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HOUSE BILL 1103

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

GARY K. KING

AN ACT

RELATING TO LICENSURE; REPEALING THE PHYSICAL THERAPISTS'
LICENSING ACT AND ENACTING THE PHYSICAL THERAPY ACT; CREATING A
BOARD; PRESCRIBING POWERS AND DUTIES; PRESCRIBING FEES;
DETERMINING LEVELS OF LICENSURE; PROVIDING QUALIFICATIONS AND
RESTRICTIONS; PROVIDING GROUNDS FOR DENIAL, SUSPENSION OR
REVOCAION OF LICENSES; CREATING A FUND; TRANSFERRING PROPERTY,
OBLIGATIONS AND REFERENCES; PROVIDING FOR SUNSET; PRESCRIBING
PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Physical Therapy Act".

Section 2. LEGISLATIVE PURPOSE. -- The purpose of the
Physical Therapy Act is to protect the public health, safety and
welfare and provide for control, supervision, licensure and

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1 regulation of the practice of physical therapy. To carry out
2 those purposes, only individuals who meet and maintain minimum
3 standards of competence and conduct may engage in the practice
4 of physical therapy. The practice of physical therapy is
5 declared to affect the public interest and that act shall be
6 liberally construed so as to accomplish the purpose stated in
7 that act.

8 Section 3. DEFINITIONS.--As used in the Physical Therapy
9 Act:

10 A. "assistive personnel" means physical therapist
11 assistants, physical therapy aides and other assistive
12 personnel;

13 B. "board" means the physical therapy board;

14 C. "other assistive personnel" means trained or
15 educated personnel other than physical therapist assistants or
16 physical therapy aides who perform specific designated tasks
17 related to physical therapy under the supervision of a physical
18 therapist. At the discretion of the supervising physical
19 therapist and if not prohibited by any other law, it may be
20 appropriate for other assistive personnel to be identified by
21 the title specific to their training or education;

22 D. "person" means an individual or other legal
23 entity, excluding a governmental entity;

24 E. "physical therapist" means a person who is
25 licensed in this state to practice physical therapy;

1 F. "physical therapist assistant" means a person who
2 performs physical therapy procedures and related tasks pursuant
3 to a plan of care written by the supervising physical therapist;

4 G. "physical therapy" means the care and services
5 provided by or under the direction and supervision of a physical
6 therapist;

7 H. "physical therapy aide" means a person trained
8 under the direction of a physical therapist who performs
9 designated and supervised routine physical therapy tasks;

10 I. "practice of physical therapy" means:

11 (1) examining and evaluating patients with
12 mechanical, physiological and developmental impairments,
13 functional limitations and disabilities or other health-related
14 conditions in order to determine a diagnosis, prognosis and
15 planned therapeutic intervention;

16 (2) alleviating impairments and functional
17 limitations by designing, implementing and modifying therapeutic
18 interventions that include therapeutic exercise; functional
19 training in self-care and community or work reintegration;
20 manual therapy techniques, including soft tissue and joint
21 mobilization and manipulation; therapeutic massage; assistive
22 and adaptive devices and equipment; bronchopulmonary hygiene;
23 debridement and wound care; physical agents; mechanical and
24 electrotherapeutic modalities; and patient-related instruction;

25 (3) preventing injury, impairments, functional

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1 limitations and disability, including the promotion and
2 maintenance of fitness, health and quality of life in all age
3 populations; and

4 (4) engaging in consultation, testing,
5 education and research; and

6 J. "restricted license" means a license to which
7 restrictions or conditions as to scope of practice, place of
8 practice, supervision of practice, duration of licensed status
9 or type or condition of patient or client served are imposed by
10 the board.

11 Section 4. BOARD CREATED. --

12 A. The "physical therapy board" is created. The
13 board shall consist of five members appointed by the governor.
14 Three members shall be physical therapists who are residents of
15 the state, who possess unrestricted licenses to practice
16 physical therapy and who have been practicing in New Mexico for
17 no less than five years. Two members shall be citizens
18 appointed from the public at large who are not associated with,
19 or financially interested in, any health care profession.

20 B. All appointments shall be made for staggered
21 terms of three years with no more than two terms ending at any
22 one time. No member shall serve for more than two successive
23 three-year terms. Vacancies shall be filled for the unexpired
24 term by appointment by the governor prior to the next scheduled
25 board meeting.

1 C. The members shall elect a chairman and may elect
2 other officers as they deem necessary.

3 D. The governor may remove any member of the board
4 for misconduct, incompetence or neglect of duty.

5 E. Members may receive per diem and mileage pursuant
6 to the Per Diem and Mileage Act, but shall receive no other
7 compensation, perquisite or allowance.

8 F. There shall be no liability on the part of and no
9 action for damages against any board member when the member is
10 acting within the scope of his duties.

11 Section 5. POWERS AND DUTIES. --The board:

12 A. shall examine all applicants for licensure to
13 practice physical therapy and issue licenses or permits to those
14 who are duly qualified;

15 B. shall regulate the practice of physical therapy
16 by interpreting and enforcing the provisions of the Physical
17 Therapy Act, including taking disciplinary action;

18 C. may adopt, file, amend or repeal rules and
19 regulations in accordance with the Uniform Licensing Act to
20 carry out the provisions of the Physical Therapy Act;

21 D. may meet as often as the board deems necessary.
22 A majority of the members constitutes a quorum for the
23 transaction of business. The board shall keep an official
24 record of all its proceedings;

25 E. may establish requirements for assessing

1 continuing competency;

2 F. may collect fees;

3 G. may elect such officers as it deems necessary for
4 the operations and obligations of the board. Terms of office
5 shall be one year;

6 H. shall provide for the timely orientation and
7 training of new professional and public appointees to the board,
8 including training in licensing and disciplinary procedures and
9 orientation to all statutes, rules, policies and procedures of
10 the board;

11 I. may employ a director and other personnel to
12 carry out the administrative work of the board.

13 J. may obtain the assistance of the attorney general
14 or other attorney approved by the attorney general for legal
15 assistance the board deems necessary;

16 K. may enter into contracts;

17 L. shall report final disciplinary action taken
18 against a physical therapist or physical therapist assistant to
19 the national disciplinary data base;

20 M. shall publish at least annually final
21 disciplinary action taken against any physical therapist or
22 physical therapist assistant; and

23 N. may prescribe the forms of license certificates,
24 application forms and such other documents as it deems necessary
25 to carry out the provisions of the Physical Therapy Act.

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1 Section 6. BOARD FUND--CREATED.--The "physical therapy
2 fund" is created in the state treasury. The fund shall consist
3 of deposits into the fund and income from investment of the
4 fund. Money in the fund at the end of any fiscal year shall not
5 revert to the general fund. Money in the fund is appropriated
6 to the board to pay its necessary expenses pursuant to
7 appropriation by the legislature and a budget approved by the
8 state board of finance. Disbursements from the fund shall be
9 made only on warrant drawn by the secretary of finance and
10 administration pursuant to vouchers signed by the director or
11 his authorized representative.

12 Section 7. FEES.--

13 A. The board, by regulation, may charge the
14 following fees:

15 (1) application for licensure as a physical
16 therapist, not to exceed three hundred dollars (\$300); provided
17 that an additional fee to cover the cost of any examinations
18 provided by the board may be charged;

19 (2) application for licensure as a physical
20 therapist assistant, not to exceed one hundred dollars (\$100);
21 provided that an additional fee to cover the cost of any
22 examinations provided by the board may be charged;

23 (3) annual renewal of license as a physical
24 therapist, not to exceed one hundred fifty dollars (\$150);

25 (4) annual renewal of license as a physical

1 therapist, not to exceed fifty dollars (\$50,00); and

2 (5) late fee, not to exceed one hundred dollars
3 (\$100).

4 B. The board may charge reasonable administration
5 and duplication fees.

6 Section 8. PRACTICE OF PHYSICAL THERAPY--LICENSE
7 REQUIRED. --

8 A. No person shall practice or hold himself out to
9 be engaging in the practice of physical therapy or designate
10 himself as a physical therapist unless he is licensed as a
11 physical therapist or is exempt from licensure as provided in
12 the Physical Therapy Act.

13 B. No person shall designate himself or act as a
14 physical therapist assistant unless he is licensed as a physical
15 therapist assistant or is exempt from licensure as provided in
16 the Physical Therapy Act.

17 C. A physical therapist shall refer persons under
18 his care to the appropriate health care practitioner if the
19 physical therapist has reasonable cause to believe symptoms or
20 conditions are present that require services beyond his scope of
21 practice or when physical therapy is contraindicated.

22 D. Physical therapists or physical therapist
23 assistants shall adhere to the recognized standards of ethics of
24 the physical therapy profession.

25 Section 9. USE OF TITLES--RESTRICTIONS. --

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1 A. A physical therapist shall use the letters "PT"
2 in connection with his name or place of business to denote
3 licensure pursuant to the Physical Therapy Act.

4 B. It is unlawful for a person or his employees,
5 agents or representatives to use in connection with his name or
6 the name or activity of the business the words "physical
7 therapy", "physical therapist", "physiotherapy",
8 "physiotherapist", "registered physical therapist", the letters
9 "PT", "LPT", "RPT", "MPT", "DPT" or any other words,
10 abbreviations or insignia indicating or implying directly or
11 indirectly that physical therapy is provided or supplied,
12 including the billing of services labeled as physical therapy,
13 unless the services are provided by or under the direction of a
14 physical therapist.

15 C. A physical therapist assistant shall use the
16 letters "PTA" in connection with his name to denote licensure.

17 D. No person shall use the title "physical therapist
18 assistant" or use the letters "PTA" in connection with his name
19 or any other words, abbreviations or insignia indicating or
20 implying directly or indirectly that he is a physical therapist
21 assistant unless he has graduated from an accredited physical
22 therapist assistant education program approved by the board and
23 has met the requirements of the Physical Therapy Act.

24 Section 10. LICENSURE--QUALIFICATIONS. --

25 A. An applicant for licensure as a physical

1 therapist shall have the following minimum qualifications:

- 2 (1) be of good moral character;
- 3 (2) be a graduate of an accredited physical
4 therapy program approved by the board;
- 5 (3) have successfully passed the national
6 physical therapy examination approved by the board; and
- 7 (4) have successfully passed the state
8 jurisprudence examination.

9 B. An applicant for licensure as a physical
10 therapist who has been educated outside the United States must
11 meet the following minimum qualifications:

- 12 (1) provide satisfactory evidence that his
13 education is substantially equivalent to the requirements of
14 physical therapists educated in accredited educational programs
15 in the United States, as determined by the board. If the board
16 determines that a foreign-educated applicant's education is not
17 substantially equivalent, it may require completion of
18 additional course work before proceeding with the application
19 process;
- 20 (2) provide evidence that he is a graduate of a
21 school of training that is recognized by the foreign country's
22 own ministry of education or similar institution;
- 23 (3) provide written proof of authorization to
24 practice as a physical therapist without limitations in the
25 legal jurisdiction where the post-secondary institution from

1 which the applicant has graduated is located;

2 (4) provide proof of legal authorization to
3 reside and seek employment in the United States or its
4 territories;

5 (5) have his educational credentials evaluated
6 by a board-approved credential evaluation agency;

7 (6) pass all approved English proficiency
8 examinations as may be prescribed by the board if English is not
9 his primary language; and

10 (7) participate in an interim supervised
11 clinical practice period as may be prescribed by the board.

12 C. The board may issue an interim permit to a
13 foreign-trained applicant who satisfies the board's
14 requirements. An interim permit shall be issued for the purpose
15 of participating in a supervised clinical practice period.

16 D. If the foreign-educated physical therapist
17 applicant is a graduate of a college accredited by the
18 commission on accreditation in physical therapy education, the
19 requirements of Paragraphs (1), (2), (5) and (7) of Subsection B
20 of this section are waived.

21 E. An applicant for licensure as a physical
22 therapist assistant shall meet the following minimum
23 requirements:

24 (1) be of good moral character;

25 (2) have completed the application process;

1 (3) be a graduate of an accredited physical
2 therapist assistant program approved by the board;

3 (4) have successfully passed the national
4 physical therapy examination approved by the board; and

5 (5) have successfully passed the state
6 jurisprudence examination.

7 F. An applicant for licensure as a physical
8 therapist or physical therapist assistant shall file a written
9 application on forms provided by the board. A nonrefundable
10 application fee and the cost of the examination shall accompany
11 the completed written application.

12 G. The board shall review applicants for physical
13 therapy licensure after all application processes are completed.
14 The national physical therapy examination shall test entry-level
15 competency related to physical therapy theory, evaluation,
16 treatment intervention, prevention and consultation.

17 H. The board shall review applicants for physical
18 therapist assistant licensure after all application processes
19 are completed. The national examination shall test for
20 requisite knowledge and skills.

21 I. The board shall require proof of passage of a
22 jurisprudence examination on state laws, rules and regulations
23 that pertain to the practice of physical therapy.

24 J. Applicants who fail to pass the examinations
25 shall be subject to requirements determined by board regulations

1 prior to being approved by the board for subsequent testing.

2 K. The board or its designee shall issue a license
3 to a physical therapist or physical therapist assistant who has
4 a valid unrestricted license from another United States
5 jurisdiction and who meets all requirements for licensure in New
6 Mexico.

7 L. Prior to licensure, if prescribed by the board,
8 the board or its designee may issue a temporary nonrenewable
9 license to a physical therapist or physical therapist assistant
10 who has completed the education and experience requirements of
11 the Physical Therapist Act. The temporary license shall allow
12 the applicant to practice physical therapy under the supervision
13 of a licensed physical therapist until a permanent license is
14 approved that shall include passing the national physical
15 therapy examination.

16 M The board or its designee may issue a temporary
17 license to a physical therapist or physical therapist assistant
18 performing physical therapy while teaching an educational
19 seminar who has met the requirements established by regulation
20 of the board.

21 N. A physical therapist or physical therapist
22 assistant licensed under the provisions of the Physical Therapy
23 Act shall renew his license as specified in board rules. A
24 person who fails to renew his license by the date of expiration
25 shall not practice physical therapy in New Mexico.

1 O. Reinstatement of a lapsed license following a
2 renewal deadline requires payment of a renewal fee and late fee.

3 P. Reinstatement of a physical therapist or physical
4 therapist assistant license that has lapsed for more than three
5 years, without evidence of continued practice in another state
6 pursuant to a valid unrestricted license in that state, requires
7 reapplication and payment of fees, as specified in board rules.
8 The board shall promulgate rules establishing the qualifications
9 for reinstatement of a lapsed license.

10 Q. The board shall establish, by rule, activities to
11 periodically assess continuing competence to practice physical
12 therapy. The board may implement remedial actions if necessary
13 to require continuing competence as a condition of relicensure.

14 Section 11. EXEMPTIONS.--The following persons are exempt
15 from licensure as physical therapists under the Physical Therapy
16 Act:

17 A. a person who is pursuing a course of study
18 leading to a degree as a physical therapist in an entry-level
19 education program approved by the board and is satisfying
20 supervised clinical education requirements related to his
21 physical therapy education; and

22 B. a physical therapist practicing in the United
23 States armed services, United States public health service or
24 veterans administration as based on requirements under federal
25 regulations for state licensure of health care providers.

1 Section 12. SUPERVISION. --

2 A. A physical therapist is responsible for patient
3 care given by assistive personnel under his supervision. A
4 physical therapist may delegate to assistive personnel and
5 supervise selected acts, tasks or procedures that fall within
6 the scope of physical therapy practice but do not exceed the
7 assistive personnel's education or training.

8 B. A physical therapist assistant shall function
9 under the supervision of a physical therapist as prescribed by
10 rules of the board.

11 C. Physical therapy aides and other assistive
12 personnel shall perform patient care activities under on-site
13 supervision of a physical therapist. "On-site supervision"
14 means the supervising physical therapist shall:

15 (1) be continuously on-site and present in the
16 department or facility where the assistive personnel are
17 performing services;

18 (2) be immediately available to assist the
19 person being supervised in the services being performed; and

20 (3) maintain continued involvement in
21 appropriate aspects of each treatment session in which a
22 component of treatment is delegated to assistive personnel.

23 Section 13. GROUNDS FOR DISCIPLINARY ACTION. -- The
24 following conduct, acts or conditions constitute grounds for
25 disciplinary action:

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1 A. practicing physical therapy in violation of the
2 provisions of the Physical Therapy Act or rules adopted by the
3 board;

4 B. practicing or offering to practice beyond the
5 scope of physical therapy practice as defined in the Physical
6 Therapy Act;

7 C. obtaining or attempting to obtain a license by
8 fraud or misrepresentation;

9 D. engaging in or permitting the performance of
10 negligent care by a physical therapist or by assistive personnel
11 working under the physical therapist's supervision, regardless
12 of whether actual injury to the patient is established;

13 E. engaging in the performance of negligent care by
14 a physical therapist assistant, regardless of whether actual
15 injury to the patient is established. This includes exceeding
16 the authority to perform tasks pursuant to the plan of care
17 written by the supervising physical therapist;

18 F. having been convicted of a felony in the courts
19 of this state or any other state, territory or country, subject
20 to the Criminal Offender Employment Act. Conviction includes a
21 finding or verdict of guilt, an admission of guilt or a plea of
22 nolo contendere. A copy of the record of conviction, certified
23 by the clerk of the court entering the conviction, is conclusive
24 evidence;

25 G. practicing as a physical therapist or working as

1 a physical therapist assistant when physical or mental abilities
2 are impaired by the habitual or excessive use of controlled
3 substances, other habit-forming drugs, chemicals or alcohol;

4 H. having had a license revoked or suspended; other
5 disciplinary action taken; or an application for licensure
6 refused, revoked or suspended by the proper authorities of
7 another state, territory or country based upon acts by the
8 licensee similar to acts described in this section. A certified
9 copy of the record of suspension, revocation or other
10 disciplinary action taken by the state taking the disciplinary
11 action is conclusive evidence;

12 I. if a physical therapist, failing to adequately
13 supervise assistive personnel;

14 J. engaging in sexual misconduct, including engaging
15 in or soliciting sexual relationships with a patient, whether
16 consensual or nonconsensual, while a physical therapist- or
17 physical therapist assistant-patient relationship exists; or
18 sexual harassment of a patient that includes making sexual
19 advances, requesting sexual favors and engaging in other verbal
20 conduct or physical contact of a sexual nature while a physical
21 therapist- or physical therapist assistant-patient relationship
22 exists;

23 K. directly or indirectly requesting, receiving or
24 participating in the dividing, transferring, assigning, rebating
25 or refunding of an unearned fee; or profiting by means of a

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1 credit or other valuable consideration such as an unearned
2 commission, discount or gratuity in connection with the
3 furnishing of physical therapy services. Nothing in this
4 subsection prohibits the members of any regularly and properly
5 organized business entity recognized by law and comprised of
6 physical therapists from dividing fees received for professional
7 services among themselves as they determine by contract
8 necessary to defray their joint operating expense;

9 L. failing to adhere to the recognized standards of
10 ethics of the physical therapy profession;

11 M. charging unreasonable or fraudulent fees for
12 services performed or not performed;

13 N. making misleading, deceptive, untrue or
14 fraudulent representations in the practice of physical therapy;

15 O. having been adjudged mentally incompetent by a
16 court of competent jurisdiction;

17 P. aiding or abetting an unlicensed person to
18 perform activities requiring a license;

19 Q. failing to report to the board any act or
20 omission of a licensee, applicant or other person that violates
21 the provisions of the Physical Therapy Act;

22 R. interfering with or refusing to cooperate in an
23 investigation or disciplinary proceeding of the board, including
24 misrepresentation of facts or by the use of threats or
25 harassment against any patient or witness to prevent them from

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1 providing evidence in a disciplinary proceeding;

2 S. failing to maintain patient confidentiality
3 without prior written consent or unless otherwise provided by
4 law;

5 T. impersonating another person licensed to practice
6 physical therapy, permitting or allowing any person to use the
7 physical therapist's or physical therapist assistant's license
8 or practicing physical therapy under a false or assumed name;

9 U. failure to report to the board the surrendering
10 of a license or other authorization to practice physical therapy
11 in another state or jurisdiction or the surrendering of
12 membership in any professional association following, in lieu of
13 or while under disciplinary investigation by any of those
14 authorities or bodies for acts or conduct similar to acts or
15 conduct that would constitute grounds for action as defined in
16 this section; and

17 V. abandonment of patients.

18 Section 14. CONSUMER PROTECTION. --

19 A. Any person, including a licensee; corporation;
20 insurance company; health care organization; health care
21 facility; and state, federal or local governmental agency, shall
22 report to the board any conviction, determination or finding
23 that a licensee has committed an act that constitutes a
24 violation of the Physical Therapy Act. The person is immune
25 from civil liability for providing information in good faith to

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1 the board. Failure by a licensee to report a violation of the
2 Physical Therapy Act shall constitute grounds for disciplinary
3 action.

4 B. The board may permit an impaired physical
5 therapist or assistive personnel to actively participate in a
6 board-approved substance abuse treatment program under the
7 following conditions:

8 (1) the board has evidence indicating that the
9 licensee is an impaired professional;

10 (2) the licensee has not been convicted of a
11 felony relating to a controlled substance in a court of law of
12 the United States or any other territory or country;

13 (3) the impaired professional enters into a
14 written agreement with the board and complies with all the terms
15 of the agreement, including making satisfactory progress in the
16 program and adhering to any limitations on his practice imposed
17 by the board to protect the public. Failure to enter into such
18 an agreement shall disqualify the professional from the
19 voluntary substance abuse program; and

20 (4) as part of the agreement established
21 between the licensee and the board, the licensee shall sign a
22 waiver allowing the substance abuse program to release
23 information to the board if the licensee does not comply with
24 the requirements of this section or is unable to practice with
25 reasonable skill or safety.

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1 C. The public shall have access to information
2 pursuant to the Inspection of Public Records Act.

3 D. The board shall conduct its meetings and
4 disciplinary hearings in accordance with the Open Meetings Act.

5 E. Physical therapists and physical therapist
6 assistants shall disclose in writing to patients if the
7 referring health care practitioner is deriving direct or
8 indirect compensation from the referral to physical therapy.

9 F. Physical therapists and physical therapist
10 assistants shall disclose any financial interest in products
11 they endorse and recommend to their patients.

12 G. The licensee has the responsibility to ensure
13 that the patient has knowledge of freedom of choice in services
14 and products.

15 H. The physical therapist or physical therapist
16 assistant shall not promote an unnecessary device, treatment
17 intervention or service for the financial gain of himself or
18 another person.

19 I. The physical therapist or physical therapist
20 assistant shall not provide treatment intervention unwarranted
21 by the condition of the patient, nor shall he continue treatment
22 beyond the point of reasonable benefit.

23 J. A person may submit a complaint regarding a
24 physical therapist, physical therapist assistant or other person
25 potentially in violation of the Physical Therapy Act. The board

1 shall keep all information relating to the receiving and
2 investigation of complaints filed against licensees confidential
3 until the information becomes public record according to the
4 Inspection of Public Records Act.

5 K. Each licensee shall display a copy of his license
6 and current renewal verification in a location accessible to
7 public view at his place of practice.

8 Section 15. DISCIPLINARY ACTIONS--PENALTIES.--

9 A. The board, upon satisfactory proof that any
10 ground enumerated in Section 13 of the Physical Therapy Act has
11 been violated, may take the following disciplinary action singly
12 or in combination:

13 (1) issue a letter of censure or reprimand;

14 (2) issue a restricted license, including
15 requiring the licensee to report regularly to the board on
16 matters related to the grounds for the restricted license;

17 (3) suspend a license for a period determined
18 by the board;

19 (4) revoke a license;

20 (5) refuse to issue or renew a license;

21 (6) impose fines in accordance with the
22 Physical Therapy Act; and

23 (7) accept a voluntary surrendering of a
24 license.

25 B. Disciplinary actions of the board shall be taken

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1 in accordance with the Uniform Licensing Act.

2 C. The board may institute any legal proceedings
3 necessary to effect compliance with the Physical Therapy Act,
4 including:

5 (1) receiving and investigating complaints
6 filed against licensees;

7 (2) conducting an investigation at any time and
8 on its own initiative without receipt of a written complaint if
9 the board has reason to believe that there may be a violation of
10 the Physical Therapy Act;

11 (3) issuing subpoenas and compelling the
12 attendance of witnesses or the production of documents relative
13 to the case; and

14 (4) appointing hearing officers. Hearing
15 officers shall prepare and submit to the board findings of fact,
16 conclusions of law and an order that shall be reviewed and voted
17 upon by the board.

18 Section 16. UNLAWFUL PRACTICE--CRIMINAL AND CIVIL
19 PENALTIES--INJUNCTIVE RELIEF.--

20 A. A person who engages in an activity requiring a
21 license pursuant to the provisions of the Physical Therapy Act
22 and who fails to obtain the required license; who violates any
23 provision of the Physical Therapy Act; or who uses any word,
24 title or representation to induce the false belief that the
25 person is licensed to engage in the practice of physical therapy

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1 is guilty of a misdemeanor and shall be punished by a fine of
2 not more than one thousand dollars (\$1,000) or by imprisonment
3 of not more than one year, or both.

4 B. The board may apply for injunctive relief in any
5 court of competent jurisdiction to enjoin a person from
6 committing an act in violation of the Physical Therapy Act.
7 Such injunction proceedings shall be in addition to and not in
8 lieu of penalties and other remedies in the Physical Therapy
9 Act.

10 C. The board may assess a civil penalty of up to one
11 thousand dollars (\$1,000) for a first offense and up to five
12 thousand dollars (\$5,000) for a second or subsequent offense
13 against a licensee who aids or abets an unlicensed person to
14 directly or indirectly evade the Physical Therapy Act or the
15 applicable licensing laws; or permits his license to be used by
16 an unlicensed person with the intent to evade the Physical
17 Therapy Act or the applicable licensing laws, pursuant to the
18 notice of hearing and appeal procedures pursuant to the Uniform
19 Licensing Act. The civil penalties provided in this subsection
20 are in addition to other disciplinary measures provided in the
21 Physical Therapy Act. Civil penalties shall be deposited with
22 the state treasurer to the credit of the current school fund.

23 Section 17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --
24 The physical therapy board is terminated on July 1, 2003
25 pursuant to the Sunset Act. The board shall continue to operate

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1 according to the provisions of the Physical Therapy Act until
2 July 1, 2004. Effective July 1, 2004, the Physical Therapy Act
3 is repealed.

4 Section 18. TEMPORARY PROVISION--EXISTING REGULATIONS--
5 LICENSURE UNDER PRIOR LAW.--

6 A. Existing rules regarding physical therapy
7 services shall remain in effect until new rules are adopted
8 pursuant to the provisions of the Physical Therapy Act.

9 B. A person licensed to perform physical therapy
10 services pursuant to the provisions of prior law, whose license
11 is valid on July 1, 1997, is entitled to renew his license
12 pursuant to the provisions of the Physical Therapy Act.

13 Section 19. TEMPORARY PROVISION--TRANSFER OF MONEY,
14 PERSONAL PROPERTY, STATUTORY REFERENCES AND OBLIGATIONS.--On the
15 effective date of this act, the physical therapists' licensing
16 board is abolished. On that date:

17 A. all appropriations, money, records, equipment and
18 other personal property of the physical therapists' licensing
19 board shall be transferred to the physical therapy board;

20 B. all references in the law to the physical
21 therapists' licensing board shall be construed as a references
22 to the physical therapy board; and

23 C. all contracts and other legal obligations of the
24 physical therapists' licensing board shall be binding on the
25 physical therapy board.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 4, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

HOUSE BILL 1103

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 4, line 25, after the period insert "Board
members shall continue to serve until a successor has been
appointed and qualified."

2. On page 6, strike lines 13 through 15 and insert in lieu
thereof:

"J. may hire an attorney to give advice and counsel in
regard to any matter connected with the duties of the board, to
represent the board in any legal proceedings and to aid in the
enforcement of the Physical Therapy Act, and shall fix the

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FIRST SESSION, 1997

HBIC/HB 1103

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compensation to be paid to such attorney;

K. may establish ad hoc committees and pay per diem and mileage to the members;".

3. Reletter the succeeding subsections accordingly.

4. On page 7, line 20, strike "one hundred dollars (\$100)" and insert in lieu thereof "three hundred dollars (\$300)".

5. On page 8, line 1, after "therapist" insert "assistant".

6. On page 8, line 1, strike "fifty dollars (\$50.00)" and insert in lieu thereof "one hundred dollars (\$100)".

7. On page 8, lines 2 and 3, strike "one hundred dollars (\$100)" and insert in lieu thereof "five hundred dollars (\$500)".

8. On page 10, line 1, after "shall" insert "submit a completed application and".

9. On page 10, line 10, strike "must" and insert in lieu thereof "shall submit a completed application and".

10. On page 10, line 11, after "qualifications" insert "in addition to those required in Paragraphs (1), (3) and (4) of Subsection A of this section".

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[bracketed material] = delete

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11. On page 11, line 22, after "shall" insert "submit a completed application and".

12. On page 11, strike line 25.

13. Renumber the succeeding paragraphs accordingly.

14. On page 12, strike lines 12 through 23.

15. Reletter the succeeding subsections accordingly.

16. On page 13, line 25, after "therapy" insert "as a physical therapist or physical therapist assistant".

17. On page 14, line 10, strike "shall" and insert in lieu thereof "may".

18. On page 14, line 12, after the period strike the remainder of the line and strike all of line 13.

19. On page 14, line 14, after the dash insert the subsection designation "A. ".

20. On page 14, line 17, strike "A." and insert in lieu thereof "(1)".

21. On page 14, line 22, strike "B." and insert in lieu thereof "(2)".

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22. On page 14, after line 25, insert:

"B. Nothing in the Physical Therapy Act shall be construed as restricting persons licensed under any other law of this state from engaging in the profession or practice for which they are licensed."

23. On page 17, line 12, strike "if a physical therapist,".

24. On page 25, after line 25, insert:

"Section 20. TEMPORARY PROVISION-- BOARD MEMBERS TO CONTINUE.--On the effective date of this act, members serving on the physical therapists' licensing board shall continue to serve on the physical therapy board until their terms expire; thereafter, the governor shall appoint board members as provided in the Physical Therapy Act."

25. Renumber the succeeding sections accordingly.,
and thence referred to the JUDICIARY COMMITTEE.

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Respectfully submitted,

Fred Luna, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Gubbels, Hobbs, Kissner, Olguin, Rodella

Absent: Getty

. 118009. 1

M \H1103

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Underscored material = new
[bracketed material] = delete

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 12, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 1103, as amended

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 3, line 14, after "a" insert "physical therapy".
2. On page 14, between lines 13 and 14, insert the following
new subsection:

"R. A physical therapist shall not accept a patient
for treatment without an existing medical diagnosis for the
specific medical or physical problem made by a licensed primary
care provider, except for those children participating in special
education programs in accordance with Section 22-13-5 NMSA 1978
and for acute care within the scope of practice of physical
therapy. For the purposes of this subsection, "existing medical
diagnosis" means substantive signs and symptoms consistent with

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the episode from a previous primary care provider diagnosis made
or confirmed by that provider within the past twelve months.".,
and thence referred to the APPROPRIATIONS AND FINANCE
COMMI TTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____

Not Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE
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The roll call vote was 8 For 0 Against

Yes: 8

Excused: Alwin, M P. Garcia, Rios, Sanchez, Stewart

Absent: None

118372.1

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~~[bracketed material] = delete~~

State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 14, 1997

Mr. Speaker:

**Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred**

HOUSE BILL 1103, as amended

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Max Coll, Chairman

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Marquardt, Picraux, Saavedra, Salazar, Wallace,
Watchman

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 1103, as amended

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

Shannon Robinson, Chairman

Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Adair, Boitano, Vernon

Absent: None

H1103PA1

Underscored material = new
[bracketed material] = delete