;
- (2) Physical therapists licensed in other jurisdictions while enrolled in graduate educational programs in this State that include the evaluation and treatment of patients as part of their experience required for credit, so long as the student is not at the same time gainfully employed in this State as a physical therapist;
- (3) Practitioners of physical therapy employed in the United States armed services, United States Public Health Service, Veterans Administration or other federal agency, to the extent permitted under federal law, so long as the practitioner limits services to those directly relating to work with the employing government agency;
- (4) Physical therapists or physical therapist assistants licensed in other jurisdictions who are teaching or participating in special physical therapy education projects, demonstrations or courses in this State, in which their participation in the evaluation and treatment of patients is minimal;
- (5) A physical therapy aide while in the performance of those acts and practices specified in G.S. 90-270.24(5);
- (6) Persons authorized to perform as physical therapists or physical therapist assistants under the provision of G.S. 90-270.31.
- (7) Physical therapists or physical therapist assistants who are licensed in another jurisdiction of the United States or credentialed in another country, if that person by contract or employment is providing physical therapy to individuals affiliated with or employed by established athletic teams,

athletic organizations, or performing arts companies temporarily practicing, competing, or performing in this State for no more than 60 days in a calendar year;

(8) Physical therapists or physical therapist assistants licensed in another jurisdiction of the United States who enter this State to provide physical therapy during a declared local, State, or national disaster or emergency. The exemption applies no longer than the standard annual renewal time in the State. To be eligible for the exemption, the licensee shall notify the Board of the licensee's intent to practice physical therapy pursuant to this subdivision;

(9) Physical therapists or physical therapist assistants licensed in another jurisdiction of the United States who are forced to leave their residence or place of employment due to a declared local, State, or national disaster or emergency and, due to such displacement, need to practice physical therapy. The exemption applies no longer than the standard annual renewal time but may be renewed by the Board for additional periods. To be eligible for the exemption, the licensee shall notify the Board of the licensee's intent to practice physical therapy pursuant to this subdivision."

(b) Nothing in this Article shall be construed to prohibit:

- (1) Any act in the lawful practice of a profession by a person duly licensed-in this State;
- (2) 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.

90-270.35. Unlawful practice. Except as otherwise authorized in this act, if any person, firm, or corporation shall:

- (1) Practice, attempt to practice, teach, consult, or supervise in physical therapy, or hold out any person as being able to do any of these things in this State, without first having obtained a license or authorization from the Board for the person performing services or being so held out;
- (2) Use in connection with any person's name any letters, words, numerical codes, or insignia indicating or implying that the person is a physical therapist or physical therapist assistant, or applicant with "Graduate" status, unless the person is licensed or authorized in accordance with this Article;
- (3) Practice or attempt to practice physical therapy with a revoked, lapsed, or suspended license;
- (4) Practice physical therapy and fail to refer to a licensed medical doctor or dentist any patient whose medical condition should have, at the time of evaluation or treatment, been determined to be beyond the scope of practice of a physical therapist;
- (5) Aid, abet, or assist any unlicensed person to practice physical therapy in violation of this Article; or
- (6) Violate any of the provisions of this Article; said person, firm, or corporation shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both fined and imprisoned, in the discretion of the court. Each act of such unlawful practice shall constitute a distinct and separate offense.

90-270.36. Grounds for disciplinary action. Grounds for disciplinary action shall include but not be limited to the following:

- (1) The employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license, or the renewal thereof;
- (2) The use of drugs or intoxicating liquors to an extent which affects professional competency;
- (3) Conviction of an offense under any municipal, State, or federal narcotic or controlled substance law, until proof of rehabilitation can be established;
- (4) Conviction of a felony or other' public offense involving moral turpitude, until proof of rehabilitation can be established;
- (5) An adjudication of insanity or incompetency, until proof of recovery from the condition can be established;
- (6) Engaging in any act or practice violative of any of the provisions of this Article or of any of the rules and regulations adopted by the Board, or aiding, abetting or assisting any other person in the violation of the same;
- (7) The commission of an act or acts of malpractice, gross negligence or incompetence in the practice of physical therapy;
- (8) Practice as a licensed physical therapist or physical therapist assistant without a valid certificate of renewal;
- (9) Engaging in conduct that could result in harm or injury to the public.

90-270.37. Enjoining illegal practices.

- (a) The Board may, if it finds that any person is violating any of the provisions of this Article, apply in its own name to the superior court for a temporary or permanent restraining order or injunction to restrain such person

from continuing such illegal practices. The court is empowered to grant injunctive relief regardless of whether criminal prosecution or other action has been or may be instituted as a result of the violation. In the court's consideration of the issue of granting or continuing an injunction sought by the Board, a showing of conduct in violation of the terms of this Article shall be sufficient to meet any requirement of general North Carolina injunction law for irreparable damage.

(b) The venue for actions brought under this section shall be the superior court of any county in which such illegal or unlawful acts are alleged to have been committed, in the county in which the defendants in such action reside, or in the county in which the Board maintains its offices and records.

90-270.38. Title. This Article may be cited as the "Physical Therapy Practice Act."

90-270.39. Osteopaths, chiropractors, and podiatrists not restricted.

Nothing in this Article shall restrict the use of physical therapy modalities by licensed osteopaths, chiropractors, or podiatrists, in the lawful practice of their professions; except that, these licensed professionals shall not be permitted to in any way hold themselves, or any employee or associate, out as practicing physical therapy or being licensed by the Board of Physical Therapy Examiners, or any other agency, to do so.

NEWLY ADOPTED LEGISLATION, BUT NOT PART OF THE PRACTICE ACT

§ 114-19.33. Criminal history record checks of applicants for licensure as physical therapists or physical therapist assistants.

The Department of Justice may provide to the North Carolina Board of Physical Therapy Examiners a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Justice the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by the Department of Justice to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 7. This act becomes effective October 1, 2013.