

# STATE OF NEW YORK

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4579

2021-2022 Regular Sessions

## IN SENATE

February 5, 2021

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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 672 of the laws of  
4 2019, 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

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

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1 shall not apply to work performed in a hospital, provided that there be  
2 adequate supervision in the best interest of public health and safety.

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

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

51 d. (1) For purposes of the provision of licensed physical therapist  
52 assistant services in public primary or private primary or secondary  
53 schools and for preschool children, as that term is defined in paragraph  
54 i of subdivision one of section forty-four hundred ten of this chapter,  
55 and receiving services thereunder, continuous supervision of a licensed  
56 physical therapist assistant, who has direct clinical experience provid-

ing age appropriate physical therapy services for a period of not less than two years, by a licensed physical therapist shall not be construed as requiring the physical presence of such licensed physical therapist at the time and place where such services are performed. For purposes of this subdivision "continuous supervision" shall be deemed to include:

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

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

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

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

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

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

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

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

§ 6740. Requirements for [~~certification~~] license as a physical therapist assistant. a. Application: file an application with the department;

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

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

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

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

e. Character: be of good moral character as determined by the department;

f. Registration: all [~~certified~~] licensed physical therapist assistants shall register triennially with the [~~education~~] department in accordance with the regulations of the commissioner;

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

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

7 § 6742-a. Mandatory continuing education. 1. (a) Each licensed phys-  
8 ical therapist and [~~certified~~] licensed physical therapist assistant  
9 required under this article to register triennially with the department  
10 to practice in the state shall comply with the provisions of the manda-  
11 tory continuing education requirements prescribed in subdivision two of  
12 this section except as set forth in paragraphs (b) and (c) of this  
13 subdivision. Licensed physical therapist and [~~certified~~] licensed phys-  
14 ical therapist assistants who do not satisfy the mandatory continuing  
15 education requirements shall not practice until they have met such  
16 requirements, and they have been issued a registration certificate,  
17 except that a licensed physical therapist or [~~certified~~] licensed phys-  
18 ical therapist assistant may practice without having met such require-  
19 ments if he or she is issued a conditional registration certificate  
20 pursuant to subdivision three of this section.

21 (b) Each licensed physical therapist and [~~certified~~] licensed physical  
22 therapist assistant shall be exempt from the mandatory continuing educa-  
23 tion requirement for the triennial registration period during which they  
24 are first licensed. In accordance with the intent of this section,  
25 adjustment to the mandatory continuing education requirement may be  
26 granted by the department for reasons of health certified by an appro-  
27 priate health care professional, for extended active duty with the armed  
28 forces of the United States, or for other good cause acceptable to the  
29 department which may prevent compliance.

30 (c) A licensed physical therapist and [~~certified~~] licensed physical  
31 therapist assistant not engaged in practice, as determined by the  
32 department, shall be exempt from the mandatory continuing education  
33 requirement upon the filing of a statement with the department declaring  
34 such status. Any licensee who returns to the practice of physical thera-  
35 py during the triennial registration period shall notify the department  
36 prior to reentering the profession and shall meet such mandatory educa-  
37 tion requirements as shall be prescribed by regulations of the commis-  
38 sioner.

39 2. During each triennial registration period an applicant for regis-  
40 tration as a licensed physical therapist or [~~certified~~] licensed phys-  
41 ical therapist assistant shall complete a minimum of thirty-six hours of  
42 acceptable formal continuing education, as specified in subdivision four  
43 of this section. Any licensed physical therapist or [~~certified~~] licensed  
44 physical therapist assistant whose first registration date following the  
45 effective date of this section occurs less than three years from such  
46 effective date, but on or after January first, two thousand ten, shall  
47 complete continuing education hours on a prorated basis at the rate of  
48 one-half hour per month for the period beginning January first, two  
49 thousand ten up to the first registration date thereafter. A licensee  
50 who has not satisfied the mandatory continuing education requirements  
51 shall not be issued a triennial registration certificate by the depart-  
52 ment and shall not practice unless and until a conditional registration  
53 certificate is issued as provided for in subdivision three of this  
54 section. Continuing education hours taken during one triennium may not  
55 be transferred to a subsequent triennium.

1 3. The department, in its discretion, may issue a conditional regis-  
2 tration to a licensee who fails to meet the continuing education  
3 requirements established in subdivision two of this section but who  
4 agrees to make up any deficiencies and complete any additional education  
5 which the department may require the fee for such a conditional regis-  
6 tration shall be the same as, and in addition to, the fee for the trien-  
7 nial registration. The duration of such conditional registration shall  
8 be determined by the department but shall not exceed one year. Any  
9 licensee who is notified of the denial of registration for failure to  
10 submit evidence, satisfactory to the department, of required continuing  
11 education and who practices without such registration may be subject to  
12 disciplinary proceedings pursuant to section sixty-five hundred ten of  
13 this title.

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

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

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

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