

1 HB164
2 136224-3
3 By Representative McClendon
4 RFD: Health
5 First Read: 07-FEB-12

1
2 ENROLLED, An Act,

3 To amend Sections 34-24-191, 34-24-193, 34-24-194,
4 34-24-195, 34-24-210, 34-24-211, 34-24-212, 34-24-213, and
5 34-24-217, Code of Alabama 1975, relating to the Alabama
6 Physical Therapy Practice Act; to define an impaired licensee;
7 to provide for the creation and operation of an impaired
8 practitioner program; to change references to physical
9 therapists from registered to licensed; to clarify and remove
10 inconsistencies in the definitions of physical therapist
11 assistant, physical therapy technician, and physical therapy
12 aide; to change references to foreign physical therapists from
13 foreign trained to foreign educated; to transfer the
14 responsibility for certain duties from the secretary of the
15 board to the executive director; to authorize the board to
16 establish the compensation of the executive director; to
17 authorize the board to place restrictions on licenses as a
18 part of the disciplinary process; and to authorize the board
19 to collect a fee from continuing education providers.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 34-24-191, 34-24-193, 34-24-194,
22 34-24-195, 34-24-210, 34-24-211, 34-24-212, 34-24-213, and
23 34-24-217, Code of Alabama 1975, are amended to read as
24 follows:

25 "§34-24-191.

1 "(a) For the purposes of this article, the following
2 words and phrases shall have the meanings respectively
3 ascribed by this section:

4 "(1)~~(6)~~ BOARD. The Board of Physical Therapy
5 established by Section 34-24-192.

6 "(2)~~(7)~~ FOREIGN ~~TRAINED~~ EDUCATED PHYSICAL THERAPIST.
7 A person trained or educated in the practice of physical
8 therapy outside of the United States or any of its territorial
9 possessions.

10 "(3) IMPAIRED. The inability of a physical therapy
11 licensee to practice physical therapy with reasonable skill
12 and safety to patients by reason of illness, inebriation,
13 excessive use of drugs, narcotics, alcohol, chemicals, or
14 other substances, or as a result of any physical or mental
15 condition.

16 "(4)~~(1)~~ PHYSICAL THERAPY. The treatment of a human
17 being by the use of exercise, massage, heat, cold, water,
18 radiant energy, electricity, or sound for the purpose of
19 correcting or alleviating any physical or mental condition or
20 preventing the development of any physical or mental
21 disability, or the performance of neuromuscular-skeletal tests
22 and measurements to determine the existence and extent of body
23 malfunction; provided, that physical therapy shall be
24 practiced only upon the referral of a physician licensed to
25 practice medicine or surgery and a dentist licensed to

1 practice dentistry and shall not include radiology or
 2 electrosurgery.

3 "~~(5)(2)~~ PHYSICAL THERAPIST. A person who practices
 4 physical therapy.

5 "(6) PHYSICAL THERAPY LICENSEE. A physical therapist
 6 or physical therapist assistant who is licensed under this
 7 article.

8 "~~(7)(3)~~ PHYSIOTHERAPIST. Synonymous with the term
 9 "physical therapist," and the term shall be used to identify
 10 only those persons ~~registered~~ licensed under this article. The
 11 physical therapist may use the letters "P.T." or "R.P.T." in
 12 connection with his or her name or place of business to denote
 13 his or her registration hereunder.

14 "~~(8)(4)~~ PHYSICAL THERAPIST ASSISTANT. A person who
 15 assists in the practice of physical therapy and whose
 16 activities require an understanding of physical therapy but do
 17 not require professional or advanced training in the
 18 anatomical, biological, and physical sciences involved in the
 19 practice of physical therapy. The physical therapist assistant
 20 shall practice only under the direction of a ~~registered~~
 21 licensed physical therapist.

22 "~~(9)(5)~~ PHYSICAL THERAPY AIDE. TECHNICIAN. Synonymous
 23 with the term "~~physical therapist assistant,~~" and the term
 24 shall be used to identify only those persons licensed under
 25 this article. The physical therapist assistant may use the

1 ~~letters "L.P.T.A." in connection with his or her name to~~
2 ~~denote his or her being licensed hereunder~~ A person trained
3 under the direction of a physical therapist who performs
4 designated and supervised routine tasks related to physical
5 therapy services.

6 "(10) RESTRICTED LICENSE.

7 "a. For a physical therapist, a license on which the
8 board has placed restrictions or conditions, or both, as to
9 the scope of practice, place of practice, supervision of
10 practice, duration of licensed status, or type or condition of
11 patient to whom the physical therapist may provide services.

12 "b. For a physical therapist assistant, a license on
13 which the board has placed any restriction.

14 "(b) Words importing the masculine gender shall
15 include the feminine.

16 "§34-24-193.

17 "(a) It shall be the duty of the board to pass upon
18 the qualifications of applicants for ~~registration~~ licensing as
19 physical therapists and licensing as physical therapist
20 assistants, to conduct examinations, to issue licenses and
21 renewals to physical therapists and physical therapist
22 assistants qualifying under this article and in a proper case
23 to suspend or revoke the ~~registration or~~ license of such
24 persons. The board may adopt rules and regulations not
25 inconsistent with law as it may deem necessary for the

1 performance of its duties; however, the board shall not issue
2 any rules or regulations that require a physical therapist
3 assistant to be within sight of a consulting physical
4 therapist or a physical therapist supervisor while working
5 under the direction of that physical therapist or issue any
6 rules, regulations, or orders inconsistent with Section
7 34-24-217(b). The board shall maintain a ~~register~~ listing the
8 name of every living physical therapist and physical therapist
9 assistant ~~registered or~~ licensed in this state, his or her
10 last known place of business and last known place of
11 residence, and the date and number of his or her license. The
12 board shall compile a list of physical therapists and physical
13 therapist assistants ~~registered or~~ licensed to practice in
14 this state, and such list shall be available to any person
15 upon application to the board and the payment of such charge
16 as may be fixed by the board. Subject to the provisions of
17 Section 34-24-195, the board shall have the power to make such
18 expenditures and employ such personnel as it may deem
19 necessary for the administration of the provisions of this
20 article. The board shall hire and establish the
21 responsibilities and salary of an executive director.

22 "(b) The board is hereby specifically authorized to
23 establish and collect a fee for certifying to other boards or
24 entities that a licensee is a member in good standing with the
25 Alabama board.

1 "(c) The board may collect a fee from providers of
2 continuing education programs.

3 "(d) ~~(c)~~ The board is hereby authorized to discipline
4 its licensees by the adoption and collection of administrative
5 finer, not to exceed one thousand dollars (\$1,000) per
6 violation, and it is further authorized to institute any legal
7 proceedings necessary to effect compliance with this chapter.

8 "(e) The board shall provide for an impaired
9 practitioner program beginning January 1, 2014.

10 "(1) The board shall promote the early
11 identification, intervention, treatment, and rehabilitation of
12 physical therapy licensees who may be impaired by reason of
13 illness, inebriation, excessive use of drugs, narcotics,
14 alcohol, chemicals, or other substances, or as a result of any
15 physical or mental condition.

16 "(2) In order to carry out this obligation the board
17 may contract with any nonprofit corporation or medical
18 professional association for the purpose of creating,
19 supporting, and maintaining a committee to be designated the
20 Alabama Physical Therapy Wellness Committee. The committee
21 shall be selected in a manner prescribed by the board. The
22 board may expend available funds as necessary to adequately
23 provide for the operational expenses of the committee
24 including, but not limited to, the actual cost of travel,
25 office overhead, and personnel expense. The funds provided by

1 the board for the purpose of operating expenses are not
2 subject to any provision of law requiring competitive bidding.

3 "(3) The board may enter into an agreement with a
4 nonprofit corporation or medical professional association for
5 the committee to undertake those functions and
6 responsibilities specified in the agreement, which may include
7 any or all of the following:

8 "a. Contracting with providers of treatment
9 programs.

10 "b. Receiving and evaluating reports of suspected
11 impairment from any source.

12 "c. Intervening in cases of verified impairment.

13 "d. Referring impaired physical therapy licensees to
14 treatment programs.

15 "e. Monitoring the treatment and rehabilitation of
16 impaired physical therapy licensees.

17 "f. Providing post-treatment monitoring and support
18 of rehabilitated impaired physical therapy licensees.

19 "g. Performing other activities as agreed by the
20 board and the committee.

21 "(4) The committee shall develop procedures in
22 consultation with the board for all of the following:

23 "a. Periodic reporting of statistical information
24 regarding impaired physical therapy licensee program activity.

1 "b. Periodic disclosure and joint review of all
2 information the board deems appropriate regarding reports
3 received, contracts or investigations made, and the
4 disposition of each report. The committee may not disclose any
5 personally identifiable information except as otherwise
6 provided in this article.

7 "(5) Any individual appointed to serve as a member
8 of the committee and any auxiliary personnel, consultant,
9 attorney, or other volunteer or employee of the committee
10 taking any action authorized by this article, engaging in the
11 performance of any duties on behalf of the committee, or
12 participating in any administrative or judicial proceeding
13 resulting therefrom, in the performance and operation thereof,
14 shall be immune from any liability, civil or criminal, that
15 might otherwise be incurred or imposed. Any nonprofit
16 corporation or medical professional association or other
17 entity that contracts with or receives funds from the board
18 for the creation, support, and operation of the committee, in
19 so doing, shall be immune from any liability, civil or
20 criminal, that might otherwise be incurred or imposed.

21 "(6) All information, interviews, reports,
22 statements, memoranda, or other documents furnished to or
23 produced by the committee and any findings, conclusions,
24 recommendations, or reports resulting from any investigation,
25 intervention, treatment, or rehabilitation, or other

1 proceeding of the committee is privileged and confidential.
2 All records and proceedings of the committee pertaining to an
3 impaired physical therapy licensee is confidential and shall
4 be used by the committee and the members of the committee only
5 in the exercise of the proper function of the committee and
6 shall not be public record nor available for court subpoena or
7 for discovery proceedings. In the event of a breach of
8 contract between the committee and the impaired physical
9 therapy licensee, all records pertaining to the conduct
10 determined to cause the breach of contract shall be disclosed
11 to the board upon its request for disciplinary purposes only.
12 Nothing contained in this subdivision shall apply to records
13 made in the regular course of business of a physical therapy
14 licensee and any information, document, or record otherwise
15 available from an original source is not to be construed as
16 immune from discovery or use in any civil proceeding merely
17 because it is presented or considered during proceedings of
18 the committee.

19 "(7) The committee shall render an annual report to
20 the board concerning the operations and proceedings of the
21 committee for the preceding year. The committee shall report
22 to the board any physical therapy licensee who in the opinion
23 of the committee is unable to perform physical therapy duties
24 with reasonable skill and safety to patients by reason of
25 illness, inebriation, excessive use of drugs, narcotics,

1 alcohol, chemicals, or other substances, or as a result of any
2 physical or mental condition when it appears that the physical
3 therapy licensee is currently in need of intervention,
4 treatment, or rehabilitation and the licensee has failed or
5 refused to participate in any program of treatment or
6 rehabilitation recommended by the committee. A report to the
7 Alabama Physical Therapy Wellness Committee shall be deemed a
8 report to the board for the purposes of any mandated reporting
9 of physical therapy licensee impairment otherwise provided for
10 by law.

11 "(8) If the board has reasonable cause to believe
12 that a physical therapy licensee is impaired, the board may
13 cause an evaluation of the physical therapy licensee to be
14 conducted by the committee for the purpose of determining if
15 there is an impairment. The committee shall report the
16 findings of its evaluation to the board.

17 "§34-24-194.

18 "(a) Any person may file a complaint with the board
19 against any ~~registered~~ licensed physical therapist or licensed
20 physical therapist assistant in the state charging the person
21 with a violation of this article. The complaint shall set
22 forth specifications of charges in sufficient detail to
23 disclose to the accused fully and completely the alleged acts
24 of misconduct for which he or she is charged. When a complaint
25 is filed, the ~~secretary~~ executive director of the board shall

1 mail a copy thereof to the accused by registered mail at his
2 or her address of record, with a written notice of the time
3 and place of a hearing of the complaint, advising the accused
4 that he or she may be present in person and by counsel if he
5 or she so desires to offer testimony and evidence in his or
6 her defense.

7 "(b) The board may issue subpoenas and compel the
8 attendance of any witness or the production of any book,
9 writing, or other documentation in the possession, custody, or
10 control of any person. Any person refusing to produce any
11 book, writing, or other documentation or to appear to testify,
12 without legal excuse, at a hearing of the board, after having
13 been served with a subpoena issued by the board requiring the
14 person to appear, produce any book, writing, or other form of
15 documentation or testify at the hearing, shall be guilty of
16 contempt. Upon certification of the act of contempt by the
17 board to the judge of the circuit court in whose jurisdiction
18 the hearing is held or is to be held, the judge shall punish
19 the contempt as though committed before the judge. The accused
20 party shall, on application to the board, be furnished by the
21 board with a subpoena for any witness in his or her behalf or
22 for the production of any book, writing, or other
23 documentation to be used in his or her behalf at the hearing.

24 "(c) At the hearing, the board shall receive
25 evidence upon the subject matter under consideration and shall

1 accord the accused person a full and fair opportunity to be
2 heard in his or her defense. The board shall not be bound by
3 strict or technical rules of evidence, but shall consider all
4 evidence fully and fairly except, that all oral testimony
5 considered by the board must be under oath. If the board is
6 convinced that the ~~registered~~ licensed physical therapist or
7 the licensed physical therapist assistant has violated this
8 article, it may revoke his or her license.

9 "(d) The action of the board in revoking or refusing
10 to issue a license may be reviewed by the Circuit Court of
11 Montgomery County by a writ of mandamus, accompanied by a bond
12 to be approved by the court, to determine whether the board
13 acted arbitrarily, capriciously, or illegally. The review
14 procedure provided in this subsection shall not suspend the
15 action of the board in the revocation or refusal of a license.

16 "(e) The board may restrict a license and require
17 the licensee to report regularly to the board on matters
18 related to the reasons for the restricted license.

19 "§34-24-195.

20 "All fees collected by the board shall be paid into
21 the State Treasury and credited to a special fund designated
22 as the "Physical Therapist Fund." There is hereby appropriated
23 to the board all funds appropriated, or otherwise made
24 available, to the board by the Legislature of Alabama, the
25 Congress of the United States, or by any other source for the

1 purpose of carrying out this article, and the board shall have
 2 power to direct the disbursement of all money collected
 3 hereunder. All expenditures authorized shall be paid for out
 4 of the fund on vouchers certified by the ~~chairman~~ executive
 5 director of the board.

6 "§34-24-210.

7 "(a) ~~Registration~~ License required. No person shall
 8 practice nor hold himself or herself out to be able to
 9 practice physical therapy in this state unless he or she is
 10 ~~registered~~ licensed in accordance with ~~the provisions of~~ this
 11 article.

12 "(b) License required. No person shall act nor hold
 13 himself or herself out as being able to act as a physical
 14 therapist assistant unless he or she is licensed in accordance
 15 with ~~the provisions of~~ this article.

16 "(c) Other healing arts not affected. Nothing in
 17 this article shall prohibit any person licensed to practice
 18 any other of the healing arts in this state under any other
 19 law from engaging in the practice for which he or she is
 20 licensed.

21 "§34-24-211.

22 "An applicant for ~~registration~~ licensure as a
 23 physical therapist or for a license as a physical therapist
 24 assistant shall file a written application on forms provided
 25 by the board together with fee as set by the board, no part of

1 which shall be returned. The applicant shall present evidence
2 satisfactory to the board that he or she is of good moral
3 character and has completed a program of physical therapy
4 education appropriate for training a physical therapist or a
5 physical therapist assistant, as the case may be, approved by
6 the board or a nationally recognized accrediting agency. Each
7 applicant shall also be a citizen of the United States or, if
8 not a citizen of the United States, a person who is legally
9 present in the United States with appropriate documentation
10 from the federal government.

11 "§34-24-212.

12 "(a) Generally. The board shall give an appropriate
13 examination to every applicant who complies with Section
14 34-24-211 and who pays the fee prescribed for the examination.
15 Examinations shall be held within the state at least once each
16 year, at such times and places as the board determines. A
17 practical or demonstration examination may be required at the
18 discretion of the board when an applicant is retaking a
19 written examination after previously having failed such an
20 examination.

21 "(b) Physical therapist. The examination given
22 applicants for ~~registration~~ licensure as a physical therapist
23 shall be a written examination, approved by the board. Such
24 examination shall test the applicant's knowledge of the basic
25 and clinical sciences as they relate to physical therapy,

1 physical therapy theory and procedures, and such other
2 subjects as the board may deem useful to test the applicant's
3 fitness to practice physical therapy. A practical or
4 demonstration examination may be required if so determined by
5 the board.

6 "(c) Physical therapist assistant. The examination
7 given applicants for ~~licensing~~ licensure as physical therapist
8 assistant will be a written examination, approved by the
9 board. Such examination shall test the applicant's knowledge
10 of the basic and clinical sciences as they relate to physical
11 therapy, physical therapy theory and procedures, and such
12 other subjects as the board may deem useful to test the
13 applicant's fitness to act as a physical therapist assistant.
14 A practical or demonstration examination may be required if so
15 determined by the board.

16 "(d) Foreign ~~trained~~ educated physical therapist.
17 Any foreign ~~trained~~ educated physical therapist who plans to
18 practice in the state must have their educational credentials
19 evaluated by a recognized educational evaluation agency and
20 have that agency send their report directly to the board. The
21 board will determine the acceptability of equivalency in
22 educational preparation. If the board rules the education to
23 be acceptable the routine application process will be
24 followed.

25 "§34-24-213.

1 "The board shall issue a license to each applicant
 2 who passes the appropriate examination for ~~registration~~
 3 licensure as a physical therapist or ~~licensing~~ licensure as a
 4 physical therapist assistant in accordance with standards
 5 fixed by it and who is not disqualified to receive a license
 6 under the provisions of Section 34-24-217.

7 "§34-24-217.

8 "(a) The board shall refuse to issue a license to
 9 any person and, after notice and hearing in accordance with
 10 its regulations and rules, shall suspend, restrict, or revoke
 11 the license of any person who has:

12 "(1) Practiced physical therapy other than upon the
 13 referral of a physician licensed to practice medicine or
 14 surgery, and a dentist licensed to practice dentistry; or
 15 practiced as a physical therapist assistant other than under
 16 the direction of a ~~registered~~ licensed physical therapist;

17 "(2) Used drugs or intoxicating liquors to an extent
 18 which affects his or her professional competency;

19 "(3) Been convicted of a felony or of a crime
 20 involving moral turpitude;

21 "(4) Obtained or attempted to obtain a license by
 22 fraud or deception;

23 "(5) Been grossly negligent in the practice of
 24 physical therapy or in acting as a physical therapist
 25 assistant;

1 "(6) Been adjudged mentally incompetent by a court
2 of competent jurisdiction;

3 "(7) Been guilty of conduct unbecoming a person
4 ~~registered~~ licensed as a physical therapist or licensed as a
5 physical therapist assistant or of conduct detrimental to the
6 best interest of the public;

7 "(8) Been convicted of violating any state or
8 federal narcotic law;

9 "(9) Treated or undertaken to treat human ailments
10 otherwise than by physical therapy as defined in this article;

11 "(10) Advertised unethically according to standards
12 as set by the board; or

13 "(11) Failed or refused to obey any lawful order or
14 regulation of the board.

15 "(b) For purposes of this article and
16 notwithstanding any other provision of this article or any
17 rules or regulations adopted by the board, any person licensed
18 ~~or registered~~ under this article who has a bona fide
19 employment or independent contract with a physician, a
20 physician group, or an entity with which a physician has a
21 legal compensation arrangement, including fair market value
22 wages, compensation, benefits, or rents for services or
23 property provided, or in which a physician has a legal
24 financial interest, including any direct or indirect ownership
25 or investment interest, shall not be deemed to be engaged in

1 conduct unbecoming a person licensed ~~or registered~~ under this
2 article, or to be engaged in conduct detrimental to the best
3 interest of the public, or to be in violation of any other
4 provision of this article by virtue of any of the above
5 relationships, and shall not be subject to licensure denial,
6 suspension, revocation, or any other disciplinary action or
7 penalty under this article: (1) by virtue of such employment
8 or contract, or (2) by virtue of the provision of physical
9 therapy services pursuant to a referral from the employing or
10 contracting physician, or from a physician with a legal
11 compensation arrangement with or a legal financial interest in
12 the employing or contracting physician group."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

