

STATE OF NEW YORK

6727--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 29, 2021

Introduced by M. of A. ZEBROWSKI, ABINANTI, CARROLL, B. MILLER, PAULIN, THIELE, McDONALD, SEAWRIGHT -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 assistants, provided they work under the supervision of physical thera-
2 pists designated by the hospital and not beyond the scope of practice of
3 a physical therapist assistant. The numerical limitation of this section
4 shall not apply to work performed in a hospital, provided that there be
5 adequate supervision in the best interest of public health and safety.

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

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

54 d. (1) For purposes of the provision of **licensed** physical therapist
55 assistant services in public primary or private primary or secondary
56 schools and for preschool children, as that term is defined in paragraph

i of subdivision one of section forty-four hundred ten of this chapter, and receiving services thereunder, continuous supervision of a licensed physical therapist assistant, who has direct clinical experience providing 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;

g. Fees: pay a fee for an initial ~~certificate~~ license of forty-five dollars, and for the biennial registration period ending December thirty-first, nineteen hundred eighty-two a fee of twenty dollars and a fee 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

1 section. Continuing education hours taken during one triennium may not
2 be transferred to a subsequent triennium.

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

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

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

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

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