

# STATE OF NEW YORK

8168

## IN SENATE

April 13, 2018

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to physical therapist assistants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 6738 of the education law, as added by chapter 618  
2 of the laws of 1980, subdivision a as designated by chapter 184 of the  
3 laws of 1982, subdivision b as amended by chapter 532 of the laws of  
4 1999, subdivision c as amended by chapter 120 of the laws of 1998, and  
5 subdivision d as added by chapter 20 of the laws of 1998, is amended to  
6 read as follows:

7 § 6738. Definition of physical therapist assistant. a. A "physical  
8 therapist assistant" means a person [~~certified~~] licensed in accordance  
9 with this article who works under the supervision of a licensed physical  
10 therapist performing such patient related activities as are assigned by  
11 the supervising physical therapist. Duties of physical therapist assist-  
12 ants shall not include evaluation, testing, interpretation, planning or  
13 modification of patient programs. Supervision of a physical therapist  
14 assistant by a licensed physical therapist shall be on-site supervision,  
15 but not necessarily direct personal supervision. The number of licensed  
16 physical therapist assistants supervised by one licensed physical thera-  
17 pist shall not exceed the ratio of four licensed physical therapist  
18 assistants to one licensed physical therapist as shall be determined by  
19 the commissioner's regulations insuring that there be adequate super-  
20 vision in the best interest of public health and safety. Nothing in this  
21 section shall prohibit a hospital from employing physical therapist  
22 assistants, provided they work under the supervision of physical thera-  
23 pists designated by the hospital and not beyond the scope of practice of  
24 a physical therapist assistant. The numerical limitation of this section  
25 shall not apply to work performed in a hospital, provided that there be  
26 adequate supervision in the best interest of public health and safety.

27 b. Notwithstanding the provisions of subdivision a of this section,  
28 supervision of a licensed physical therapist assistant by a licensed

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 physical therapist, (i) in a residential health care facility, as  
2 defined in article twenty-eight of the public health law, (ii) in a  
3 diagnostic and treatment center licensed under article twenty-eight of  
4 the public health law that provides, as its principal mission, services  
5 to individuals with developmental disabilities, (iii) in a facility, as  
6 defined in section 1.03 of the mental hygiene law, or (iv) under a moni-  
7 tored program of the office of mental retardation and developmental  
8 disabilities as defined in subdivision (a) of section 13.15 of the  
9 mental hygiene law, shall be continuous but not necessarily on site when  
10 the supervising physical therapist has determined, through evaluation,  
11 the setting of goals and the establishment of a treatment plan, that the  
12 program is one of maintenance as defined pursuant to title XVIII of the  
13 federal social security act. The provisions of this subdivision shall  
14 not apply to the provision of physical therapy services when the condi-  
15 tion requires multiple adjustments of sequences and procedures due to  
16 rapidly changing physiological status and/or response to treatment, or  
17 to children under five years of age.

18 c. For the purposes of the provision of physical therapist assistant  
19 services in a home care services setting, as such services are defined  
20 in article thirty-six of the public health law, except that the home  
21 care services setting shall not include early intervention services as  
22 defined in title two-A of article twenty-five of the public health law,  
23 whether such services are provided by a home care services agency or  
24 under the supervision of a physical therapist licensed pursuant to this  
25 article, continuous supervision of a licensed physical therapist assist-  
26 ant, who has had direct clinical experience for a period of not less  
27 than two years, by a licensed physical therapist shall not be construed  
28 as requiring the physical presence of such licensed physical therapist  
29 at the time and place where such services are performed. For purposes of  
30 this subdivision "continuous supervision" shall be deemed to include:  
31 (i) the licensed physical therapist's setting of goals, establishing a  
32 plan of care and determining whether the patient is appropriate to  
33 receive the services of a licensed physical therapist assistant subject  
34 to the licensed physical therapist's evaluation; (ii) an initial joint  
35 visit with the patient by the supervising licensed physical therapist  
36 and the licensed physical therapist assistant; (iii) periodic treatment  
37 and evaluation of the patient by the supervising licensed physical ther-  
38 apist, as indicated in the plan of care and as determined in accordance  
39 with patient need, but in no instance shall the interval between such  
40 treatment exceed every six patient visits or thirty days, whichever  
41 occurs first; and (iv) a final evaluation by the supervising licensed  
42 physical therapist to determine if the plan of care shall be terminated.  
43 For purposes of this subdivision, the number of licensed physical thera-  
44 pist assistant's supervised in the home care services setting by a  
45 licensed physical therapist shall not exceed the ratio of two physical  
46 therapist assistants to one licensed physical therapist.

47 d. (1) For purposes of the provision of licensed physical therapist  
48 assistant services in public primary or private primary or secondary  
49 schools and for preschool children, as that term is defined in paragraph  
50 i of subdivision one of section forty-four hundred ten of this chapter,  
51 and receiving services thereunder, continuous supervision of a licensed  
52 physical therapist assistant, who has direct clinical experience provid-  
53 ing age appropriate physical therapy services for a period of not less  
54 than two years, by a licensed physical therapist shall not be construed  
55 as requiring the physical presence of such licensed physical therapist

1 at the time and place where such services are performed. For purposes of  
2 this subdivision "continuous supervision" shall be deemed to include:

3 (i) the licensed physical therapist's setting of the goals, establish-  
4 ing a plan of care, determining on an initial and ongoing basis whether  
5 the patient is appropriate to receive the services of a licensed phys-  
6 ical therapist assistant, determining the frequency of joint visits with  
7 the patient by both the supervising licensed physical therapist and the  
8 licensed physical therapist assistant, except that in no instance shall  
9 the interval, between joint visits, be more than every ninety calendar  
10 days, subject to the licensed physical therapist's evaluation;

11 (ii) an initial joint visit with the patient by the supervising  
12 licensed physical therapist and licensed physical therapist assistant;

13 (iii) periodic treatment and evaluation of the patient by the super-  
14 vising licensed physical therapist as indicated in the plan of care and  
15 as determined in accordance with patient need, except that in no  
16 instance shall the interval between such treatment exceed every twelfth  
17 visit or thirty days which ever occurs first; and

18 (iv) notification of the supervising licensed physical therapist by  
19 the licensed physical therapist assistant whenever there is a change in  
20 status, condition or performance of the patient.

21 (2) This subdivision shall not apply to the provision of physical  
22 therapy services when a child's condition requires multiple adjustments  
23 of sequences and procedures due to rapidly changing physiologic status  
24 and/or response to treatment.

25 § 2. Section 6739 of the education law, as added by chapter 618 of the  
26 laws of 1980, is amended to read as follows:

27 § 6739. Duties of licensed physical therapist assistants and the use  
28 of title "physical therapist assistant". Only a person [~~certified~~]  
29 licensed or otherwise authorized under this article shall participate in  
30 the practice of physical therapy as a licensed physical therapist  
31 assistant and only a person [~~certified~~] licensed under this section  
32 shall use the title "physical therapist assistant".

33 § 3. Section 6740 of the education law, as added by chapter 618 of the  
34 laws of 1980, subdivision c-1 as added by chapter 404 of the laws of  
35 2002, subdivision f as amended by chapter 43 of the laws of 1987, and  
36 subdivision g as amended by chapter 62 of the laws of 1989, is amended  
37 to read as follows:

38 § 6740. Requirements for [~~certification~~] license as a physical thera-  
39 pist assistant. a. Application: file an application with the department;

40 b. Education: have received an education including completion of a  
41 two-year college program in a physical therapist assistant program or  
42 equivalent in accordance with the commissioner's regulations;

43 c. Experience: have experience satisfactory to the state board for  
44 physical therapy in accordance with the commissioner's regulations;

45 c-1. Examination: pass an examination satisfactory to the board and in  
46 accordance with the commissioner's regulations;

47 d. Age: be at least eighteen years of age;

48 e. Character: be of good moral character as determined by the depart-  
49 ment;

50 f. Registration: all [~~certified~~] licensed physical therapist assist-  
51 ants shall register triennially with the education department in accord-  
52 ance with the regulations of the commissioner;

53 g. Fees: pay a fee for an initial [~~certificate~~] license of forty-five  
54 dollars, and for the biennial registration period ending December thir-  
55 ty-first, nineteen hundred eighty-two a fee of twenty dollars and a fee  
56 of fifty dollars for each triennial registration period.

§ 4. Section 6742-a of the education law, as added by chapter 207 of the laws of 2008, is amended to read as follows:

§ 6742-a. Mandatory continuing education. 1. (a) Each licensed physical therapist and ~~certified~~ licensed physical therapist assistant required under this article to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Licensed physical therapist and ~~certified~~ licensed physical therapist assistants who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a licensed physical therapist or ~~certified~~ licensed physical therapist assistant may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Each licensed physical therapist and ~~certified~~ licensed physical therapist assistant shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed physical therapist and ~~certified~~ licensed physical therapist assistant not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of physical therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a licensed physical therapist or ~~certified~~ licensed physical therapist assistant shall complete a minimum of thirty-six hours of acceptable formal continuing education, as specified in subdivision four of this section. Any licensed physical therapist or ~~certified~~ licensed physical therapist assistant whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand ten, shall complete continuing education hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand ten up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require the fee for such a conditional regis-

1 tration shall be the same as, and in addition to, the fee for the trien-  
2 nial registration. The duration of such conditional registration shall  
3 be determined by the department but shall not exceed one year. Any  
4 licensee who is notified of the denial of registration for failure to  
5 submit evidence, satisfactory to the department, of required continuing  
6 education and who practices without such registration may be subject to  
7 disciplinary proceedings pursuant to section sixty-five hundred ten of  
8 this title.

9 4. As used in subdivision two of this section, "acceptable formal  
10 education" shall mean formal courses of learning which contribute to  
11 professional practice in physical therapy and which meet the standards  
12 prescribed by regulations of the commissioner. Such formal courses of  
13 learning shall include, but not be limited to, collegiate level credit  
14 and non-credit courses, professional development programs and technical  
15 sessions offered by national, state and local professional associations  
16 and other organizations acceptable to the department, and any other  
17 organized educational and technical programs acceptable to the depart-  
18 ment. The department may, in its discretion and as needed to contribute  
19 to the health and welfare of the public, require the completion of  
20 continuing education courses in specific subjects to fulfill this manda-  
21 tory continuing education requirement. Courses must be taken from a  
22 sponsor approved by the department, pursuant to the regulations of the  
23 commissioner.

24 5. Licensed physical therapist or [~~certified~~] licensed physical thera-  
25 pist assistant shall maintain adequate documentation of completion of  
26 acceptable formal continuing education and shall provide such documenta-  
27 tion at the request of the department. Failure to provide such documen-  
28 tation upon the request of the department shall be an act of misconduct  
29 subject to disciplinary proceedings pursuant to section sixty-five  
30 hundred ten of this title.

31 6. The mandatory continuing education fee shall be forty-five dollars,  
32 shall be payable on or before the first day of each triennial registra-  
33 tion period, and shall be paid in addition to the triennial registration  
34 fee required by section sixty-seven hundred thirty-four of this article.

35 § 5. This act shall take effect on the one hundred eightieth day after  
36 it shall have become a law; provided, however, that amendments to subdi-  
37 visions c and d of section 6738 of the education law made by section one  
38 of this act shall not affect the expiration of such subdivisions and  
39 shall be deemed repealed therewith. Effective immediately, the addition,  
40 amendment and/or repeal of any rule or regulation necessary for the  
41 implementation of this act on its effective date are authorized and  
42 directed to be made and completed by the commissioner of education and  
43 the board of regents on or before such effective date.