



SPONSOR: Rep. Brady & Sen. Poore
Reps. Bennett, Bolden, Outten, Peterman;
Sens. Lopez, Pettyjohn, Sokola, Townsend

HOUSE OF REPRESENTATIVES

147th GENERAL ASSEMBLY

HOUSE BILL NO. 359
AS AMENDED BY
HOUSE AMENDMENT NOS. 1,2 & 4

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PHYSICAL THERAPY AND ATHLETIC TRAINING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2602, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2602. Definitions.

As used in this chapter, unless the content requires otherwise, the following words shall have the following meanings:

(1) "Athletic injury" is a musculoskeletal or other acute, non-musculoskeletal sports-related injury resulting from or limiting participation in or training for scholastic, recreational, professional or sanctioned amateur athletic activities.

(2) "Athletic trainer" means a person who is licensed by the State Examining Board of Physical Therapists and Athletic Trainers, to practice "athletic training," after meeting the requirements of this chapter and rules and regulations promulgated pursuant thereto.

~~(3) "Athletic training" means the prevention evaluation and treatment of athletic injuries by the utilization of therapeutic exercises and modalities such as heat, cold, light, air, water, sound, electricity, massage and nonthrust mobilizations. All treatment of athletic injuries requires a physician's referral, except for minor sprains, strains, and contusions, first aid excluded. Treatment of musculoskeletal injuries that are not defined as an "athletic injury" will require direction from a physical therapist and direct supervision of every fifth treatment. An athletic trainer may not~~

~~independently initiate, modify, or discontinue a physical therapy plan of care. Athletic training shall not include radiology, surgery, prescription drugs, or authorize the medical diagnosis of disease.~~

(3) "Athletic training" means the prevention, evaluation, and treatment of athletic injuries by the utilization of therapeutic exercises and modalities such as heat, cold, light, air, water, sound, electricity, massage, and nonthrust mobilizations.

(4) "Board" means the State Examining Board of Physical Therapists and Athletic Trainers which shall administer and enforce this chapter.

(5) "Division" means the Delaware Division of Professional Regulation.

(6) "Dry needling" means an intervention that uses a thin filiform needle to penetrate the skin and stimulate underlying muscular tissue, connective tissues and myofascial trigger points for the management of neuromusculoskeletal pain and movement impairments; is based upon Western medical concepts; and requires a physical therapy examination and diagnosis.

~~(5)~~ (7) "First aid" is emergency care and treatment of an injured person before definitive medical and surgical management can be secured. Such care may include the emergency administration of medications including asthma medications, anaphylaxes medications, and glucagon. Such administration may require advanced training as determined by the Board's rules and regulations, to assure the licensee meets accepted standards of care.

~~(6)~~ (8) "Physical therapist" means a person who is licensed to practice ~~"physical therapy."~~ physical therapy. "Physical therapist" and such words as "physiotherapist" are equivalent terms, and reference to any 1 of them in this chapter or otherwise shall include the others.

~~(7)~~ (9) "Physical therapist assistant" means a person who assists licensed physical therapists subject to this chapter and rules and regulations adopted pursuant thereto.

(10)a. "Practice of physical therapy" means:

1. Examining, evaluating, and testing patients/clients who have impairments of body structure or function, activity limitations or participation restrictions in physical movement and mobility, or other health and movement related conditions in order to determine a physical therapy diagnosis, prognosis, and plan of treatment intervention, and to assess the ongoing effects of intervention; and

2. Alleviating impairments of body structure or function, activity limitations or participation restrictions in physical movement and mobility by designing, implementing, and modifying treatment interventions that may include: therapeutic exercise, functional training related to physical movement and mobility in self-care and in

home, community, or work integration or reintegration; gait and balance training; neurological re-education; vestibular training; manual, mechanical, and manipulative therapy, including soft tissue, musculoskeletal manipulation, and joint mobilization/manipulation; dry needling; therapeutic massage; the prescription, application, and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; non-surgical debridement and wound care; evaluative and therapeutic physical agents or modalities; mechanical and electrotherapeutic modalities; and patient related instruction; and

3. Reducing the risk of impairments of body structure or function, activity limitations or participation restrictions in physical movement and mobility, including the promotion and maintenance of fitness, health, and wellness in populations of all ages; and

4. Engaging in administration, consultation, education, telehealth, and research.

b. Nothing in this chapter shall be construed to limit the practice of physical therapy by physical therapists as is currently being practiced or determined by the Board so long as such practice does not include surgery and the medical diagnosis of disease. Advanced services may require advanced training, as determined by the Board's rules and regulations, to assure the licensee meets the accepted standard of care.

~~(8) "Physical therapy" means the evaluation, instruction or treatment of any person to detect, assess, prevent, correct, alleviate or limit physical disability from injury or disease and any other physical and or mental condition, by the utilization of the effective properties of physical measures, activities and devices such as heat, cold, light, air, water, sound, electricity, massage, mobilization, therapeutic exercises and rehabilitative procedures including training in functional activities, with or without assistive devices. Physical therapy also includes the supervision of physical therapy activities, physical therapy consultation and the establishment and modification of physical therapy programs. Physical therapy shall not include radiology, surgery, drugs or authorize the medical diagnosis of disease.~~

(11) "State" means the State of Delaware.

~~(9)~~ (12) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of physical therapy or athletic training.

(13) "Telehealth," as set forth in the Board's rules and regulations, means the use of electronic communications to provide and deliver a host of health-related information and healthcare services, including physical therapy and athletic training related information and services, over large and small distances. Telehealth encompasses

a variety of healthcare and health promotion activities, including education, advice, reminders, interventions, and monitoring of intervention.

(14) "Trigger points" are defined as hyperirritable spots in skeletal muscle that are associated with palpable nodules in taut bands of muscle fibers. They can give rise to local or referred pain, autonomic phenomenon, and can cause limitations in range of motion and muscle activation.

~~(10) (15) "Visiting physical therapist or athletic trainer" is an individual certified by the National Athletic Trainers Association Board of Certification who resides and works with a visiting team, in an athletic training capacity, located outside of the State.~~ means a physical therapist or athletic trainer who is licensed in another jurisdiction of the United States or credentialed to practice physical therapy or athletic training in another country and that person is teaching, demonstrating, or providing physical therapy or athletic training services in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year and abides by Delaware laws, rules, and regulations relating to physical therapy and athletic training.

Section 2. Amend § 2603, Title 24 of the Delaware code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2603. Examining Board of Physical Therapists and Athletic Trainers — Appointment; vacancies; suspension or removal; unexcused absences; qualifications; term of office; compensation of officers.

(a) There is hereby created the State Examining Board of Physical Therapists and Athletic Trainers. The Board shall consist of 10 members, all of whom shall be residents of Delaware. Four members shall be physical therapists licensed to practice in Delaware, provided they have worked at least 3 years in Delaware as physical therapists immediately preceding their appointment. One member shall be a physical therapist assistant, licensed to practice in Delaware, provided he or she has worked at least 3 years in Delaware as a physical therapist assistant immediately preceding his or her appointment. Two members shall be athletic trainers licensed to practice in Delaware, provided they have worked at least 3 years in Delaware as athletic trainers immediately preceding their appointment. Three members shall be from the public who are not physical therapists, physical therapy assistants, or athletic trainers and who shall not be related to any person actively engaged in said professions in the State, nor shall said members have any interest in a business or institution engaged in physical therapy or athletic training.

(c) ~~Members of the initial Board shall be appointed in such a manner that the terms of 4 members expire on June 30, 1991, and the terms of the remaining 5 members shall expire on June 30, 1992. Thereafter, appointments~~ Appointments shall be made for terms of 3 years. A member appointed to fill a vacancy occurring otherwise than by expiration of a term

shall be appointed for the remainder of the unexpired term, except that each member shall serve until a successor is duly appointed and qualified.

~~(g) The Board shall meet at least twice a year and may hold additional meetings whenever necessary to discharge its duties. The location of the meetings shall be determined by the Board, but shall be within the boundaries of the State.~~

~~(h) The Board shall elect annually from its membership a Chairperson, a Vice-Chairperson and a Secretary.~~

(g) No member of the Board, while serving on the Board, shall hold elected office in any professional association of physical therapists, physical therapist assistants, or athletic trainers.

(h) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance malfeasance, misconduct, incompetence, or neglect of duty. A member subject to a disciplinary hearing shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(i) A member who is absent without adequate reason for 3 consecutive meetings or fails to attend at least half of all regular business meetings during any calendar year shall be guilty of neglect of duty.

Section 3. Amend Chapter 26, Title 24 of the Delaware Code by inserting new § 2604 and § 2605 as shown by underline as follows:

§ 2604. Organization; meetings; officers; quorum.

(a) The Board shall elect annually from its membership a Chairperson, a Vice-Chairperson, and a Secretary. Each officer shall serve for 1 year and shall not succeed himself or herself for more than 2 consecutive terms.

(b) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such times as the Chairperson deems necessary, or at the request of a majority of the members of the Board.

(c) A majority of the members of the Board shall constitute a quorum for the purpose of transacting business and no action shall be taken without the affirmative vote of a majority of the quorum. No disciplinary action shall be taken without the affirmative vote of a majority of the members of the Board.

(d) Minutes of all meetings shall be recorded and the Division shall maintain copies. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.

§ 2605. Records.

The Division shall keep a register of all approved applications for licenses under this chapter and complete records relating to meetings of the Board, rosters, changes, and additions to the Board's rules and regulations, complaints, hearings, and such other matters as the Board shall determine. Such records are prima facie evidence of the proceedings of the Board.

Section 4. Amend § 2604, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2604~~ § 2606. Powers and duties of Board.

(a) The Examining Board of Physical Therapists and Athletic Trainers shall have authority to:

~~(1) Formulate rules and regulations, with appropriate notice to those affected, where such notice can reasonably be given;~~

(1) Adopt rules and regulations, which shall be promulgated in accordance with the requirements of the Administrative Procedures Act, Chapter 101 of Title 29;

(2) Designate the application form to be used by all applicants, and to process all applications;

(3) Designate ~~or prepare~~ an examination to be taken by persons applying for licensure, except applicants who qualify for licensure by reciprocity;

~~(4) Provide for the administration of all examinations, including notice and information to applicants;~~

(4) Evaluate the credentials of all applicants in order to determine whether the applicants meeting qualifications for licensing set forth in this chapter;

(5) Grant licenses to and renew licenses of all persons who meet the qualifications for licensure;

~~(6) Receive complaints from practitioners and from the public concerning practitioners, or concerning practices of the profession; to evaluate such complaints; and to take such action within its powers as the Board deems appropriate;~~

~~(7) Issue subpoenas and compel the attendance of witnesses and production of records;~~

~~(8) Administer oaths to witnesses;~~

~~(9) Determine whether or not a practitioner shall be the subject of a disciplinary hearing, and if so, to conduct such hearing in accordance with this chapter and the Administrative Procedures Act [Chapter 101 of Title 29];~~

(6) Establish by rule and regulation continuing education standards required for license renewal. Such continuing education standards shall include competencies and proficiencies as determined by the Board;

(7) Establish by rule and regulation advanced training requirements to assure the licensee meets accepted standards of care for different modalities;

(8) Perform random audits of continuing education credits submitted by licensees for license renewal;

(9) Evaluate certified records to determine whether an applicant for licensure who previously has been licensed in another jurisdiction has engaged in any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against the applicant for such acts or offenses;

(10) Refer all complaints from licensees and the public concerning persons licensed under this chapter, or concerning practices of the Board or of a profession regulated by the Board, to the Division for investigation pursuant to § 8735 of Title 29 and assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint;

(11) Conduct hearings and issue orders in accordance with procedures established pursuant to the Administrative Procedures Act, Chapter 101 of Title 29;

~~(10) Where~~ (12) Designate and impose the appropriate sanction or penalty where it has been determined, after a disciplinary hearing, that penalties or sanctions should be imposed to designate and impose the appropriate sanction or penalty after time for appeal has lapsed;

~~(11) Maintain complete records relating to meeting minutes, applications, examinations, rosters, changes and additions to the rules and regulations, complaints, hearings and other matters as the Board shall determine;~~

~~(12)~~ (13) Issue cease and desist orders and impose fines for unlicensed practice after a hearing conducted in accordance with this chapter and the Administrative Procedures Act: , Chapter 101 of Title 29;

(14) Issue advisory opinions regarding this chapter upon written request by a person licensed under this chapter; and

(15) Report final disciplinary action taken against a licensee to a national disciplinary database recognized by the Board or as required by law.

Section 5. Amend § 2605, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2605~~ § 2607. License ~~or registration~~ required; exceptions.

(a) No person shall practice nor hold oneself out as being able to practice physical therapy or athletic training in this State or act as a physical therapist, physical therapist assistant or athletic trainer in any manner whatsoever whether or not compensation is received or expected unless the person is licensed ~~or registered~~ in accordance with this chapter and such license ~~or registration~~ is in good standing or has not been suspended or revoked.

(b) This chapter shall not prohibit any person ~~registered or~~ licensed to practice in this State under any other law from engaging in that practice for which such person is ~~registered or~~ licensed.

~~(c) This chapter shall not prohibit visiting athletic trainers from performing athletic training in the State in a nonclinical setting during the designated times of an event; however, while in the State, all visiting athletic trainers must abide by Delaware laws, rules and regulations relating to athletic training.~~

(c) This chapter shall not prohibit a physical therapist or athletic trainer who resides and works outside the State of Delaware and is licensed in a jurisdiction of the United States or credentialed in another country or, in the case of an athletic trainer, is certified by the National Athletic Trainers Association, from rendering care, if that person by contract or employment is providing non-clinical physical therapy or athletic training to patients/clients affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies temporarily practicing, competing, or performing in the jurisdiction for no more than 60 days in a calendar year. All visiting physical therapists or athletic trainers must abide by Delaware laws, rules, and regulations relating to physical therapy and athletic training.

(f) This chapter shall not limit or restrict those who are engaged in certain occupations or jobs which may or may not require a license ~~or registration~~ such as, but not limited to, physical education teachers, coaches, health, or recreation directors and instructors at health clubs or spas, water safety instructors, and ~~masseurs~~ massage therapists. The duties which may be properly undertaken in such occupation or job include the nontherapeutic administration of baths, massage, normal conditioning and the like to normal subjects, that is, those persons who have no specific pathology. First aid subjects are excluded.

(g) This chapter shall not prohibit a physical therapist or athletic trainer who is licensed in another jurisdiction of the United States or credentialed to practice physical therapy or athletic training in another country from teaching, demonstrating, or providing physical therapy or athletic training services in connection with teaching or participating in an educational seminar for no more than 60 days in a calendar year, so long as such person abides by Delaware laws, rules, and regulations relating to physical therapy and athletic training.

(h) This chapter shall not prohibit a physical therapist or athletic trainer who is licensed in a jurisdiction of the United States from providing physical therapy or athletic training services in this State during a declared local, jurisdictional, or national disaster or emergency. This exemption applies for no more than 60 days following the declaration of the emergency, so long as such person abides by Delaware laws, rules, and regulations relating to physical therapy and athletic training. In order to be eligible for this exemption, the physical therapist or athletic trainer shall notify the Board of his or her intent to practice in this State pursuant to this subsection.

(i) This chapter shall not prohibit a physical therapist or athletic trainer licensed in a jurisdiction of the United States who is forced to leave his or her residence or place of employment due to a declared local, jurisdictional, or national disaster or emergency from practicing physical therapy or athletic training in this State. This exemption applies for no more than 60 days following the declaration of the emergency, so long as such person abides by Delaware laws, rules, and regulations relating to physical therapy and athletic training. In order to be eligible for this exemption, the physical therapist or athletic trainer shall notify the Board of his or intent to practice in this State pursuant to this subsection.

Section 6. Amend § 2606, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2606~~ § 2608. Qualifications of applicant; foreign-trained applicants; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(2) Has passed, to the satisfaction of the Board, a national examination, ~~administered or~~ designated by the Board, to determine the applicant's fitness to practice physical therapy, to act as a physical therapist assistant or to act as an athletic trainer as herein provided; and

(3) Meets additional educational requirements set forth in the Board's rules and regulations; and

(7) Shall have no disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction where the applicant previously has been or currently is licensed to practice physical therapy or athletic training; and

(8) Has not been convicted of a felony sexual offense; and

(9) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to the person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board shall be the screening point for the receipt of said federal criminal history records.

(b) A physical therapist applicant whose application is based on a diploma issued by a foreign physical therapy school shall furnish evidence satisfactory to the Board of the completion of a physical therapy school or schools" resident course of professional instruction equivalent to that required in subsection (a) of this section, in addition to meeting all other requirements of this section and § ~~2608~~ 2611 of this title.

(e) An applicant may not be licensed until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section.

Section 7. Amend Chapter 26, Title 24 of the Delaware Code by inserting a new § 2609 and by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2609. Fees.

The amount charged for fees imposed under this chapter shall approximate and reasonably reflect costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division in its service on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each biennium year, the Division, or another state agency acting on its behalf, shall compute the appropriate fee for each separate service or activity.

Section 8. Amend § 2607, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2607. Application fee; renewal; § 2610. Issuance and renewal of licenses; inactive status; misrepresentation.

(a) The Board shall issue a license to each physical therapist applicant, physical therapist assistant applicant, or athletic trainer applicant who satisfies the requirements for licensure set forth in this chapter and rules and regulations promulgated hereunder.

(a) (b) Each application for license or registration under this chapter shall be accompanied by a fee set forth in the Board's rules and regulations. Licenses and registrations shall expire biennially on January 1 and may be renewed online upon submission of a renewal application provided by the Board and payment of a renewal fee along with evidence of continuous continuing education courses as may be required by the rules and regulations set forth by the Board. If the renewal fee is not paid by the expiration date, a license or registration shall automatically expire. A license or registration which has thus expired may, within 5 years of its expiration date, be renewed upon the payment to the Board of the sum set forth in rules and regulations of the Board for each year or part thereof during which the license or registration was expired.

Reactivation of an expired license more than 5 years after its expiration date may be renewed only by complying with the provisions herein relating to the issuance of an original license ~~or registration~~.

~~(b)~~ (c) The Board shall also keep an inactive register. Any person who has been registered in this State who is not actively engaged in the practice of physical therapy or athletic training in this State may, upon request, be placed on the inactive register. Provisions for inactive status shall be set up by the Board.

~~(e)~~ (d) Any applicant who knowingly or wilfully makes a false statement of fact in making an application under this chapter shall be subject to prosecution for perjury. ~~The Board shall have full authority to investigate, in accordance with law, every applicant for a license or registration regarding that applicant's qualifications.~~

Section 9. Amend § 2608, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2608. Examination; reexamination.~~ § 2611. Examination.

~~(a) The Board shall give an examination to applicants for licensure and registration who comply with §§ 2605 and 2606 of this title. Each examination shall include a written examination which shall test the applicant's knowledge of basic and clinical sciences as they relate to physical therapy and physical therapy theory and other subjects as the Board may deem useful to test the applicant's fitness to practice physical therapy or to act as a physical therapist assistant. Examinations shall be held within the State at least twice a year at such time and place as the Board shall determine. The Board shall also have the authority to establish alternate standards as set forth in rules and regulations hereto by which an applicant may be qualified to take the physical therapist assistant examination.~~

~~(b) The Board shall designate a national examination to applicants for licensure as an athletic trainer who comply with §§ 2605 and 2606 of this title. Each athletic training examination shall test the applicant's knowledge of basic clinical sciences as they relate to athletic training and athletic training theory, practice and other subjects the Board may deem useful to test the applicant's fitness to practice athletic training.~~

The Board, in its rules and regulations, shall designate the national examinations for licensure as a physical therapist, physical therapist assistant, or athletic trainer.

Section 10. Amend § 2609, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

~~§ 2609. Issuance of license or registration.~~

~~The Board shall issue a license to each physical therapist applicant or issue a registration certificate to each physical therapist assistant applicant or athletic trainer applicant who satisfies the requirements for licensure or registration~~

~~set forth in this chapter and rules and regulations promulgated hereunder and who is not disqualified to be licensed or registered by operation of § 2615 of this title.~~

Section 11. Amend § 2610, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

~~§ 2610~~ § 2612. Reciprocity.

(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who shall present proof of current licensure, in good standing, in another State, the District of Columbia or territory of the United States, and who, in addition:

(1) Meets the criteria for current licensure in good standing as defined in ~~§ 2606(a)(4)-(6)~~ § 2608(a)(4)-(8) of this title; and

(2) Has received the passing score on the national examination, ~~administered or~~ designated by the Board, for practice as a physical therapist, physical therapy assistant or athletic trainer; and

(3) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board shall be the screening point for the receipt of said federal criminal history records.

(b) In addition to meeting the requirements of ~~§ 2606(a)(4)-(6) of this title~~ § 2608(a)(4)-(8), foreign-trained applicants must also meet the requirements of ~~§ 2606(b)~~ § 2608(b) of this title.

(c) In the event a physical therapist, physical therapy assistant or athletic trainer, who previously was licensed in Delaware and who has let his or her license lapse, is applying for licensure under this subsection, the Board shall grant a license to such applicant, subject to subsection (a) of this section and completion of continuing education requirements, upon payment of the appropriate fee, and on submission of a written application on forms provided by the Board.

(d) An applicant may not be licensed until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to § 2608(a)(6) of this title.

Section 12. Amend § 2611, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2611. Temporary license or registration~~ § 2613. Temporary license.

(a) Upon submission of a written application on forms provided by the Board, the Board may issue a temporary license ~~or a temporary certificate of registration~~ to a person who has applied for licensure ~~or registration~~ under ~~§§ 2605 and 2606 of this title~~ this chapter and who, in the judgment of the Board, is eligible to take the examination provided for in ~~§ 2608 of this title~~ § 2611 of this chapter. In the case of physical therapists, physical therapist assistants, or athletic trainers, such temporary licensure ~~or registration~~ may be available to an applicant only with respect to the applicant's first application for licensure. In the case of physical therapists and physical therapist assistants, the applicant may use the temporary licensure ~~or registration~~ only while under the direct supervision of a licensed physical therapist. In a clinical setting, the athletic trainer applicant may use the temporary licensure ~~or registration~~ only while under the direct supervision of a licensed physical therapist. In a nonclinical setting, the athletic trainer applicant may use the temporary licensure ~~or registration~~ only while under the direct supervision of a licensed athletic trainer. Such temporary license ~~or registration~~ shall expire automatically upon the failure of a licensure ~~or registration~~ examination, and upon such expiration, the temporary license ~~or registration~~ shall be surrendered to the Board and may not be renewed. In all other cases, a temporary license may be renewed only once.

Section 13. Amend § 2612, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2612.~~ § 2614. Practice, referral, and consultation.

(b) Any person licensed under this chapter as an athletic trainer shall not treat any person by athletic training or otherwise, except after a physician's referral or an evaluation by the supervising physical therapist, first aid excluded. Any person licensed under this chapter as an athletic trainer will require a physician's referral; for treatment and/or rehabilitation of injuries, other than treatment of minor sprains, strains, and contusions, first aid excluded. Treatment by an athletic trainer may occur based on a referral from, or in consultation with, any licensed health practitioner who has been granted prescriptive authority for a condition within the scope of their respective practices. An athletic trainer shall refer an

individual to another licensed health practitioner if symptoms are present for which athletic training is contra-indicated or which are indicative of conditions for which treatment is outside the scope of the athletic trainer's knowledge.

(1) All treatment of athletic injuries requires a physician's referral, except for minor sprains, strains, and contusions, first aid excluded.

(2) Treatment of non-musculoskeletal athletic injuries is limited to on-site sanctioned scholastic, collegiate, professional, recreational, or amateur sports settings. An athletic trainer may not treat non-athletic, non-musculoskeletal injury, unless otherwise set forth in this chapter.

(3) Treatment of musculoskeletal injuries that are not defined as an athletic injury will require direction from a physical therapist as set forth in this chapter and the Board's rules and regulations. An athletic trainer may not independently initiate, modify, or discontinue a physical therapy plan of care. Nothing in this chapter is to be construed to limit the practice of athletic training by athletic trainers as is currently being practiced or determined by the Board, so long as such practice does not include surgery and the medical diagnosis of disease. Advanced services may require advanced training, as determined by the Board's rules and regulations, to assure the licensee meets the accepted standard of care.

(c) Notwithstanding any other provision in this section, a physician referral specific for dry needling is required. If the initial referral is received orally, it must be followed up with a written referral.

(d) No physical therapist, physical therapist assistant, or athletic trainer shall advertise or in any other way hold him- or herself out as an acupuncturist, unless that physical therapist, physical therapist assistant, or athletic trainer is a licensed acupuncturist.

Section 14. Amend § 2613, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2613.~~ § 2615. False representation of professional title.

(a) It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with its name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "aquatic therapist," "~~physio~~-hydrotherapist," "registered physical therapist," "licensed physical therapist," "physical therapist assistant," "athletic training," "athletic trainer," "trainer," "certified athletic trainer," "licensed athletic trainer," the letters "PT," "LPT," "DPT," "RPT," "PTA," "AT," "LAT," or any words, letters, abbreviations or insignia indicating or implying directly or indirectly physical therapy services or athletic training services or to bill for physical

therapy or athletic training unless such services are provided by a physical therapist or athletic trainer licensed and practicing in accordance with this chapter.

(b) While rendering patient care as an employee of a hospital, clinic, group practice or multi-professional facility, or at a commercial establishment offering health services to the public, a person holding a license pursuant to this chapter shall wear an identification badge, lab coat, or other means of identification stating that person's professional title.

Section 15. Amend § 2614, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2614.~~ § 2616. Use of professional title.

(a) Any person who holds a license pursuant to this chapter as a physical therapist may use the word "physical therapist" or the letters "PT" in connection with the person's name or place of business to denote licensure hereunder. Any person who holds a license pursuant to this chapter as a physical therapist assistant may use the words "physical therapist assistant" and may use the letters "PTA" in connection with the person's name to denote licensure hereunder.

Section 16. Amend § 2615, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

~~§ 2615. Rules and regulations; authorized services and acts.~~

~~The Board shall have the power to adopt and revise rules and regulations governing physical therapist assistants, athletic trainers and other supportive personnel who assist the physical therapist in the physical therapist's practice or who otherwise provide acts or services of physical therapy in accordance with law. In the absence of standards established by the Board, nothing in this chapter shall be construed to prohibit services and acts relating to physical therapy rendered by the physical therapist who is acting in accordance with this chapter.~~

Section 17. Amend § 2616, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

~~§ 2616. Grounds for refusal, suspension or revocation of license or registration; penalties for violations of chapter.~~

§ 2617. Grounds for discipline.

~~(a) The Board, after due notice and hearing as provided in rules and regulations promulgated by the Board, may refuse to license or register any applicant or may refuse to renew the license or registration of any person or may suspend or revoke the license or registration of any licensed or registered person who:~~

(a) A person licensed under this chapter performing physical therapy or athletic training services is subject to the disciplinary sanctions set forth in § 2618 of this title if, after a hearing, the Board finds that the licensee has:

(1) ~~Practices~~ Practiced physical therapy or acts acted as a physical therapist assistant or athletic trainer in violation of this chapter and rules and regulations promulgated thereunder;

(2) ~~Attempts or obtains licensure or registration~~ Obtained or attempted to obtain licensure by fraud or misrepresentation;

(3) ~~Commits repeated acts of negligence or incompetence in the practice of physical therapy or acting as a physical therapist assistant or athletic trainer;~~

(3) Illegally, incompetently, or negligently practiced physical therapy or athletic training;

(4) ~~Has been~~ Been convicted of a crime that is substantially related to the practice of physical therapy or athletic training in the courts of this State or any other state, territory or country. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere;

(5) Habitually ~~indulges~~ indulged in the use of narcotics or other habit forming drugs, or excessively ~~indulges~~ indulged in the use of ~~alcoholic liquors~~ alcohol;

(6) ~~Has had the~~ Had a license to practice physical therapy ~~or registration~~ or license to act as a physical therapist, physical therapist assistant, or athletic trainer; ~~revoked or suspended, or~~ has had other disciplinary action taken or an application for licensure ~~or registration~~ has been refused, revoked, or suspended by the proper authorities of another state, territory or country;

(7) ~~Has been~~ Been guilty of unprofessional conduct as adopted in the Board's rules and regulations ~~hereto~~. Unprofessional conduct shall include departure from or the failure to conform to the minimal standards of acceptable and prevailing physical therapy practice or athletic training practice, in which ~~proceeding~~ preceding actual injury to a patient need not be established;

(8) ~~Engages Engaged~~ directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or who profits by means of a credit or other valuable consideration such as wages, an unearned commission, discount or gratuity with any person who referred a patient, or with any relative or business associate of the referring person. Nothing in this paragraph shall be construed as prohibiting the members of any regularly and properly organized business entity recognized by Delaware law and comprised of physical therapists or athletic trainers from making any division of their total fees among themselves as they determine by contract necessary to defray their joint operating costs. ~~This paragraph shall not apply to physical therapist or athletic trainer positions currently held by physical therapists or athletic trainers employed by licensed medical and osteopathic physicians.~~

(9) Violated a provision of this chapter or a rule or regulation promulgated by the Board under this chapter;

(10) Failed to notify the Board that the licensee's license in another jurisdiction has been subject to discipline, or has been surrendered, suspended, or revoked. A certified copy of the record of disciplinary action, surrender, suspension, or revocation of a license shall be conclusive evidence thereof; or

(11) Been convicted of a felony sexual offense.

(b) Where the practitioner is in disagreement with the action of the Board, the practitioner may appeal the Board's decision to the Superior Court in accordance with Chapter 101 of Title 29. Upon such appeal, the Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.

~~(c) Any person who is licensed or registered by the Board or who is an applicant for licensure or registration by the Board, against whom are preferred any of the charges for causing the revocation or suspension of a license or registration, shall be cited by the Board and shall after due notice have a hearing before the Board or before a hearing examiner as determined by the Board.~~

Section 18. Amend § 2617, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

~~§ 2617. Fees and revenues.~~

~~The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each calendar year, the Division of Professional Regulation, or any other~~

~~state agency acting in its behalf, shall compute, for each service or activity, the appropriate Board fees for the coming year. All fees and revenues received by the Board shall be paid to the State Treasurer promptly after receipt and shall be credited to the General Fund of the State in accordance with Chapter 61 of Title 29.~~

Section 19. Amend Chapter 26, Title 24 of the Delaware Code by inserting new § 2618 as shown by underline as follows:

§ 2618. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that a condition or violation for discipline of a licensee regulated by this chapter has been established under § 2617 of this title:

(1) Issue a letter of reprimand.

(2) Place a licensee on probationary status and require the licensee to:

a. Report regularly to the Board upon the matters which are the basis of the probation; or

b. Limit all professional activities to those areas prescribed by the Board.

(3) Suspend a licensee's license.

(4) Revoke or permanently revoke a licensee's license.

(5) Impose a monetary penalty not to exceed \$500 for each violation.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required such action have been remedied.

(c) As a condition to reinstatement of a suspended license or removal from probationary status, the Board may impose such disciplinary or corrective measure as are authorized under this chapter.

(d) The Board shall permanently revoke the license of any person who the Board determines has violated § 2617(a)(11) of this title.

Section 20. Amend § 2618, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2618.~~ § 2619. Penalties and jurisdiction.

(a) Where the Board has determined that a person is engaged in a practice regulated by this chapter without having lawfully obtained a license ~~or registration~~, or that a person previously licensed ~~or registered~~ under this chapter is engaged in a practice regulated by this chapter notwithstanding that the person's license ~~or registration~~ has been suspended or revoked, the Board shall make complaint to the Attorney General and may issue a cease and desist order. The complaint and/or order shall include all evidence known to, or in the possession of the Board.

Section 19. Amend § 2619, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 2619.~~ § 2620. Treatment or examination of minors.