

SENATE BILL NO. 171

*Tash Christiane*

INTRODUCED BY

*Franklin Britton McKee Burnett*  
*Jacobson* *John Coodkiculla* *Stollard*

A BILL FOR AN ACT ENTITLED: AN ACT REVISING PHYSICAL THERAPY LAWS; AUTHORIZING LICENSURE OF PHYSICAL THERAPIST ASSISTANTS AND ESTABLISHING STANDARDS FOR LICENSURE; CLARIFYING REQUIREMENTS FOR SUPERVISING PHYSICAL THERAPIST ASSISTANTS, AIDES, AND STUDENTS; ESTABLISHING CONTINUING EDUCATION REQUIREMENTS FOR PHYSICAL THERAPISTS AND ASSISTANTS BY RULE; AND AMENDING SECTIONS 37-11-101, 37-11-105, 37-11-201, 37-11-203, 37-11-301, 37-11-303, 37-11-304, 37-11-305, 37-11-306, 37-11-307, 37-11-308, 37-11-309, 37-11-320, AND 37-11-321, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants the board of physical therapy examiners rulemaking authority to establish continuing education requirements for a physical therapist and a physical therapy assistant to obtain a license renewal. In adopting rules, the board should conform to continuing education standards for similar professions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 37-11-101, MCA, is amended to read:

**"37-11-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of physical therapy examiners provided for in 2-15-1858.
- (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.
- (3) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board.
- (4) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.
- (5) "Physical therapist assistant" or "assistant" means a person who:
  - (a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;

1 ~~and who~~

2 ~~(b) assists a physical therapist in the practice of physical therapy; and whose activities require an~~  
3 ~~understanding of physical therapy~~

4 ~~(c) is supervised by a licensed physical therapist as described in 37-11-105.~~

5 (6) "Physical therapist assistant student" means a person who is enrolled in an accredited physical  
6 therapist assistant curriculum and who as part of the clinical and educational training is practicing under  
7 the supervision of a licensed physical therapist as described in 37-11-105.

8 (7) "Physical therapy" means the evaluation, treatment, and instruction of human beings to detect,  
9 assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any  
10 bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and  
11 rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental  
12 disability.

13 ~~(7)(8)~~ (8) "Physical therapy aide" or "aide" means a person who aids in the practice of physical  
14 therapy, ~~and~~ whose activities require on-the-job training, ~~and supervision~~ who is supervised by a licensed  
15 physical therapist ~~who must be available for periodic checks during any procedure or treatment involving~~  
16 ~~a patient~~ or a licensed physical therapist assistant as described in 37-11-105.

17 ~~(8)(9)~~ (9) "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner",  
18 or "manual therapists" are equivalent terms, and any derivation of the above or any letters implying the  
19 above are equivalent terms; ~~any.~~ Any reference to any one of ~~them~~ the terms in this chapter includes the  
20 others but does not include certified corrective therapists or massage therapists.

21 ~~(9)(10)~~ (10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled  
22 in an accredited physical therapy curriculum, ~~and~~ who, as part of ~~his~~ the individual's professional,  
23 educational, and clinical training, is practicing in a physical therapy setting ~~under the direction, guidance,~~  
24 ~~and observation of,~~ and who is supervised by a licensed physical therapist as described in 37-11-105.

25 ~~(10)(11)~~ (11) "Topical medications" means medications applied locally to the skin and includes only  
26 medications listed in 37-11-106(2) for which a prescription is required under state or federal law."  
27

28 **Section 2.** Section 37-11-105, MCA, is amended to read:

29 **"37-11-105. Supervision of physical therapist ~~assistant~~ assistant, physical therapy aide, physical**  
30 **therapy student, or physical therapist assistant student.** (1) A physical therapist assistant ~~must~~ shall

1 practice under the ~~direct~~ supervision of a licensed physical therapist who is responsible for and participates  
 2 in a patient's care. This supervision requires the licensed physical therapist to make an onsite visit to the  
 3 client at least once for every six visits made by the assistant or once every 2 weeks, whichever occurs first.

4 (2) A licensed physical therapist may not concurrently supervise more than two full-time assistants  
 5 or the equivalent. This supervision does not require the presence of the assistant.

6 (3) A physical therapy aide shall practice under the onsite supervision of a licensed physical  
 7 therapist or a licensed assistant. A licensed assistant may not concurrently supervise more than one  
 8 full-time aide or the equivalent. A licensed physical therapist may not concurrently supervise more than  
 9 four aides or the equivalent or two assistants and two aides or the equivalent.

10 (4) A physical therapy student or physical therapist assistant student shall practice with the onsite  
 11 supervision of a licensed physical therapist."

12  
 13 **Section 3.** Section 37-11-201, MCA, is amended to read:

14 **"37-11-201. General powers -- rulemaking power -- records.** (1) The board may:

15 (a) adopt rules to carry this chapter into effect;

16 (b) grant, suspend, and revoke licenses;

17 (c) issue subpoenas requiring the attendance of witnesses or the production of books and papers;

18 ~~and~~

19 (d) take any other disciplinary action necessary to protect the public.

20 (2) The board shall:

21 (a) examine applicants for licenses three times a year at reasonable places and times determined  
 22 by the board;

23 (b) review the qualifications of applicants who are approved for examination for licensure; ~~and~~

24 (c) conduct written examinations that measure the qualifications of individual applicants along with  
 25 any oral or practical examinations when determined by the board to be appropriate; and

26 (d) adopt rules to establish continuing education requirements of at least 20 hours biennially for  
 27 license renewal for physical therapists and assistants.

28 (3) The department shall keep a record of the board's proceedings under this chapter and a register  
 29 of persons licensed under it. The register must show the name of every ~~living~~ licensed physical therapist  
 30 and licensed assistant, his the therapist's or assistant's last-known place of business, and last-known place

1 of residence, and the date of issue and the number of his every license and certificate ~~as a~~ issued to a  
 2 licensed physical therapist or licensed assistant.

3 (4) The department shall, during the month of April every year in which the renewal of licenses is  
 4 required, compile a list of licensed physical therapists authorized to practice physical therapy in the state  
 5 and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every  
 6 person licensed to practice medicine and surgery in the state. An interested person in the state is entitled  
 7 to obtain a copy of the list on application to the department and payment of an amount not in excess of  
 8 the cost of the list ~~so furnished~~.

9 (5) The department may change addresses and surnames on the licensee's records only on the  
 10 specific written request by the individual licensee."  
 11

12 **Section 4.** Section 37-11-203, MCA, is amended to read:

13 **"37-11-203. Travel expense -- deposit of fees.** (1) Each board member shall receive compensation  
 14 and travel expenses as provided for in 37-1-133.

15 (2) All fees collected by the department ~~shall~~ must be deposited in the state special revenue  
 16 account for the use of the board, subject to 37-1-101(6). The department shall keep an accurate account  
 17 of funds received and expenditures made from the account.

18 ~~(3) The board of medical examiners shall transfer funds in the state special revenue account~~  
 19 ~~collected after January 1, 1979, which were derived from the examination and licensure or relicensure of~~  
 20 ~~physical therapists in this state to the state special revenue account designated as the "physical therapist~~  
 21 ~~account"."~~

22

23 **Section 5.** Section 37-11-301, MCA, is amended to read:

24 **"37-11-301. License required for physical therapist and assistant -- Unauthorized unauthorized**  
 25 **representation as licensed therapist.** (1) A person may not practice or purport to practice physical therapy  
 26 without first obtaining a license under the provisions of this chapter.

27 (2) A person who is not licensed under this chapter as a physical therapist, ~~or~~ whose license has  
 28 been suspended or revoked, ~~or~~ whose license has lapsed and has not been revived and who uses ~~in~~  
 29 ~~connection with his name~~ the words or letters "L.P.T.", "Licensed Physical Therapist", "P.T.", "Physical  
 30 Therapist", "R.P.T.", "Registered Physical Therapist", or any other letters, words, or insignia indicating or

1 implying that ~~he~~ the person is a licensed physical therapist or who in any way, orally or in writing or in print  
 2 or by sign, directly or by implication, ~~represents himself as~~ purports to be a physical therapist ~~shall be~~ is  
 3 guilty of a misdemeanor.

4 (3) A person who is not licensed as a physical therapist assistant in accordance with this chapter  
 5 may not assist a physical therapist in the practice of physical therapy."

6  
 7 **Section 6.** Section 37-11-303, MCA, is amended to read:

8 "**37-11-303. Qualifications of applicants for license.** (1) To be eligible for a license as a physical  
 9 therapist, an applicant must:

10 ~~(1)(a)~~ (a) be of good moral character and at least 18 years of age;

11 ~~(2)(b)~~ (b) have graduated from an accredited school of physical therapy approved by the board; and

12 ~~(3)(c)~~ (c) either:

13 ~~(a)(i)~~ (i) pass to the satisfaction of the board a written examination prescribed by the board and, if  
 14 considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical  
 15 therapist; or

16 ~~(b)(ii)~~ (ii) be entitled to a license without examination under 37-11-307.

17 (2) To be eligible for a physical therapist assistant license, an applicant must:

18 (a) be of good moral character and at least 18 years of age;

19 (b) have graduated from an accredited physical therapist assistant curriculum approved by the  
 20 board; and

21 (c) have passed a written examination prescribed by the board."

22  
 23 **Section 7.** Section 37-11-304, MCA, is amended to read:

24 "**37-11-304. Application for examination -- fee.** (1) Unless entitled to a license under 37-11-307,  
 25 a person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to  
 26 the department in writing, on a form furnished by the department. ~~He~~ The person shall:

27 (a) ~~embody in that application~~ provide evidence under oath, satisfactory to the board, of ~~his~~  
 28 ~~possessing~~ having the qualifications preliminary to the examination required by 37-11-303; and

29 (b) pay to the department at the time of filing ~~his~~ the application a fee ~~as~~ established by the board  
 30 by rule. The fee must be commensurate with the cost of the examination and its administration and must

1 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

2 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to ~~sit for~~ take  
3 a second examination and, if ~~he~~ the person fails the second examination, to ~~sit for~~ take a third  
4 examination."

5

6 **Section 8.** Section 37-11-305, MCA, is amended to read:

7 "**37-11-305. Examination -- scope.** The department shall, subject to 37-1-101, examine applicants  
8 for licenses as physical therapists and physical therapist assistants, at times and places the board  
9 determines. The examinations ~~shall~~ must embrace subjects the board considers necessary to determine  
10 the applicant's fitness."

11

12 **Section 9.** Section 37-11-306, MCA, is amended to read:

13 "**37-11-306. Issuance of license -- certificate as evidence.** The department shall ~~license as a~~  
14 ~~physical therapist~~ issue a license to each applicant who proves to the satisfaction of the board ~~his~~ the  
15 applicant's fitness for a physical therapist or physical therapist assistant license under this chapter. The  
16 department shall also issue to each ~~person~~ licensed person a license certificate, which is prima facie  
17 evidence of ~~the~~ that person's right ~~of the person to whom it is issued to represent himself to practice and~~  
18 advertise as a licensed physical therapist or a physical therapist assistant, subject to the conditions and  
19 limitations of this chapter."

20

21 **Section 10.** Section 37-11-307, MCA, is amended to read:

22 "**37-11-307. Applicants licensed in other states.** The board may, in its discretion, authorize the  
23 department to issue a physical therapist or physical therapist assistant license ~~as a physical therapist~~,  
24 without examination, on the payment of the required fee ~~as~~ established by the board, to an applicant ~~for~~  
25 ~~license~~ who is a physical therapist or physical therapist assistant licensed under the laws of another state  
26 or territory if the applicant has met the same requirements as applicants licensed by examination under this  
27 chapter. ~~Those applicants who have been~~ An applicant licensed in another state or territory by examination  
28 other than the examination recognized under this chapter may be considered for licensure by the board if  
29 the requirements for a physical therapy license or a physical therapist assistant license in the state or  
30 territory in which the applicant was tested were at least equal to those requirements in force in this state

1 at that time. However, the board may require a written, oral, or practical examination and may require  
2 continued study or refresher courses."

3

4 **Section 11.** Section 37-11-308, MCA, is amended to read:

5 "**37-11-308. Annual renewal of license -- fee.** A licensed physical therapist and a licensed physical  
6 therapist assistant shall, during January, apply to the department for a license renewal ~~of his license~~ and  
7 pay a fee ~~which shall be~~ set by board rule. A license that is not renewed before April every year  
8 automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment  
9 of all past unpaid renewal fees or a late renewal fee."

10

11 **Section 12.** Section 37-11-309, MCA, is amended to read:

12 "**37-11-309. Temporary license.** (1) On payment to the department of a fee ~~which shall be~~ set  
13 by board rule and the submission of a written application on forms provided by ~~it~~ the board, the department  
14 shall issue, without examination, a temporary license to practice physical therapy in this state for a period  
15 not to exceed 1 year to a person who meets the qualifications set forth in 37-11-303, on submission by  
16 the person of evidence satisfactory to the board that ~~he~~ the person is in this state on a temporary basis to  
17 assist in a case of medical emergency or to engage in a special physical therapy project.

18 (2) The board may, upon receipt of an application for examination and upon receipt of a temporary  
19 license fee not to exceed \$100, issue a temporary license to a person who has applied for a license under  
20 this chapter and who is, in the judgment of the board, eligible to take the examination provided for in  
21 37-11-303. This applicant ~~must~~ shall work under the ~~direction, guidance, and observation~~ onsite  
22 supervision of a licensed physical therapist. This temporary license is available to an applicant only with  
23 respect to ~~his~~ the applicant's first application. The temporary license ~~shall expire~~ expires when the board  
24 makes a final determination on the applicant's examination scores.

25 (3) The board may require an oral interview of all persons applying for a temporary license.

26 (4) The board shall adopt necessary and reasonable rules governing the procedures for applying  
27 and issuing temporary licenses."

28

29 **Section 13.** Section 37-11-320, MCA, is amended to read:

30 "**37-11-320. Duty to report violations -- immunity from liability.** (1) Notwithstanding any provision

1 of state law regarding the confidentiality of health care information, a physical therapist or physical  
 2 therapist assistant shall report to the board any information that appears to show that another physical  
 3 therapist or physical therapist assistant is:

4 (a) mentally or physically unable to engage safely in the practice of physical therapy; or practice  
 5 as an assistant; or

6 (b) guilty of any act, omission, or condition that is grounds for disciplinary action under 37-11-321.

7 (2) There is no liability on the part of and no cause of action may arise against a physical therapist  
 8 or a physical therapist assistant who in good faith provides information to the board as required by  
 9 subsection (1)."

10  
 11 **Section 14.** Section 37-11-321, MCA, is amended to read:

12 "**37-11-321. Refusal to issue or renew license.** The board, after due notice and hearing, may  
 13 refuse to license any applicant; and may refuse to renew, may suspend, may revoke, or may take lesser  
 14 disciplinary action on the license of any licensed person who:

15 (1) is habitually intoxicated or is addicted to the use of narcotic drugs;

16 (2) has been convicted of violating any state or federal narcotic law, subject to chapter 1, part 2,  
 17 of this title;

18 (3) is, in the judgment of the board, guilty of immoral or unprofessional conduct as defined by  
 19 board rule;

20 (4) has been convicted of any crime involving moral turpitude, subject to chapter 1, part 2, of this  
 21 title;

22 (5) is guilty, in the judgment of the board, of gross negligence in ~~his~~ the practice ~~as a physical~~  
 23 therapist of physical therapy or practice as an assistant;

24 (6) has obtained or attempted to obtain licensure by fraud or material misrepresentation;

25 (7) has been declared to be seriously mentally ill by a court of competent jurisdiction and has not  
 26 ~~thereafter~~ been released from treatment and declared not to be seriously mentally ill;

27 (8) has treated or undertaken to treat ailments of human beings otherwise than by physical therapy;

28 (9) is guilty, in the judgment of the board, of conduct unbecoming a person licensed as a physical  
 29 therapist or assistant or of conduct detrimental to the best interests of the public; or

30 (10) has practiced physical therapy or has practiced as an assistant beyond the scope and limitation



1 of his the person's training and education."

2

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0171, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising physical therapy laws; authorizing licensure of physical therapist assistants and establishing standards for licensure; clarifying requirements for supervising physical therapist assistants, aides, and students; establishing continuing education requirements for physical therapists and assistants by rule.

ASSUMPTIONS:

1. Approximately 25 initial applicants will qualify as physical therapist assistants in FY96 and 3 new applicants in FY97.
2. Approximately 700 licensees will be required to comply with continuing education requirements.
3. Revenues are projected to increase \$2,575 in FY96 and \$925 in FY97.
4. Fiscal impact will be minimal and can be absorbed in the budget recommendation contained in the Executive Budget.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Revenues:</u>		
Application Fees	1,650	0
Examination & License Fees	300	300
Renewal Fees	<u>625</u>	<u>625</u>
Total	2,575	925
Physical Therapists SSR (02)	2,575	925

*Dave Lewis 1-30-95*

DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

*Eve B. Franklin*

EVE FRANKLIN, PRIMARY SPONSOR      DATE

Fiscal Note for SB0171, as introduced

**SB 171**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0171, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising physical therapy laws; authorizing licensure of physical therapist assistants and establishing standards for licensure; clarifying requirements for supervising physical therapist assistants, aides, and students; establishing continuing education requirements for physical therapists and assistants by rule.

ASSUMPTIONS:

1. Approximately 25 initial applications will qualify as physical therapist assistants in FY96 and 3 new applicants in FY97.
2. Approximately 700 licensees will be required to comply with continuing education requirements.
3. Revenues are projected to increase by \$2,575 in FY96 and \$925 in FY97.
4. Operating expenses for contracted services, printing, postage and mailing are anticipated to increase by \$6,000 in each year.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	6,000	6,000
<u>Funding:</u>		
Physical Therapists SSR (02)	6,000	6,000
<u>Revenues:</u>		
Application Fees	1,650	0
Examination & License Fees	300	300
Renewal Fees	<u>625</u>	<u>625</u>
Total	2,575	925
<u>Net Impact:</u>		
Physical Therapists SSR (02)	(3,425)	(5,075)

Dave Lewis 3-6-95  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

Eve Franklin 3/7/95  
 EVE FRANKLIN, PRIMARY SPONSOR      DATE

Fiscal Note for SB171, third reading

**SB 171-#2**

SENATE BILL NO. 171

*Lash Parrish*

INTRODUCED BY

*Franklin Anthony McKee Burnett*  
*Jenkins* *John Cochran* *William Stollard*

A BILL FOR AN ACT ENTITLED: AN ACT REVISING PHYSICAL THERAPY LAWS; AUTHORIZING LICENSURE OF PHYSICAL THERAPIST ASSISTANTS AND ESTABLISHING STANDARDS FOR LICENSURE; CLARIFYING REQUIREMENTS FOR SUPERVISING PHYSICAL THERAPIST ASSISTANTS, AIDES, AND STUDENTS; ESTABLISHING CONTINUING EDUCATION REQUIREMENTS FOR PHYSICAL THERAPISTS AND ASSISTANTS BY RULE; AND AMENDING SECTIONS 37-11-101, 37-11-105, 37-11-201, 37-11-203, 37-11-301, 37-11-303, 37-11-304, 37-11-305, 37-11-306, 37-11-307, 37-11-308, 37-11-309, 37-11-320, AND 37-11-321, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants the board of physical therapy examiners rulemaking authority to establish continuing education requirements for a physical therapist and a physical therapy assistant to obtain a license renewal. In adopting rules, the board should conform to continuing education standards for similar professions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-11-101, MCA, is amended to read:

"37-11-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of physical therapy examiners provided for in 2-15-1858.
- (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.
- (3) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board.
- (4) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.
- (5) "Physical therapist assistant" or "assistant" means a person who:
  - (a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;

1 ~~and who~~

2 ~~(b) assists a physical therapist in the practice of physical therapy; and whose activities require an~~  
3 ~~understanding of physical therapy~~

4 ~~(c) is supervised by a licensed physical therapist as described in 37-11-105.~~

5 ~~(6) "Physical therapist assistant student" means a person who is enrolled in an accredited physical~~  
6 ~~therapist assistant curriculum and who as part of the clinical and educational training is practicing under~~  
7 ~~the supervision of a licensed physical therapist as described in 37-11-105.~~

8 ~~(7) "Physical therapy" means the evaluation, treatment, and instruction of human beings to detect,~~  
9 ~~assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any~~  
10 ~~bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and~~  
11 ~~rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental~~  
12 ~~disability.~~

13 ~~(7)(8) "Physical therapy aide" or "aide" means a person who aids in the practice of physical~~  
14 ~~therapy, and whose activities require on-the-job training, and supervision who is supervised by a licensed~~  
15 ~~physical therapist who must be available for periodic checks during any procedure or treatment involving~~  
16 ~~a patient or a licensed physical therapist assistant as described in 37-11-105.~~

17 ~~(8)(9) "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner",~~  
18 ~~or "manual therapists" are equivalent terms, and any derivation of the above or any letters implying the~~  
19 ~~above are equivalent terms; any. Any reference to any one of them the terms in this chapter includes the~~  
20 ~~others but does not include certified corrective therapists or massage therapists.~~

21 ~~(9)(10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled~~  
22 ~~in an accredited physical therapy curriculum, and who, as part of his the individual's professional,~~  
23 ~~educational, and clinical training, is practicing in a physical therapy setting under the direction, guidance,~~  
24 ~~and observation of, and who is supervised by a licensed physical therapist as described in 37-11-105.~~

25 ~~(10)(11) "Topical medications" means medications applied locally to the skin and includes only~~  
26 ~~medications listed in 37-11-106(2) for which a prescription is required under state or federal law."~~

27

28 **Section 2.** Section 37-11-105, MCA, is amended to read:

29 **"37-11-105. Supervision of physical therapist ~~assistants~~ assistant, physical therapy aide, physical**  
30 **therapy student, or physical therapist assistant student. (1) A physical therapist assistant ~~must~~ shall**

1 practice under the ~~direct~~ supervision of a licensed physical therapist who is responsible for and participates  
 2 in a patient's care. This supervision requires the licensed physical therapist to make an onsite visit to the  
 3 client at least once for every six visits made by the assistant or once every 2 weeks, whichever occurs first.

4 (2) A licensed physical therapist may not concurrently supervise more than two full-time assistants  
 5 or the equivalent. This supervision does not require the presence of the assistant.

6 (3) A physical therapy aide shall practice under the onsite supervision of a licensed physical  
 7 therapist or a licensed assistant. A licensed assistant may not concurrently supervise more than one  
 8 full-time aide or the equivalent. A licensed physical therapist may not concurrently supervise more than  
 9 four aides or the equivalent or two assistants and two aides or the equivalent.

10 (4) A physical therapy student or physical therapist assistant student shall practice with the onsite  
 11 supervision of a licensed physical therapist."

12  
 13 **Section 3.** Section 37-11-201, MCA, is amended to read:

14 **"37-11-201. General powers -- rulemaking power -- records.** (1) The board may:

15 (a) adopt rules to carry this chapter into effect;

16 (b) grant, suspend, and revoke licenses;

17 (c) issue subpoenas requiring the attendance of witnesses or the production of books and papers;

18 ~~and~~

19 (d) take any other disciplinary action necessary to protect the public.

20 (2) The board shall:

21 (a) examine applicants for licenses three times a year at reasonable places and times determined  
 22 by the board;

23 (b) review the qualifications of applicants who are approved for examination for licensure; ~~and~~

24 (c) conduct written examinations that measure the qualifications of individual applicants along with  
 25 any oral or practical examinations when determined by the board to be appropriate; ~~and~~

26 (d) adopt rules to establish continuing education requirements of at least 20 hours biennially for  
 27 license renewal for physical therapists and assistants.

28 (3) The department shall keep a record of the board's proceedings under this chapter and a register  
 29 of persons licensed under it. The register must show the name of every ~~living~~ licensed physical therapist  
 30 and licensed assistant, ~~his~~ the therapist's or assistant's last-known place of business, and last-known place

1 of residence, and the date of issue and the number of ~~his~~ every license and certificate ~~as a~~ issued to a  
 2 licensed physical therapist or licensed assistant.

3 (4) The department shall, during the month of April every year in which the renewal of licenses is  
 4 required, compile a list of licensed physical therapists authorized to practice physical therapy in the state  
 5 and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every  
 6 person licensed to practice medicine and surgery in the state. An interested person in the state is entitled  
 7 to obtain a copy of the list on application to the department and payment of an amount not in excess of  
 8 the cost of the list ~~so furnished~~.

9 (5) The department may change addresses and surnames on the licensee's records only on the  
 10 specific written request by the individual licensee."  
 11

12 **Section 4.** Section 37-11-203, MCA, is amended to read:

13 **"37-11-203. Travel expense -- deposit of fees.** (1) Each board member shall receive compensation  
 14 and travel expenses as provided for in 37-1-133.

15 (2) All fees collected by the department ~~shall~~ must be deposited in the state special revenue  
 16 account for the use of the board, subject to 37-1-101(6). The department shall keep an accurate account  
 17 of funds received and expenditures made from the account.

18 ~~(3) The board of medical examiners shall transfer funds in the state special revenue account~~  
 19 ~~collected after January 1, 1978, which were derived from the examination and licensure or relicensure of~~  
 20 ~~physical therapists in this state to the state special revenue account designated as the "physical therapist~~  
 21 ~~account".~~"

22  
 23 **Section 5.** Section 37-11-301, MCA, is amended to read:

24 **"37-11-301. License required for physical therapist and assistant -- Unauthorized unauthorized**  
 25 **representation as licensed therapist.** (1) A person may not practice or purport to practice physical therapy  
 26 without first obtaining a license under the provisions of this chapter.

27 (2) A person who is not licensed under this chapter as a physical therapist, ~~or~~ whose license has  
 28 been suspended or revoked, or whose license has lapsed and has not been revived and who uses ~~in~~  
 29 ~~connection with his name~~ the words or letters "L.P.T.", "Licensed Physical Therapist", "P.T.", "Physical  
 30 Therapist", "R.P.T.", "Registered Physical Therapist", or any other letters, words, or insignia indicating or

1 implying that ~~he~~ the person is a licensed physical therapist or who in any way, orally or in writing or in print  
 2 or by sign, directly or by implication, ~~represents himself as~~ purports to be a physical therapist ~~shall be~~ is  
 3 guilty of a misdemeanor.

4 (3) A person who is not licensed as a physical therapist assistant in accordance with this chapter  
 5 may not assist a physical therapist in the practice of physical therapy."

6  
 7 **Section 6.** Section 37-11-303, MCA, is amended to read:

8 "**37-11-303. Qualifications of applicants for license.** (1) To be eligible for a license as a physical  
 9 therapist, an applicant must:

10 ~~(1)(a)~~ (a) be of good moral character and at least 18 years of age;

11 ~~(2)(b)~~ (b) have graduated from an accredited school of physical therapy approved by the board; and

12 ~~(3)(c)~~ (c) either:

13 ~~(a)(i)~~ (i) pass to the satisfaction of the board a written examination prescribed by the board and, if  
 14 considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical  
 15 therapist; or

16 ~~(b)(ii)~~ (ii) be entitled to a license without examination under 37-11-307.

17 (2) To be eligible for a physical therapist assistant license, an applicant must:

18 (a) be of good moral character and at least 18 years of age;

19 (b) have graduated from an accredited physical therapist assistant curriculum approved by the  
 20 board; and

21 (c) have passed a written examination prescribed by the board."

22  
 23 **Section 7.** Section 37-11-304, MCA, is amended to read:

24 "**37-11-304. Application -- fee.** (1) Unless entitled to a license under 37-11-307,  
 25 a person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to  
 26 the department in writing, on a form furnished by the department. ~~He~~ The person shall:

27 (a) ~~embody in that application~~ provide evidence under oath, satisfactory to the board, of ~~his~~  
 28 ~~possessing~~ having the qualifications preliminary to the examination required by 37-11-303; and

29 (b) pay to the department at the time of filing ~~his~~ the application a fee ~~as~~ established by the board  
 30 by rule. The fee must be commensurate with the cost of the examination and its administration and must



1 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

2 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to ~~sit for~~ take  
3 a second examination and, if ~~he~~ the person fails the second examination, to ~~sit for~~ take a third  
4 examination."

5

6 **Section 8.** Section 37-11-305, MCA, is amended to read:

7 "**37-11-305. Examination -- scope.** The department shall, subject to 37-1-101, examine applicants  
8 for licenses as physical therapists and physical therapist assistants, at times and places the board  
9 determines. The examinations ~~shall~~ must embrace subjects the board considers necessary to determine  
10 the applicant's fitness."

11

12 **Section 9.** Section 37-11-306, MCA, is amended to read:

13 "**37-11-306. Issuance of license -- certificate as evidence.** The department shall ~~license as a~~  
14 ~~physical therapist~~ issue a license to each applicant who proves to the satisfaction of the board ~~his~~ the  
15 applicant's fitness for a physical therapist or physical therapist assistant license under this chapter. The  
16 department shall also issue to each ~~person~~ licensed person a license certificate, which is prima facie  
17 evidence of ~~the~~ that person's right ~~of the person to whom it is issued to represent himself~~ to practice and  
18 advertise as a licensed physical therapist or a physical therapist assistant, subject to the conditions and  
19 limitations of this chapter."

20

21 **Section 10.** Section 37-11-307, MCA, is amended to read:

22 "**37-11-307. Applicants licensed in other states.** The board may, in its discretion, authorize the  
23 department to issue a physical therapist or physical therapist assistant license ~~as a physical therapist~~,  
24 without examination, on the payment of the required fee ~~as~~ established by the board, to an applicant ~~for~~  
25 ~~license~~ who is a physical therapist or physical therapist assistant licensed under the laws of another state  
26 or territory if the applicant has met the same requirements as applicants licensed by examination under this  
27 chapter. ~~These applicants who have been~~ An applicant licensed in another state or territory by examination  
28 other than the examination recognized under this chapter may be considered for licensure by the board if  
29 the requirements for a physical therapy license or a physical therapist assistant license in the state or  
30 territory in which the applicant was tested were at least equal to those requirements in force in this state

1 at that time. However, the board may require a written, oral, or practical examination and may require  
2 continued study or refresher courses."

3  
4 **Section 11.** Section 37-11-308, MCA, is amended to read:

5 "**37-11-308. Annual renewal of license -- fee.** A licensed physical therapist and a licensed physical  
6 therapist assistant shall, during January, apply to the department for a license renewal ~~of his license~~ and  
7 pay a fee ~~which shall be~~ set by board rule. A license that is not renewed before April every year  
8 automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment  
9 of all past unpaid renewal fees or a late renewal fee."

10  
11 **Section 12.** Section 37-11-309, MCA, is amended to read:

12 "**37-11-309. Temporary license.** (1) On payment to the department of a fee ~~which shall be~~ set  
13 by board rule and the submission of a written application on forms provided by ~~it~~ the board, the department  
14 shall issue, without examination, a temporary license to practice physical therapy in this state for a period  
15 not to exceed 1 year to a person who meets the qualifications set forth in 37-11-303, on submission by  
16 the person of evidence satisfactory to the board that ~~he~~ the person is in this state on a temporary basis to  
17 assist in a case of medical emergency or to engage in a special physical therapy project.

18 (2) The board may, upon receipt of an application for examination and upon receipt of a temporary  
19 license fee not to exceed \$100, issue a temporary license to a person who has applied for a license under  
20 this chapter and who is, in the judgment of the board, eligible to take the examination provided for in  
21 37-11-303. This applicant ~~must~~ shall work under the ~~direction, guidance, and observation~~ onsite  
22 supervision of a licensed physical therapist. This temporary license is available to an applicant only with  
23 respect to ~~his~~ the applicant's first application. The temporary license ~~shall expire~~ expires when the board  
24 makes a final determination on the applicant's examination scores.

25 (3) The board may require an oral interview of all persons applying for a temporary license.

26 (4) The board shall adopt necessary and reasonable rules governing the procedures for applying  
27 and issuing temporary licenses."

28  
29 **Section 13.** Section 37-11-320, MCA, is amended to read:

30 "**37-11-320. Duty to report violations --immunity from liability.** (1) Notwithstanding any provision

1 of state law regarding the confidentiality of health care information, a physical therapist or physical  
 2 therapist assistant shall report to the board any information that appears to show that another physical  
 3 therapist or physical therapist assistant is:

4 (a) mentally or physically unable to engage safely in the practice of physical therapy; or practice  
 5 as an assistant; or

6 (b) guilty of any act, omission, or condition that is grounds for disciplinary action under 37-11-321.

7 (2) There is no liability on the part of and no cause of action may arise against a physical therapist  
 8 or a physical therapist assistant who in good faith provides information to the board as required by  
 9 subsection (1)."

10  
 11 **Section 14.** Section 37-11-321, MCA, is amended to read:

12 **"37-11-321. Refusal to issue or renew license.** The board, after due notice and hearing, may  
 13 refuse to license any applicant; and may refuse to renew, may suspend, may revoke, or may take lesser  
 14 disciplinary action on the license of any licensed person who:

15 (1) is habitually intoxicated or is addicted to the use of narcotic drugs;

16 (2) has been convicted of violating any state or federal narcotic law, subject to chapter 1, part 2,  
 17 of this title;

18 (3) is, in the judgment of the board, guilty of immoral or unprofessional conduct as defined by  
 19 board rule;

20 (4) has been convicted of any crime involving moral turpitude, subject to chapter 1, part 2, of this  
 21 title;

22 (5) is guilty, in the judgment of the board, of gross negligence in ~~his~~ the practice ~~as a physical~~  
 23 therapist or physical therapy or practice as an assistant;

24 (6) has obtained or attempted to obtain licensure by fraud or material misrepresentation;

25 (7) has been declared to be seriously mentally ill by a court of competent jurisdiction and has not  
 26 ~~thereafter~~ been released from treatment and declared not to be seriously mentally ill;

27 (8) has treated or undertaken to treat ailments of human beings otherwise than by physical therapy;

28 (9) is guilty, in the judgment of the board, of conduct unbecoming a person licensed as a physical  
 29 therapist or assistant or of conduct detrimental to the best interests of the public; or

30 (10) has practiced physical therapy or has practiced as an assistant beyond the scope and limitation

1 of his the person's training and education."

2

-END-

## 1 SENATE BILL NO. 171

2 INTRODUCED BY FRANKLIN, BOHLINGER, MCKEE, BURNETT, TASH, CHRISTIAENS, HIBBARD,  
3 JENKINS, WILSON, HARPER, COCCHIARELLA, SQUIRES

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PHYSICAL THERAPY LAWS; AUTHORIZING  
6 LICENSURE OF PHYSICAL THERAPIST ASSISTANTS AND ESTABLISHING STANDARDS FOR LICENSURE;  
7 CLARIFYING REQUIREMENTS FOR SUPERVISING PHYSICAL THERAPIST ASSISTANTS, AIDES, AND  
8 STUDENTS; ESTABLISHING CONTINUING EDUCATION REQUIREMENTS FOR PHYSICAL THERAPISTS AND  
9 ASSISTANTS BY RULE; AND AMENDING SECTIONS 37-11-101, 37-11-105, 37-11-201, 37-11-203,  
10 37-11-301, 37-11-303, 37-11-304, 37-11-305, 37-11-306, 37-11-307, 37-11-308, 37-11-309,  
11 37-11-320, AND 37-11-321, MCA."

12  
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because it grants the board of physical therapy  
15 examiners rulemaking authority to establish continuing education requirements for a physical therapist and  
16 a physical therapy assistant to obtain a license renewal. In adopting rules, the board should conform to  
17 continuing education standards for similar professions.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20  
21 **Section 1.** Section 37-11-101, MCA, is amended to read:

22 **"37-11-101. Definitions.** Unless the context requires otherwise, in this chapter, the following  
23 definitions apply:

- 24 (1) "Board" means the board of physical therapy examiners provided for in 2-15-1858.  
25 (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.  
26 (3) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or  
27 revocation of a license, after which the appropriate action toward an applicant or licensee is to be  
28 determined by the board.  
29 (4) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.  
30 (5) "Physical therapist assistant" or "assistant" means a person who:

1 (a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;  
2 ~~and who~~

3 (b) assists a physical therapist in the practice of physical therapy BUT WHO MAY NOT MAKE  
4 EVALUATIONS OR DESIGN TREATMENT PLANS; and ~~whose activities require an understanding of physical~~  
5 ~~therapy~~

6 (c) is supervised by a licensed physical therapist as described in 37-11-105.

7 (6) "Physical therapist assistant student" means a person who is enrolled in an accredited physical  
8 therapist assistant curriculum and who as part of the clinical and educational training is practicing under  
9 the supervision of a licensed physical therapist as described in 37-11-105.

10 (7) "Physical therapy" means the evaluation, treatment, and instruction of human beings to detect,  
11 assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any  
12 bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and  
13 rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental  
14 disability.

15 ~~(7)(8)~~ (8) "Physical therapy aide" or "aide" means a person who aids in the practice of physical  
16 therapy, ~~and whose activities require on-the-job training, and supervision~~ who is supervised by a licensed  
17 physical therapist ~~who must be available for periodic checks during any procedure or treatment involving~~  
18 ~~a patient~~ or a licensed physical therapist assistant as described in 37-11-105.

19 ~~(8)(9)~~ (9) "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner",  
20 or "manual therapists" are equivalent terms, and any derivation of the above or any letters implying the  
21 above are equivalent terms; ~~any.~~ Any reference to any one of ~~them~~ the terms in this chapter includes the  
22 others but does not include certified corrective therapists or massage therapists.

23 ~~(9)(10)~~ (10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled  
24 in an accredited physical therapy curriculum, ~~and who, as part of his~~ the individual's professional,  
25 educational, and clinical training, is practicing in a physical therapy setting ~~under the direction, guidance,~~  
26 ~~and observation of,~~ and who is supervised by a licensed physical therapist as described in 37-11-105.

27 ~~(10)(11)~~ (11) "Topical medications" means medications applied locally to the skin and includes only  
28 medications listed in 37-11-106(2) for which a prescription is required under state or federal law."  
29

30 **Section 2.** Section 37-11-105, MCA, is amended to read:

1           **"37-11-105. Supervision of physical therapist ~~assistants~~ assistant, physical therapy aide, physical**  
 2 **therapy student, or physical therapist assistant student.** (1) A physical therapist assistant ~~must~~ shall  
 3 practice under the ~~direct~~ supervision of a licensed physical therapist who is responsible for and participates  
 4 in a patient's care. This supervision requires the licensed physical therapist to make an onsite visit to the  
 5 client at least once for every six visits made by the assistant or once every 2 weeks, whichever occurs first.

6           (2) A licensed physical therapist may not concurrently supervise more than two full-time assistants  
 7 or the equivalent. This supervision does not require the presence of the assistant.

8           (3) A physical therapy aide shall practice under the onsite supervision of a licensed physical  
 9 therapist or a licensed assistant. A licensed assistant may not concurrently supervise more than one  
 10 full-time aide or the equivalent. A licensed physical therapist may not concurrently supervise more than  
 11 four aides or the equivalent or two assistants and two aides or the equivalent.

12           (4) A physical therapy student or physical therapist assistant student shall practice with the onsite  
 13 supervision of a licensed physical therapist."

14  
 15           **Section 3.** Section 37-11-201, MCA, is amended to read:

16           **"37-11-201. General powers -- rulemaking power -- records.** (1) The board may:

- 17           (a) adopt rules to carry this chapter into effect;  
 18           (b) grant, suspend, and revoke licenses;  
 19           (c) issue subpoenas requiring the attendance of witnesses or the production of books and papers;

20           ~~and~~

- 21           (d) take any other disciplinary action necessary to protect the public.

22           (2) The board shall:

- 23           (a) examine applicants for licenses three times a year at reasonable places and times determined  
 24 by the board;

- 25           (b) review the qualifications of applicants who are approved for examination for licensure; ~~and~~

- 26           (c) conduct written examinations that measure the qualifications of individual applicants along with  
 27 any oral or practical examinations when determined by the board to be appropriate; and

- 28           (d) adopt rules to establish continuing education requirements of at least 20 hours biennially for  
 29 license renewal for physical therapists and assistants.

- 30           (3) The department shall keep a record of the board's proceedings under this chapter and a register

1 of persons licensed under it. The register must show the name of every ~~living~~ licensed physical therapist  
 2 and licensed assistant, his the therapist's or assistant's last-known place of business, and last-known place  
 3 of residence, and the date of issue and the number of his every license and certificate as a issued to a  
 4 licensed physical therapist or licensed assistant.

5 (4) The department shall, during the month of April every year in which the renewal of licenses is  
 6 required, compile a list of licensed physical therapists authorized to practice physical therapy in the state  
 7 and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every  
 8 person licensed to practice medicine and surgery in the state. An interested person in the state is entitled  
 9 to obtain a copy of the list on application to the department and payment of an amount not in excess of  
 10 the cost of the list ~~so furnished.~~

11 (5) The department may change addresses and surnames on the licensee's records only on the  
 12 specific written request by the individual licensee."  
 13

14 **Section 4.** Section 37-11-203, MCA, is amended to read:

15 **"37-11-203. Travel expense -- deposit of fees.** (1) Each board member shall receive compensation  
 16 and travel expenses as provided for in 37-1-133.

17 (2) All fees collected by the department ~~shall~~ must be deposited in the state special revenue  
 18 account for the use of the board, subject to 37-1-101(6). The department shall keep an accurate account  
 19 of funds received and expenditures made from the account.

20 ~~(3) The board of medical examiners shall transfer funds in the state special revenue account~~  
 21 ~~collected after January 1, 1979, which were derived from the examination and licensure or relicensure of~~  
 22 ~~physical therapists in this state to the state special revenue account designated as the "physical therapist~~  
 23 ~~account".~~"

24  
 25 **Section 5.** Section 37-11-301, MCA, is amended to read:

26 **"37-11-301. License required for physical therapist and assistant -- ~~Unauthorized~~ unauthorized**  
 27 **representation as licensed therapist. (1) A person may not practice or purport to practice physical therapy**  
 28 **without first obtaining a license under the provisions of this chapter.**

29 (2) A person who is not licensed under this chapter as a physical therapist, ~~or~~ whose license has  
 30 been suspended or revoked, ~~or~~ whose license has lapsed and has not been revived and who uses in



1 ~~connection with his name~~ the words or letters "L.P.T.", "Licensed Physical Therapist", "P.T.", "Physical  
 2 Therapist", "R.P.T.", "Registered Physical Therapist", or any other letters, words, or insignia indicating or  
 3 implying that ~~he~~ the person is a licensed physical therapist or who in any way, orally or in writing or in print  
 4 or by sign, directly or by implication, ~~represents himself as~~ purports to be a physical therapist ~~shall be~~ is  
 5 guilty of a misdemeanor.

6 (3) A person who is not licensed as a physical therapist assistant in accordance with this chapter  
 7 may not assist a physical therapist in the practice of physical therapy."

8

9 **Section 6.** Section 37-11-303, MCA, is amended to read:

10 **"37-11-303. Qualifications of applicants for license.** (1) To be eligible for a license as a physical  
 11 therapist, an applicant must:

12 ~~(1)(a)~~ be of good moral character and at least 18 years of age;

13 ~~(2)(b)~~ have graduated from an accredited school of physical therapy approved by the board; and

14 ~~(3)(c)~~ either:

15 ~~(a)(i)~~ pass to the satisfaction of the board a written examination prescribed by the board and, if  
 16 considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical  
 17 therapist; or

18 ~~(b)(ii)~~ be entitled to a license without examination under 37-11-307.

19 (2) To be eligible for a physical therapist assistant license, an applicant must:

20 (a) be of good moral character and at least 18 years of age;

21 (b) have graduated from an accredited physical therapist assistant curriculum approved by the  
 22 board; and

23 (c) have passed a written examination prescribed by the board."

24

25 **Section 7.** Section 37-11-304, MCA, is amended to read:

26 **"37-11-304. Application for examination -- fee.** (1) Unless entitled to a license under 37-11-307,  
 27 a person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to  
 28 the department in writing, on a form furnished by the department. ~~He~~ The person shall:

29 (a) ~~embody in that application~~ provide evidence under oath, satisfactory to the board, of his  
 30 ~~possessing~~ having the qualifications preliminary to the examination required by 37-11-303; and

1 (b) pay to the department at the time of filing ~~his~~ the application a fee ~~as~~ established by the board  
 2 by rule. The fee must be commensurate with the cost of the examination and its administration and must  
 3 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

4 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to ~~sit for~~ take  
 5 a second examination and, if ~~he~~ the person fails the second examination, to ~~sit for~~ take a third  
 6 examination."

7  
 8 **Section 8.** Section 37-11-305, MCA, is amended to read:

9 "**37-11-305. Examination -- scope.** The department shall, subject to 37-1-101, examine applicants  
 10 for licenses as physical therapists and physical therapist assistants, at times and places the board  
 11 determines. The examinations ~~shall~~ must embrace subjects the board considers necessary to determine  
 12 the applicant's fitness."

13  
 14 **Section 9.** Section 37-11-306, MCA, is amended to read:

15 "**37-11-306. Issuance of license -- certificate as evidence.** The department shall ~~license as a~~  
 16 ~~physical therapist~~ issue a license to each applicant who proves to the satisfaction of the board ~~his~~ the  
 17 applicant's fitness for a physical therapist or physical therapist assistant license under this chapter. The  
 18 department shall also issue to each ~~person~~ licensed person a license certificate, which is prima facie  
 19 evidence of ~~the~~ that person's right ~~of the person to whom it is issued to represent himself~~ to practice and  
 20 advertise as a licensed physical therapist or a physical therapist assistant, subject to the conditions and  
 21 limitations of this chapter."

22  
 23 **Section 10.** Section 37-11-307, MCA, is amended to read:

24 "**37-11-307. Applicants licensed in other states.** The board may, in its discretion, authorize the  
 25 department to issue a physical therapist or physical therapist assistant license ~~as a physical therapist~~,  
 26 without examination, on the payment of the required fee ~~as~~ established by the board, to an applicant ~~for~~  
 27 ~~license~~ who is a physical therapist or physical therapist assistant licensed under the laws of another state  
 28 or territory if the applicant has met the same requirements as applicants licensed by examination under this  
 29 chapter. ~~These applicants who have been~~ An applicant licensed in another state or territory by examination  
 30 other than the examination recognized under this chapter may be considered for licensure by the board if

1 the requirements for a physical therapy license or a physical therapist assistant license in the state or  
 2 territory in which the applicant was tested were at least equal to those requirements in force in this state  
 3 at that time. However, the board may require a written, oral, or practical examination and may require  
 4 continued study or refresher courses."

5  
 6 **Section 11.** Section 37-11-308, MCA, is amended to read:

7 **"37-11-308. Annual renewal of license -- fee.** A licensed physical therapist and a licensed physical  
 8 therapist assistant shall, during January, apply to the department for a license renewal ~~of his license~~ and  
 9 pay a fee ~~which shall be~~ set by board rule. A license that is not renewed before April every year  
 10 automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment  
 11 of all past unpaid renewal fees or a late renewal fee."

12  
 13 **Section 12.** Section 37-11-309, MCA, is amended to read:

14 **"37-11-309. Temporary license.** (1) On payment to the department of a fee ~~which shall be~~ set  
 15 by board rule and the submission of a written application on forms provided by ~~it~~ the board, the department  
 16 shall issue, without examination, a temporary license to practice physical therapy in this state for a period  
 17 not to exceed 1 year to a person who meets the qualifications set forth in 37-11-303, on submission by  
 18 the person of evidence satisfactory to the board that ~~he~~ the person is in this state on a temporary basis to  
 19 assist in a case of medical emergency or to engage in a special physical therapy project.

20 (2) The board may, upon receipt of an application for examination and upon receipt of a temporary  
 21 license fee not to exceed \$100, issue a temporary license to a person who has applied for a license under  
 22 this chapter and who is, in the judgment of the board, eligible to take the examination provided for in  
 23 37-11-303. This applicant ~~must~~ shall work under the ~~direction, guidance, and observation~~ onsite  
 24 supervision of a licensed physical therapist. This temporary license is available to an applicant only with  
 25 respect to ~~his~~ the applicant's first application. The temporary license ~~shall expire~~ expires when the board  
 26 makes a final determination on the applicant's examination scores.

27 (3) The board may require an oral interview of all persons applying for a temporary license.

28 (4) The board shall adopt necessary and reasonable rules governing the procedures for applying  
 29 and issuing temporary licenses."  
 30

1           **Section 13.** Section 37-11-320, MCA, is amended to read:

2           **"37-11-320. Duty to report violations -- immunity from liability.** (1) Notwithstanding any provision  
3 of state law regarding the confidentiality of health care information, a physical therapist or physical  
4 therapist assistant shall report to the board any information that appears to show that another physical  
5 therapist or physical therapist assistant is:

6           (a) mentally or physically unable to engage safely in the practice of physical therapy; or practice  
7 as an assistant; or

8           (b) guilty of any act, omission, or condition that is grounds for disciplinary action under 37-11-321.

9           (2) There is no liability on the part of and no cause of action may arise against a physical therapist  
10 or a physical therapist assistant who in good faith provides information to the board as required by  
11 subsection (1)."

12  
13           **Section 14.** Section 37-11-321, MCA, is amended to read:

14           **"37-11-321. Refusal to issue or renew license.** The board, after due notice and hearing, may  
15 refuse to license any applicant; and may refuse to renew, may suspend, may revoke, or may take lesser  
16 disciplinary action on the license of any licensed person who:

17           (1) is habitually intoxicated or is addicted to the use of narcotic drugs;

18           (2) has been convicted of violating any state or federal narcotic law, subject to chapter 1, part 2,  
19 of this title;

20           (3) is, in the judgment of the board, guilty of immoral or unprofessional conduct as defined by  
21 board rule;

22           (4) has been convicted of any crime involving moral turpitude, subject to chapter 1, part 2, of this  
23 title;

24           (5) is guilty, in the judgment of the board, of gross negligence in ~~his~~ the practice ~~as a physical~~  
25 therapist of physical therapy or practice as an assistant;

26           (6) has obtained or attempted to obtain licensure by fraud or material misrepresentation;

27           (7) has been declared to be seriously mentally ill by a court of competent jurisdiction and has not  
28 ~~thereafter~~ been released from treatment and declared not to be seriously mentally ill;

29           (8) has treated or undertaken to treat ailments of human beings otherwise than by physical therapy;

30           (9) is guilty, in the judgment of the board, of conduct unbecoming a person licensed as a physical

1 therapist or assistant or of conduct detrimental to the best interests of the public; or  
2 (10) has practiced physical therapy or has practiced as an assistant beyond the scope and limitation  
3 of his the person's training and education."

4 -END-



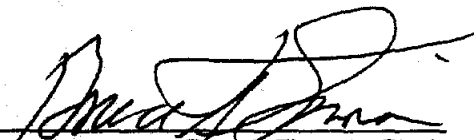
## HOUSE STANDING COMMITTEE REPORT

February 28, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Business and Labor report that Senate Bill 171 (third reading copy -- blue) be concurred in as amended.

Signed:

  
Bruce Simon, Chair

And, that such amendments read:

Carried by: Rep. Bohlinger

1. Page 6, line 6.

Following: "examination."

Insert: "A person who fails the third examination is required to successfully complete additional education as required by the board before retaking the examination."

-END-

Committee Vote:  
Yes 18, No 0.

SB 171

HOUSE

## 1 SENATE BILL NO. 171

2 INTRODUCED BY FRANKLIN, BOHLINGER, MCKEE, BURNETT, TASH, CHRISTIAENS, HIBBARD,  
3 JENKINS, WILSON, HARPER, COCCHIARELLA, SQUIRES

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PHYSICAL THERAPY LAWS; AUTHORIZING  
6 LICENSURE OF PHYSICAL THERAPIST ASSISTANTS AND ESTABLISHING STANDARDS FOR LICENSURE;  
7 CLARIFYING REQUIREMENTS FOR SUPERVISING PHYSICAL THERAPIST ASSISTANTS, AIDES, AND  
8 STUDENTS; ESTABLISHING CONTINUING EDUCATION REQUIREMENTS FOR PHYSICAL THERAPISTS AND  
9 ASSISTANTS BY RULE; AND AMENDING SECTIONS 37-11-101, 37-11-105, 37-11-201, 37-11-203,  
10 37-11-301, 37-11-303, 37-11-304, 37-11-305, 37-11-306, 37-11-307, 37-11-308, 37-11-309,  
11 37-11-320, AND 37-11-321, MCA."

12  
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because it grants the board of physical therapy  
15 examiners rulemaking authority to establish continuing education requirements for a physical therapist and  
16 a physical therapy assistant to obtain a license renewal. In adopting rules, the board should conform to  
17 continuing education standards for similar professions.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20  
21 **Section 1.** Section 37-11-101, MCA, is amended to read:

22 **"37-11-101. Definitions.** Unless the context requires otherwise, in this chapter, the following  
23 definitions apply:

24 (1) "Board" means the board of physical therapy examiners provided for in 2-15-1858.

25 (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

26 (3) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or  
27 revocation of a license, after which the appropriate action toward an applicant or licensee is to be  
28 determined by the board.

29 (4) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.

30 (5) "Physical therapist assistant" or "assistant" means a person who:

1           (a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;  
2 ~~and who~~

3           (b) assists a physical therapist in the practice of physical therapy BUT WHO MAY NOT MAKE  
4 EVALUATIONS OR DESIGN TREATMENT PLANS; and ~~whose activities require an understanding of physical~~  
5 ~~therapy~~

6           (c) is supervised by a licensed physical therapist as described in 37-11-105.

7           (6) "Physical therapist assistant student" means a person who is enrolled in an accredited physical  
8 therapist assistant curriculum and who as part of the clinical and educational training is practicing under  
9 the supervision of a licensed physical therapist as described in 37-11-105.

10          (7) "Physical therapy" means the evaluation, treatment, and instruction of human beings to detect,  
11 assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any  
12 bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and  
13 rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental  
14 disability.

15          ~~(7)~~(8) "Physical therapy aide" or "aide" means a person who aids in the practice of physical  
16 therapy, ~~and~~ whose activities require on-the-job training, ~~and supervision~~ who is supervised by a licensed  
17 physical therapist ~~who must be available for periodic checks during any procedure or treatment involving~~  
18 ~~a patient~~ or a licensed physical therapist assistant as described in 37-11-105.

19          ~~(8)~~(9) "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner",  
20 or "manual therapists" are equivalent terms, and any derivation of the above or any letters implying the  
21 above are equivalent terms; ~~any~~. Any reference to any one of ~~them~~ the terms in this chapter includes the  
22 others but does not include certified corrective therapists or massage therapists.

23          ~~(9)~~(10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled  
24 in an accredited physical therapy curriculum, ~~and~~ who, as part of ~~his~~ the individual's professional,  
25 educational, and clinical training, is practicing in a physical therapy setting ~~under the direction, guidance,~~  
26 ~~and observation of,~~ and who is supervised by a licensed physical therapist as described in 37-11-105.

27          ~~(10)~~(11) "Topical medications" means medications applied locally to the skin and includes only  
28 medications listed in 37-11-106(2) for which a prescription is required under state or federal law."  
29

30          **Section 2.** Section 37-11-105, MCA, is amended to read:



1           **"37-11-105. Supervision of physical therapist ~~assistants~~ assistant, physical therapy aide, physical**  
 2 **therapy student, or physical therapist assistant student.** (1) A physical therapist assistant ~~must~~ shall  
 3 practice under the ~~direct~~ supervision of a licensed physical therapist who is responsible for and participates  
 4 in a patient's care. This supervision requires the licensed physical therapist to make an onsite visit to the  
 5 client at least once for every six visits made by the assistant or once every 2 weeks, whichever occurs first.

6           (2) A licensed physical therapist may not concurrently supervise more than two full-time assistants  
 7 or the equivalent. This supervision does not require the presence of the assistant.

8           (3) A physical therapy aide shall practice under the onsite supervision of a licensed physical  
 9 therapist or a licensed assistant. A licensed assistant may not concurrently supervise more than one  
 10 full-time aide or the equivalent. A licensed physical therapist may not concurrently supervise more than  
 11 four aides or the equivalent or two assistants and two aides or the equivalent.

12           (4) A physical therapy student or physical therapist assistant student shall practice with the onsite  
 13 supervision of a licensed physical therapist."

14  
 15           **Section 3.** Section 37-11-201, MCA, is amended to read:

16           **"37-11-201. General powers -- rulemaking power -- records.** (1) The board may:

17           (a) adopt rules to carry this chapter into effect;

18           (b) grant, suspend, and revoke licenses;

19           (c) issue subpoenas requiring the attendance of witnesses or the production of books and papers;

20           ~~and~~

21           (d) take any other disciplinary action necessary to protect the public.

22           (2) The board shall:

23           (a) examine applicants for licenses three times a year at reasonable places and times determined  
 24 by the board;

25           (b) review the qualifications of applicants who are approved for examination for licensure; ~~and~~

26           (c) conduct written examinations that measure the qualifications of individual applicants along with  
 27 any oral or practical examinations when determined by the board to be appropriate; and

28           (d) adopt rules to establish continuing education requirements of at least 20 hours biennially for  
 29 license renewal for physical therapists and assistants.

30           (3) The department shall keep a record of the board's proceedings under this chapter and a register

1 of persons licensed under it. The register must show the name of every ~~living~~ licensed physical therapist  
 2 and licensed assistant, his the therapist's or assistant's last-known place of business, and last-known place  
 3 of residence, and the date of issue and the number of ~~his~~ every license and certificate ~~as a~~ issued to a  
 4 licensed physical therapist or licensed assistant.

5 (4) The department shall, during the month of April every year in which the renewal of licenses is  
 6 required, compile a list of licensed physical therapists authorized to practice physical therapy in the state  
 7 and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every  
 8 person licensed to practice medicine and surgery in the state. An interested person in the state is entitled  
 9 to obtain a copy of the list on application to the department and payment of an amount not in excess of  
 10 the cost of the list ~~so furnished~~.

11 (5) The department may change addresses and surnames on the licensee's records only on the  
 12 specific written request by the individual licensee."  
 13

14 **Section 4.** Section 37-11-203, MCA, is amended to read:

15 **"37-11-203. Travel expense -- deposit of fees.** (1) Each board member shall receive compensation  
 16 and travel expenses as provided for in 37-1-133.

17 (2) All fees collected by the department shall must be deposited in the state special revenue  
 18 account for the use of the board, subject to 37-1-101(6). The department shall keep an accurate account  
 19 of funds received and expenditures made from the account.

20 ~~(3) The board of medical examiners shall transfer funds in the state special revenue account~~  
 21 ~~collected after January 1, 1979, which were derived from the examination and licensure or relicensure of~~  
 22 ~~physical therapists in this state to the state special revenue account designated as the "physical therapist~~  
 23 ~~account"."~~

24  
 25 **Section 5.** Section 37-11-301, MCA, is amended to read:

26 **"37-11-301. License required for physical therapist and assistant -- ~~Unauthorized~~ unauthorized**  
 27 **representation as licensed therapist. (1) A person may not practice or purport to practice physical therapy**  
 28 **without first obtaining a license under the provisions of this chapter.**

29 (2) A person who is not licensed under this chapter as a physical therapist, ~~or~~ whose license has  
 30 been suspended or revoked, ~~or~~ whose license has lapsed and has not been revived and who uses ~~in~~

1 ~~connection with his name~~ the words or letters "L.P.T.", "Licensed Physical Therapist", "P.T.", "Physical  
 2 Therapist", "R.P.T.", "Registered Physical Therapist", or any other letters, words, or insignia indicating or  
 3 implying that ~~he~~ the person is a licensed physical therapist or who in any way, orally or in writing or in print  
 4 or by sign, directly or by implication, ~~represents himself as~~ purports to be a physical therapist ~~shall be~~ is  
 5 guilty of a misdemeanor.

6 (3) A person who is not licensed as a physical therapist assistant in accordance with this chapter  
 7 may not assist a physical therapist in the practice of physical therapy."

8  
 9 **Section 6.** Section 37-11-303, MCA, is amended to read:

10 "37-11-303. **Qualifications of applicants for license.** (1) To be eligible for a license as a physical  
 11 therapist, an applicant must:

12 ~~(1)(a)~~ (a) be of good moral character and at least 18 years of age;

13 ~~(2)(b)~~ (b) have graduated from an accredited school of physical therapy approved by the board; and

14 ~~(3)(c)~~ (c) either:

15 ~~(a)(i)~~ (i) pass to the satisfaction of the board a written examination prescribed by the board and, if  
 16 considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical  
 17 therapist; or

18 ~~(b)(ii)~~ (ii) be entitled to a license without examination under 37-11-307.

19 (2) To be eligible for a physical therapist assistant license, an applicant must:

20 (a) be of good moral character and at least 18 years of age;

21 (b) have graduated from an accredited physical therapist assistant curriculum approved by the  
 22 board; and

23 (c) have passed a written examination prescribed by the board."

24  
 25 **Section 7.** Section 37-11-304, MCA, is amended to read:

26 "37-11-304. **Application for examination -- fee.** (1) Unless entitled to a license under 37-11-307,  
 27 a person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to  
 28 the department in writing, on a form furnished by the department. ~~He~~ The person shall:

29 (a) ~~embody in that application~~ provide evidence under oath, satisfactory to the board, of ~~his~~  
 30 ~~possessing~~ having the qualifications preliminary to the examination required by 37-11-303; and

1 (b) pay to the department at the time of filing ~~his~~ the application a fee ~~as~~ established by the board  
 2 by rule. The fee must be commensurate with the cost of the examination and its administration and must  
 3 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

4 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to ~~sit for~~ take  
 5 a second examination and, if ~~he~~ the person fails the second examination, to ~~sit for~~ take a third examination.

6 A PERSON WHO FAILS THE THIRD EXAMINATION IS REQUIRED TO SUCCESSFULLY COMPLETE  
 7 ADDITIONAL EDUCATION AS REQUIRED BY THE BOARD BEFORE RETAKING THE EXAMINATION."

8  
 9 **Section 8.** Section 37-11-305, MCA, is amended to read:

10 "**37-11-305. Examination -- scope.** The department shall, subject to 37-1-101, examine applicants  
 11 for licenses as physical therapists and physical therapist assistants, at times and places the board  
 12 determines. The examinations ~~shall~~ must embrace subjects the board considers necessary to determine  
 13 the applicant's fitness."

14  
 15 **Section 9.** Section 37-11-306, MCA, is amended to read:

16 "**37-11-306. Issuance of license -- certificate as evidence.** The department shall ~~license as a~~  
 17 ~~physical therapist~~ issue a license to each applicant who proves to the satisfaction of the board ~~his~~ the  
 18 applicant's fitness for a physical therapist or physical therapist assistant license under this chapter. The  
 19 department shall also issue to each ~~person~~ licensed person a license certificate, which is prima facie  
 20 evidence of ~~the~~ that person's right ~~of the person to whom it is issued to represent himself to practice and~~  
 21 advertise as a licensed physical therapist or a physical therapist assistant, subject to the conditions and  
 22 limitations of this chapter."

23  
 24 **Section 10.** Section 37-11-307, MCA, is amended to read:

25 "**37-11-307. Applicants licensed in other states.** The board may, in its discretion, authorize the  
 26 department to issue a physical therapist or physical therapist assistant license ~~as a physical therapist~~,  
 27 without examination, on the payment of the required fee ~~as~~ established by the board, to an applicant ~~for~~  
 28 ~~license~~ who is a physical therapist or physical therapist assistant licensed under the laws of another state  
 29 or territory if the applicant has met the same requirements as applicants licensed by examination under this  
 30 chapter. ~~Those applicants who have been~~ An applicant licensed in another state or territory by examination

1 other than the examination recognized under this chapter may be considered for licensure by the board if  
2 the requirements for a physical therapy license or a physical therapist assistant license in the state or  
3 territory in which the applicant was tested were at least equal to those requirements in force in this state  
4 at that time. However, the board may require a written, oral, or practical examination and may require  
5 continued study or refresher courses."

6  
7 **Section 11.** Section 37-11-308, MCA, is amended to read:

8 **"37-11-308. Annual renewal of license -- fee.** A licensed physical therapist and a licensed physical  
9 therapist assistant shall, during January, apply to the department for a license renewal ~~of his license~~ and  
10 pay a fee ~~which shall be~~ set by board rule. A license that is not renewed before April every year  
11 automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment  
12 of all past unpaid renewal fees or a late renewal fee."

13  
14 **Section 12.** Section 37-11-309, MCA, is amended to read:

15 **"37-11-309. Temporary license.** (1) On payment to the department of a fee ~~which shall be~~ set  
16 by board rule and the submission of a written application on forms provided by ~~it~~ the board, the department  
17 shall issue, without examination, a temporary license to practice physical therapy in this state for a period  
18 not to exceed 1 year to a person who meets the qualifications set forth in 37-11-303, on submission by  
19 the person of evidence satisfactory to the board that ~~he~~ the person is in this state on a temporary basis to  
20 assist in a case of medical emergency or to engage in a special physical therapy project.

21 (2) The board may, upon receipt of an application for examination and upon receipt of a temporary  
22 license fee not to exceed \$100, issue a temporary license to a person who has applied for a license under  
23 this chapter and who is, in the judgment of the board, eligible to take the examination provided for in  
24 37-11-303. This applicant ~~must~~ shall work under the ~~direction, guidance, and observation~~ onsite  
25 supervision of a licensed physical therapist. This temporary license is available to an applicant only with  
26 respect to ~~his~~ the applicant's first application. The temporary license ~~shall expire~~ expires when the board  
27 makes a final determination on the applicant's examination scores.

28 (3) The board may require an oral interview of all persons applying for a temporary license.

29 (4) The board shall adopt necessary and reasonable rules governing the procedures for applying  
30 and issuing temporary licenses."

1           **Section 13.** Section 37-11-320, MCA, is amended to read:

2           **"37-11-320. Duty to report violations -- immunity from liability.** (1) Notwithstanding any provision  
3 of state law regarding the confidentiality of health care information, a physical therapist or physical  
4 therapist assistant shall report to the board any information that appears to show that another physical  
5 therapist or physical therapist assistant is:

6           (a) mentally or physically unable to engage safely in the practice of physical therapy; or practice  
7 as an assistant; or

8           (b) guilty of any act, omission, or condition that is grounds for disciplinary action under 37-11-321.

9           (2) There is no liability on the part of and no cause of action may arise against a physical therapist  
10 or a physical therapist assistant who in good faith provides information to the board as required by  
11 subsection (1)."

12  
13           **Section 14.** Section 37-11-321, MCA, is amended to read:

14           **"37-11-321. Refusal to issue or renew license.** The board, after due notice and hearing, may  
15 refuse to license any applicant; and may refuse to renew, may suspend, may revoke, or may take lesser  
16 disciplinary action on the license of any licensed person who:

17           (1) is habitually intoxicated or is addicted to the use of narcotic drugs;

18           (2) has been convicted of violating any state or federal narcotic law, subject to chapter 1, part 2,  
19 of this title;

20           (3) is, in the judgment of the board, guilty of immoral or unprofessional conduct as defined by  
21 board rule;

22           (4) has been convicted of any crime involving moral turpitude, subject to chapter 1, part 2, of this  
23 title;

24           (5) is guilty, in the judgment of the board, of gross negligence in ~~his~~ the practice as a physical  
25 therapist or physical therapy or practice as an assistant;

26           (6) has obtained or attempted to obtain licensure by fraud or material misrepresentation;

27           (7) has been declared to be seriously mentally ill by a court of competent jurisdiction and has not  
28 ~~thereafter~~ been released from treatment and declared not to be seriously mentally ill;

29           (8) has treated or undertaken to treat ailments of human beings otherwise than by physical therapy;

30           (9) is guilty, in the judgment of the board, of conduct unbecoming a person licensed as a physical

1 therapist or assistant or of conduct detrimental to the best interests of the public; or  
2 (10) has practiced physical therapy or has practiced as an assistant beyond the scope and limitation  
3 of his the person's training and education."

4 -END-