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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1228 Session of 2020

INTRODUCED BY SCAVELLO, ARGALL, YUDICHAK, PHILLIPS-HILL AND BROOKS, JULY 13, 2020

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, JULY 13, 2020

AN ACT

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 definitions, for powers and duties of board, for continuing education, for practice of physical therapy and for physical therapist assistant, education and examination, scope of duties and certification.

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

Section 1. The definitions of "certificate of authorization" and "physical therapy" in section 2 of the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, are amended and the section is amended by adding a definition to read:

Section 2. Definitions.--The following definitions shall apply, when used in this act, unless otherwise expressed therein:

* * *

["Certificate of authorization" means a certificate, approved by the board, to practice physical therapy without a referral

under section 9(a).]

* * *

"Dry needling" means a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits. The term does not include the stimulation of auricular or any other points based upon areas of oriental medicine or the practice of acupuncture under the act of February 14, 1986 (P.L.2, No.2), known as the Acupuncture Licensure Act.

* * *

"Physical therapy" means any of the following:

(1) The evaluation, examination and testing of individuals with mechanical, physiological and developmental impairments, functional limitations and disabilities, other health-related or movement-related conditions, performed to determine a diagnosis, prognosis and plan of treatment intervention within the scope of this act or to assess the ongoing effects of intervention.

(2) The performance of tests and measurements as an aid in diagnosis or evaluation of function and the treatment of the individual through the utilization of the effective properties of physical measures such as mechanical stimulation, dry needling, heat, cold, light, air, water, electricity, sound, massage or mobilization-manual therapy.

(3) The use of therapeutic exercises and rehabilitative procedures, including training in functional activities, with or without the utilization of assistive devices, for the purpose of limiting or preventing disability and alleviating or correcting any physical or mental conditions.

(4) Reducing the risk of injury, impairment, functional limitation and disability, including the promotion and

maintenance of fitness, health and wellness in populations of all ages as well as engaging in administration, consultation, education and research.

* * *

Section 2. Sections 3(a), 7.2, 9(b), (c) and (e) and 9.1(c) of the act are amended to read:

Section 3. Powers and Duties of Board.--(a) It shall be the duty of the board to pass upon the qualifications of applicants for licensure as physical therapists and certification as physical therapist assistants, to conduct examinations, to issue and renew licenses [and certificates of authorization] to physical therapists and certificates to physical therapist assistants who qualify under this act, and in proper cases to refuse to issue, suspend or revoke the license [or certificate of authorization] of any physical therapist or certificate of any physical therapist assistant. The board may adopt rules and regulations not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this law. The board is authorized and empowered to appoint hearing examiners and to conduct investigations and hearings upon charges for discipline of a licensee or certificate holder or for violations of this act and to cause, through the office of the Attorney General, the prosecution and enjoinder of individuals violating this act. The board shall maintain a register listing the name of every living physical therapist licensed to practice in this State, and every physical therapist assistant duly certified pursuant to section 9.1, such individual's last known place of residence, and the date and number of the physical therapist's license and the physical therapist assistant's certificate. Residential information shall

not be considered a public record under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

* * *

Section 7.2. Continuing Education.--For each license renewal, a licensee shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board. The licensee shall provide the board with evidence of the completion of the continuing education. [A physical therapist who has met the continuing education requirements for a certificate of authorization set forth in section 9(c)(1) shall be deemed to have met the continuing education requirement for license renewal. No credit shall be given for any course in office management or practice building.]

Section 9. Practice of Physical Therapy.--* * *

(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] The practice of physical therapy without a referral under subsection (a) shall not authorize a physical therapist either to treat a condition in an individual which is a nonneurologic, nonmuscular or nonskeletal condition or to treat an individual who has an acute cardiac or acute pulmonary condition unless the physical therapist has consulted with the individual's licensed physician, dentist or podiatrist regarding the individual's condition and the physical therapy treatment plan or has referred the individual 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] To practice physical therapy under this subsection, a licensee 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 an individual 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 an individual 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:

(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.

(iii.1) A licensee under this act, practicing in this Commonwealth, shall maintain a level of professional liability insurance coverage in the minimum amount of $1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept as satisfactory evidence of insurance coverage any of the following:

(A) self-insurance;

(B) personally purchased liability insurance; or

(C) professional liability insurance coverage provided by

the physical therapist's employer or similar insurance coverage acceptable to the board.

(iii.2) A license applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with subparagraph (iii.1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice physical therapy in this Commonwealth.

(iii.3) Upon issuance of a license, a licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

(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 30 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 30 hours shall be in appropriate evaluative procedures to treat an individual without a referral. No credit shall be given for any course in office management or practice building. The licensee shall provide the board with evidence of the completion

of the continuing education.

(2) Continuing education programs and program providers under this subsection 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.]

* * *

(e) A physical therapist may treat an individual without a referral as provided for in subsection (b) for up to [30] 90 days from the date of the first treatment. A physical therapist shall not treat an individual beyond [30] 90 days from the date of the first treatment unless he or she has obtained a referral from a licensed physician; a licensed physician assistant practicing pursuant to a written agreement with a physician; a certified registered nurse practitioner practicing pursuant to a collaborative agreement with a physician; or a licensed dentist or licensed podiatrist, for the treatment of a condition that is within the scope of practice of dentistry or podiatry. The date of the first treatment for purposes of this subsection is the date the individual is treated by any physical therapist treating without a referral.

* * *

Section 9.1. Physical Therapist Assistant; Education and Examination; Scope of Duties; Certification.--* * *

(c) A physical therapist assistant while assisting a licensed physical therapist in the practice of physical therapy shall only perform patient-related physical therapy acts and services that are assigned or delegated by and under the

supervision of a licensed physical therapist. Such acts and services of a physical therapist assistant shall not include evaluation, testing, dry needling, interpretation, planning or modification of patient programs. For purposes of this section the term "supervision" means as follows:

(1) In all practice settings, the performance of selected acts and services by the physical therapist assistant shall be:

(i) The responsibility of the licensed physical therapist at all times.

(ii) Based on the following factors:

(A) Complexity and acuity of the patient's needs.

(B) Proximity and accessibility of the licensed physical therapist to the certified physical therapist assistant.

(C) Supervision available in the event of an emergency or critical event.

(D) Type of practice setting in which the service is provided.

(2) In all practice settings, the initial patient contact shall be made by a licensed physical therapist for evaluation of the patient and establishment of a plan of care.

(3) Supervision requirements of a physical therapist assistant shall be dependent upon the practice setting in which the care is delivered:

(i) When care is delivered to an individual in an acute care hospital, acute inpatient rehabilitation center, long-term acute care hospital facility setting or as otherwise required by Federal or State law or regulation, the physical therapist assistant shall be under the direct on-premises supervision of a licensed physical therapist.

(ii) When care is provided to an individual in a preschool,

primary school, secondary school or other similar educational setting, a licensed physical therapist shall make an onsite visit and examine the patient at least every four patient visits or every 30 days, whichever shall occur first.

(iii) When care is provided to a patient in a physical therapy independent private practice outpatient facility, a licensed physical therapist shall provide direct on-premises supervision of a physical therapist assistant for at least 50% of the hours worked by the physical therapist assistant during the calendar week unless otherwise required by Federal law, and the physical therapist shall be immediately available by telecommunication if not providing direct on-premises supervision.

(iv) For any home health care, facility or practice setting not specified in subparagraph (i), (ii) or (iii), a licensed physical therapist shall make an onsite visit and actively participate in the treatment of the patient at least every seven patient visits or every 14 days, whichever shall occur first. The board shall review and make recommendations to the Consumer Protection and Professional Licensure Committee of the Senate and to the Professional Licensure Committee of the House of Representatives relating to the implementation of this paragraph three years following the effective date of this paragraph.

(4) In all practice settings, a physical therapist assistant shall be under the direct on-premises supervision of a licensed physical therapist until the physical therapist assistant submits for approval evidence satisfactory to the board of:

(i) at least 2,000 hours of experience providing patient-related acts and services verified by a supervising licensed physical therapist; or

(ii) employment as a physical therapist assistant for at least three of the five years immediately preceding the effective date of this paragraph.

(5) Upon compliance with paragraph (4), a physical therapist assistant may only provide physical therapy acts and services when the licensed physical therapist is available and accessible in person or by telecommunication to the physical therapist assistant during all working hours of the physical therapist assistant and is present within a 100-mile radius of the treatment location. A physical therapist assistant shall consult with the supervising physical therapist in the event of a change in the patient's condition which may require the assessment of a licensed physical therapist.

(6) A licensed physical therapist shall not supervise more than three physical therapist assistants at any time.

(7) In the event of a change of the supervising licensed physical therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any certified physical therapist assistant providing physical therapy acts and services and shall become the supervising physical therapist.

* * *

Section 3. This act shall take effect in 60 days.