

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 445

Introduced by Jensen, 20

Read first time January 13, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to physical therapy; to amend sections 71-2801
2 to 71-2803, 71-2804, 71-2807, and 71-2810, Reissue
3 Revised Statutes of Nebraska, and section 71-101, Revised
4 Statutes Supplement, 2004; to name the Physical Therapy
5 Practice Act; to change and eliminate provisions relating
6 to physical therapists, physical therapist assistants,
7 and physical therapy aides; to harmonize provisions; to
8 repeal the original sections; and to outright repeal
9 sections 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811,
10 71-2812, 71-2814 to 71-2817, and 71-2820 to 71-2822,
11 Reissue Revised Statutes of Nebraska.

12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-101, Revised Statutes Supplement,
2 2004, is amended to read:

3 71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to
4 71-1,338, 71-1,343 to 71-1,349, and 71-1301 to 71-1354, and ~~71-2801~~
5 ~~to 71-2823~~ the Physical Therapy Practice Act shall be known and may
6 be cited as the Uniform Licensing Law.

7 For purposes of the Uniform Licensing Law, unless the
8 context otherwise requires:

9 (1) Board or professional board means one of the boards
10 appointed by the State Board of Health pursuant to sections 71-111
11 and 71-112;

12 (2) Licensed, when applied to any licensee in any of the
13 professions named in section 71-102, means a person licensed under
14 the Uniform Licensing Law;

15 (3) Profession or health profession means any of the
16 several groups named in section 71-102;

17 (4) Department means the Department of Health and Human
18 Services Regulation and Licensure;

19 (5) Whenever a particular gender is used, it is construed
20 to include both the masculine and the feminine, and the singular
21 number includes the plural when consistent with the intent of the
22 Uniform Licensing Law;

23 (6) License, licensing, or licensure means permission to
24 engage in a health profession which would otherwise be unlawful in
25 this state in the absence of such permission and which is granted
26 to individuals who meet prerequisite qualifications and allows them
27 to perform prescribed health professional tasks and use a
28 particular title;

1 (7) Certificate, certify, or certification, with respect
2 to professions, means a voluntary process by which a statutory,
3 regulatory entity grants recognition to an individual who has met
4 certain prerequisite qualifications specified by such regulatory
5 entity and who may assume or use the word certified in the title or
6 designation to perform prescribed health professional tasks. When
7 appropriate, certificate means a document issued by the department
8 which designates particular credentials for an individual;

9 (8) Lapse means the termination of the right or privilege
10 to represent oneself as a licensed, certified, or registered person
11 and to practice the profession when a license, certificate, or
12 registration is required to do so;

13 (9) Credentialing means the totality of the process
14 associated with obtaining state approval to provide health care
15 services or human services or changing aspects of a current
16 approval. Credentialing grants permission to use a protected title
17 that signifies that a person is qualified to provide the services
18 of a certain profession. Credential includes a license,
19 certificate, or registration; and

20 (10) Dependence means a compulsive or chronic need for or
21 an active addiction to alcohol or any controlled substance or
22 narcotic drug.

23 Sec. 2. Sections 2 to 30 of this act shall be known and
24 may be cited as the Physical Therapy Practice Act.

25 Sec. 3. For purposes of the Physical Therapy Practice
26 Act, the definitions found in sections 4 to 19 of this act apply.

27 Sec. 4. Approved educational program means a program for
28 the education and training of physical therapists and physical

1 therapist assistants approved by the board pursuant to section 21
2 of this act.

3 Sec. 5. Board means the Board of Physical Therapy.

4 Sec. 6. Department means the Department of Health and
5 Human Services Regulation and Licensure.

6 Sec. 7. Direct personal supervision means supervision
7 provided by a physical therapist who is physically present and
8 immediately available to the physical therapy aide continuously
9 while performing tasks related to patient management and does not
10 include supervision provided by means of telecommunication.

11 Sec. 8. Direct supervision means supervision provided by
12 a physical therapist who is physically present and immediately
13 available and who has direct contact with the patient during each
14 encounter within a twenty-four-hour period and does not include
15 supervision provided by means of telecommunications.

16 Sec. 9. Evaluation means the process by which a physical
17 therapist makes clinical judgments based on data gathered from
18 examination of a patient.

19 Sec. 10. General supervision means supervision provided
20 by a physical therapist either onsite or by means of
21 telecommunication.

22 Sec. 11. Jurisdiction of the United States means any
23 state of the United States, the District of Columbia, the
24 Commonwealth of Puerto Rico, or any American territory.

25 Sec. 12. Manual therapy means skilled hand movements
26 intended to improve tissue extensibility, increase range of motion,
27 induce relaxation, mobilize or manipulate joints or soft tissue,
28 modulate pain, or reduce soft tissue restrictions, swelling, or

1 inflammation.

2 Sec. 13. Physical therapist means a person licensed to
3 practice physical therapy in Nebraska. The term physiotherapist is
4 synonymous with the term physical therapist.

5 Sec. 14. Physical therapist assistant means a person
6 certified as a physical therapist assistant in Nebraska to assist a
7 physical therapist in selected components of physical therapy
8 intervention.

9 Sec. 15. Section 71-2801, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-2801. For purposes of sections 71-2801 to 71-2823,~~
12 ~~physical therapy means the treatment of any bodily condition of any~~
13 ~~person by the use of the physical, chemical, and other properties~~
14 ~~of heat, light, water, electricity, massage, and active or passive~~
15 ~~exercise, but does not include the use of roentgen rays and radium~~
16 ~~for diagnostic and therapeutic purposes, including cauterization.~~

17 Physical therapy means:

18 (1) Examining, evaluating, and testing individuals with
19 mechanical, physiological, and developmental impairments,
20 functional limitations, and disabilities or other conditions
21 related to health and movement and, through analysis of the
22 evaluative process, developing a plan of therapeutic intervention
23 and prognosis while assessing the ongoing effects of the
24 intervention;

25 (2) Alleviating impairments, functional limitations, or
26 disabilities by designing, implementing, or modifying therapeutic
27 interventions that may include therapeutic exercise; functional
28 training in self-care or home, community, or work integration or

1 reintegration; manual therapy; therapeutic massage; prescription,
2 application, and fabrication of assistive, adaptive, protective,
3 and supportive devices and equipment; airway clearance techniques;
4 integumentary protection techniques; nonsurgical debridement and
5 wound care; physical agents or modalities; mechanical and
6 electrotherapeutic modalities; and patient-related instruction, but
7 does not include the making of a medical diagnosis;

8 (3) Reducing the risk of injury, impairment, functional
9 limitation, or disability, including the promotion and maintenance
10 of fitness, health, and wellness; and

11 (4) Engaging in administration, consultation, education,
12 and research.

13 Sec. 16. Physical therapy aide means a person who is
14 trained under the direction of a physical therapist and who
15 performs non-treatment-related and treatment-related tasks
16 associated with physical therapy.

17 Sec. 17. Student means a person enrolled in an approved
18 educational program.

19 Sec. 18. Supervision means responsible supervision and
20 control by a physical therapist under circumstances in which the
21 physical therapist assumes legal liability for the physical therapy
22 services provided.

23 Sec. 19. Testing means standard methods and techniques
24 used to gather data about a patient, including electrodiagnostic
25 and electrophysiologic tests and measures.

26 Sec. 20. Section 71-2802, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~71-2802. Sections 71-2801 to 71-2823 do not include the~~

1 following classes of persons:

2 (1) Licensed physicians and surgeons, chiroprodists,
3 dentists, chiropractors, osteopathic physicians, or massage
4 therapists, who are exclusively engaged in the practice of their
5 respective professions;

6 (2) Physicians and surgeons of the United States Army,
7 Navy, or Public Health Service when acting in the line of duty in
8 this state;

9 (3) Physical therapists or physical therapist assistants
10 licensed or certified in another jurisdiction who are participating
11 in continuing competency activities; or

12 (4) Students performing physical therapy services within
13 the scope of an approved educational program and under the
14 supervision of a licensed physical therapist. The Physical Therapy
15 Practice Act does not apply to:

16 (1) A member of another profession who is licensed,
17 certified, or registered by this state and who is acting within the
18 scope of practice of his or her profession;

19 (2) A person in an approved educational program who is
20 satisfying supervised clinical education requirements related to
21 the person's physical therapy education while under direct
22 supervision;

23 (3) A person practicing physical therapy pursuant to
24 federal regulations for state licensure of health care providers
25 for the United States Armed Forces, the United States Public Health
26 Service, or the United States Department of Veterans Affairs;

27 (4) A person credentialed to practice physical therapy in
28 another jurisdiction of the United States or in another country if

1 the person is teaching physical therapy or demonstrating or
 2 providing physical therapy in connection with teaching or
 3 participating in an educational seminar no more than sixty days in
 4 a calendar year;

5 (5) A student engaged specifically in activities related
 6 to subdivision (4) of this section;

7 (6) A person credentialed to practice physical therapy in
 8 another jurisdiction of the United States or in another country if
 9 the person, by contract or employment, is providing physical
 10 therapy to individuals affiliated with or employed by established
 11 athletic teams, athletic organizations, or performing arts
 12 companies temporarily practicing, competing, or performing in this
 13 state for no more than sixty days in a calendar year; or

14 (7) A person credentialed as a physical therapist
 15 assistant in another jurisdiction of the United States who is
 16 assisting a person in the practice of physical therapy described in
 17 subdivision (3) or (4) of this section.

18 Sec. 21. Section 71-2807, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 ~~71-2807.~~ The Board of Physical Therapy board shall, with
 21 the approval of the department, adopt and promulgate rules and
 22 regulations as necessary for the administration of ~~sections 71-2801~~
 23 ~~to 71-2823.~~ Such rules and regulations shall include, but not be
 24 limited to, a definition for onsite supervision of a physical
 25 therapist assistant and the proper utilization of such assistant by
 26 a physical therapist and what constitutes an emergency not
 27 requiring onsite supervision of a licensed physical therapist the
 28 Physical Therapy Practice Act.

1 Sec. 22. Section 71-2804, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-2804.~~ The board shall approve ~~For purposes of~~
4 ~~sections 71-2801 to 71-2823,~~ approved educational program shall
5 mean a program of physical therapy or physical therapist assistant
6 education and training. ~~approved by the Board of Physical Therapy.~~
7 Such approval may be based on the program's accreditation by the
8 ~~American Physical Therapy Association~~ Commission on Accreditation
9 in Physical Therapy Education or by equivalent standards
10 established by the board.

11 Sec. 23. Section 71-2803, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-2803.~~ Every applicant for a license to practice
14 physical therapy shall:

15 (1) Present proof of completion of an approved
16 educational program; ~~as defined in section 71-2804,~~

17 (2) In the case of an applicant who has been trained as a
18 physical therapist in a foreign country, (a) present documentation
19 of completion of a course of professional instruction substantially
20 equivalent to an approved program accredited by the ~~American~~
21 ~~Physical Therapy Association~~ Commission on Accreditation in
22 Physical Therapy Education or by an equivalent accrediting agency
23 as determined by the ~~Board of Physical Therapy~~ board and (b)
24 present proof of proficiency in the English language; and

25 (3) ~~Except as provided in section 71-2805,~~ successfully
26 Successfully complete an examination approved by the department on
27 the recommendation of the board.

28 Sec. 24. Every applicant for a certificate to practice

1 as a physical therapist assistant shall:

2 (1) Present proof of completion of an approved
3 educational program; and

4 (2) Successfully complete an examination approved by the
5 department on the recommendation of the board.

6 Sec. 25. Section 71-2810, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-2810. Notwithstanding any other provisions of law, a~~
9 A physical therapist assistant may perform physical therapy
10 services when he or she renders such services under the general
11 supervision of a licensed physical therapist, or group of licensed
12 ~~physical therapists approved by the board,~~ except that no physical
13 therapist assistant shall perform the following:

14 (1) Interpretation of physician referrals;
15 (2) ~~Plan treatment programs~~ Development of a plan of
16 care;

17 (3) Initial evaluations or reevaluation of patients;
18 (4) Readjustment of ~~treatment programs~~ a plan of care
19 without consultation with the ~~certified and licensed~~ physical
20 therapist; or

21 (5) Discharge planning of patients. ~~Tests and~~
22 ~~measurements, with the exception of goniometry and functional~~
23 ~~muscle testing;~~

24 ~~(6) Home instructions to patients or families;~~
25 ~~(7) Joint assessment and mobilization; or~~
26 ~~(8) Complex neurodevelopmental treatments.~~

27 Sec. 26. (1) A physical therapist assistant shall
28 practice under the general supervision of a physical therapist.

1 (2) A physical therapist may provide general supervision
2 for no more than two physical therapist assistants. A physical
3 therapist shall not establish a satellite office at which a
4 physical therapist assistant provides care without supervision.

5 (3) A supervising physical therapist shall reevaluate or
6 reexamine each patient under his or her care on a regular basis.

7 (4) A supervising physical therapist and the physical
8 therapist assistant under general supervision shall review the plan
9 of care on a regular basis for each patient who has received
10 physical therapy interventions from the physical therapist
11 assistant.

12 (5) A physical therapist assistant may document physical
13 therapy services provided without the signature of the supervising
14 physical therapist.

15 Sec. 27. A physical therapist assistant may act as a
16 clinical instructor for physical therapist assistant students in
17 approved educational programs.

18 Sec. 28. (1) A physical therapist shall use the letters
19 PT for professional purposes in connection with his or her name or
20 place of business. A physical therapist assistant shall use the
21 letters PTA for professional purposes in connection with his or her
22 name.

23 (2) It is unlawful for any person who is not a physical
24 therapist to engage in the practice of physical therapy or to
25 characterize himself or herself or hold himself or herself out as a
26 physical therapist or a physiotherapist or use the letters PT to
27 indicate that he or she is qualified to engage in the practice of
28 physical therapy.

1 (3) It is unlawful for any person who is not a physical
2 therapist assistant to engage in practice as a physical therapist
3 assistant or to characterize himself or herself or hold himself or
4 herself out as a physical therapist assistant or use the letters
5 PTA to indicate that he or she is qualified as a physical therapist
6 assistant.

7 Sec. 29. (1) The public shall have direct access to a
8 physical therapist.

9 (2) A physical therapist may purchase, store, and
10 administer topical and aerosol medication as part of the practice
11 of physical therapy. A physical therapist shall comply with the
12 rules and regulations of the Board of Pharmacy regarding protocols
13 for storage of medication.

14 Sec. 30. (1) For each patient in his or her care, a
15 physical therapist shall:

16 (a) Be responsible for managing all aspects of the
17 physical therapy care provided to the patient;

18 (b) Provide an initial evaluation and documentation of
19 the evaluation;

20 (c) Provide periodic reevaluation and documentation of
21 the reevaluation;

22 (d) Provide documentation for discharge, including the
23 patient's response to therapeutic intervention at the time of
24 discharge; and

25 (e) Be responsible for accurate documentation and billing
26 for services provided.

27 (2) For each patient in his or her care on each date of
28 service, a physical therapist shall:

1 (a) Provide all therapeutic interventions that requires
2 the expertise of a physical therapist; and

3 (b) Determine the appropriate use of physical therapist
4 assistants or physical therapy aides.

5 (3) A physical therapist or physical therapist assistant
6 may utilize physical therapy aides:

7 (a) For non-treatment-related tasks under general
8 supervision. Non-treatment-related task includes clerical,
9 housekeeping, facility maintenance, and patient transportation
10 services; and

11 (b) For treatment-related tasks under direct personal
12 supervision. Treatment-related task means an activity that does
13 not require the clinical decisionmaking of the physical therapist
14 or the clinical problem solving of the physical therapist
15 assistant.

16 Sec. 31. Original sections 71-2801 to 71-2803, 71-2804,
17 71-2807, and 71-2810, Reissue Revised Statutes of Nebraska, and
18 section 71-101, Revised Statutes Supplement, 2004, are repealed.

19 Sec. 32. The following sections are outright repealed:
20 Sections 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811, 71-2812,
21 71-2814 to 71-2817, and 71-2820 to 71-2822, Reissue Revised
22 Statutes of Nebraska.