

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 18-0461.01 Kristen Forrestal x4217

HOUSE BILL 18-1155

HOUSE SPONSORSHIP

Singer and Liston, Catlin, Ginal, Hooton

SENATE SPONSORSHIP

Martinez Humenik,

House Committees

Public Health Care & Human Services
Finance
Appropriations

Senate Committees

Health & Human Services
Finance
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE PHYSICAL THERAPY BOARD,
102 AND, IN CONNECTION THEREWITH, IMPLEMENTING THE
103 RECOMMENDATIONS CONTAINED IN THE 2017 SUNSET REVIEW
104 AND REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Public Health Care and Human Services Committee. The bill implements the recommendations of the department of regulatory agencies in its sunset review and report

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 27, 2018

HOUSE
3rd Reading Unamended
March 23, 2018

HOUSE
Amended 2nd Reading
March 22, 2018

concerning the "Physical Therapy Practice Act" as follows:

- ! Extends the licensing of physical therapists and the certification of physical therapist assistants until 2027 (**sections 1 through 3**);
- ! Clarifies that a physical therapist may make physical therapy diagnoses (**sections 5 and 7**);
- ! Clarifies that a physical therapist's scope of practice includes the direct supervision of unlicensed physical therapists (**section 8**); and
- ! Adds as grounds for disciplinary action the failure to supervise physical therapist assistants; and the failure to report an adverse action, the surrender of a license, or other discipline taken in another jurisdiction (**section 10**).

In addition, the bill:

- ! Allows a physical therapist assistant to perform noninvasive wound debridement under the supervision of a physical therapist (**sections 11 and 13**);
- ! Repeals some of elements of the continuing professional competency program for physical therapists (**section 9**) and subjects physical therapist assistants to a continuing professional competency program (**section 12**);
- ! Replaces a physical therapist member of the physical therapy board with a physical therapist assistant member (**section 6**); and
- ! Removes physical therapists practicing in Colorado pursuant to the "Interstate Physical Therapy Licensure Compact Act" from the "Michael Skolnik Medical Transparency Act of 2010" (**section 14**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 12-41-130, **amend**
3 (2); and **repeal** (1) as follows:

4 **12-41-130. Repeal of part. (1)** ~~This part 1 is repealed, effective~~
5 ~~September 1, 2018.~~

6 (2) (a) ~~THIS PART 1 AND~~ the licensing functions of the board as set
7 forth in this part 1 are ~~terminated September 1, 2018~~ **REPEALED,**
8 **EFFECTIVE SEPTEMBER 1, 2024.**

9 (b) ~~Prior to such termination~~ **BEFORE THE REPEAL,** the licensing

1 functions ~~shall be reviewed as provided for in~~ OF THE BOARD ARE
2 SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

3 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-41-221 as
4 follows:

5 **12-41-221. Repeal of part.** This part 2 is repealed, effective
6 ~~September 1, 2018. Prior to the~~ SEPTEMBER 1, 2024. BEFORE ITS repeal,
7 the functions of the ~~board of~~ physical therapy BOARD in regulating
8 physical therapist assistants under this part 2 ~~must be reviewed as~~
9 ~~provided for in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
10 section 24-34-104. ~~C.R.S.~~

11 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **repeal**
12 (15)(a)(II) and (15)(a)(III); and **add** (25)(a)(XVII) and (25)(a)(XVIII) as
13 follows:

14 **24-34-104. General assembly review of regulatory agencies**
15 **and functions for repeal, continuation, or reestablishment - legislative**
16 **declaration - repeal.** (15) (a) The following agencies, functions, or both,
17 will repeal on September 1, 2018:

18 (II) ~~The licensing of physical therapists by the physical therapy~~
19 ~~board in accordance with article 41 of title 12, C.R.S.;~~

20 (III) ~~The certification of physical therapist assistants by the~~
21 ~~physical therapy board in accordance with article 41 of title 12, C.R.S.;~~

22 (25) (a) The following agencies, functions, or both, are scheduled
23 for repeal on September 1, 2024:

24 (XVII) THE LICENSING OF PHYSICAL THERAPISTS BY THE PHYSICAL
25 THERAPY BOARD IN ACCORDANCE WITH PART 1 OF ARTICLE 41 OF TITLE 12;

26 (XVIII) THE CERTIFICATION OF PHYSICAL THERAPIST ASSISTANTS
27 BY THE PHYSICAL THERAPY BOARD IN ACCORDANCE WITH PART 2 OF

1 ARTICLE 41 OF TITLE 12.

2 **SECTION 4.** In Colorado Revised Statutes, 12-41-102, **amend**
3 (1) as follows:

4 **12-41-102. Legislative declaration.** (1) The general assembly
5 hereby finds and declares that:

6 (a) The practice of physical therapy by any person who does not
7 possess a valid license issued under ~~the provisions of this article~~ ARTICLE
8 41 is inimical to the general public welfare. It is not, however, the intent
9 of this ~~article~~ ARTICLE 41 to restrict the practice of any person duly
10 licensed under other laws of this state from practicing within such
11 person's scope of competency and authority under such laws.

12 (b) PHYSICAL THERAPY PRACTICE CONSISTS OF PATIENT AND
13 CLIENT MANAGEMENT, WHICH INCLUDES PHYSICAL THERAPY DIAGNOSIS
14 AND PROGNOSIS TO OPTIMIZE PHYSICAL FUNCTION, MOVEMENT,
15 PERFORMANCE, HEALTH, QUALITY OF LIFE, AND WELL-BEING ACROSS THE
16 LIFE-SPAN AND ALSO INCLUDES CONTRIBUTIONS TO PUBLIC HEALTH
17 SERVICES AIMED AT IMPROVING THE HEALTH OF THE POPULATION; AND

18 (c) THE PROFESSIONAL SCOPE OF PHYSICAL THERAPY PRACTICE
19 EVOLVES IN RESPONSE TO INNOVATION, RESEARCH, COLLABORATION, AND
20 CHANGE IN SOCIETAL NEEDS.

21 **SECTION 5.** In Colorado Revised Statutes, 12-41-103, **amend**
22 (6)(a)(I), (6)(b) introductory portion, and (6)(b)(II)(A) as follows:

23 **12-41-103. Definitions.** As used in this article 41, unless the
24 context otherwise requires:

25 (6) (a) (I) "Physical therapy" means the examination, PHYSICAL
26 THERAPY DIAGNOSIS, treatment, or instruction of patients and clients to
27 detect, assess, prevent, correct, alleviate, or limit physical disability,

1 movement dysfunction, bodily malfunction, or pain from injury, disease,
2 and other bodily conditions.

3 (b) For the purposes of ~~subparagraph (II) of paragraph (a) of this~~
4 ~~subsection (6) (6)(a)(II) OF THIS SECTION:~~

5 (II) (A) "Physical measures, activities, and devices" includes ~~but~~
6 ~~is not limited to~~, resistive, active, and passive exercise, with or without
7 devices; joint mobilization; mechanical stimulation; biofeedback; DRY
8 NEEDLING; postural drainage; traction; positioning; massage; splinting;
9 training in locomotion; other functional activities, with or without
10 assistive devices; and correction of posture, body mechanics, and gait.

11 **SECTION 6.** In Colorado Revised Statutes, 12-41-103.3, **amend**
12 (1)(a) as follows:

13 **12-41-103.3. Physical therapy board - created.** (1)(a) The state
14 physical therapy board is hereby created as the agency for regulation of
15 the practice of physical therapy in this state and to carry out the purposes
16 of this ~~article~~ ARTICLE 41. The board consists of: ~~five~~ FOUR physical
17 therapist members; ONE PHYSICAL THERAPIST ASSISTANT, UNLESS A
18 PHYSICAL THERAPIST ASSISTANT CANNOT BE FOUND, IN WHICH CASE THE
19 GOVERNOR MAY APPOINT AN ADDITIONAL PHYSICAL THERAPIST TO THE
20 BOARD; and two members from the public at large. Each member OF THE
21 BOARD IS to be appointed by the governor ~~by no later than January 1,~~
22 ~~2012~~, for terms of four years. A member shall not serve more than two
23 consecutive terms of four years. The governor shall give due
24 consideration to having a geographic, political, urban, and rural balance
25 among the board members.

26 **SECTION 7.** In Colorado Revised Statutes, 12-41-105, **add** (2)
27 as follows:

1 **12-41-105. Limitations on authority.** (2) NOTHING IN THIS
2 SECTION PREVENTS A PHYSICAL THERAPIST FROM MAKING A PHYSICAL
3 THERAPY DIAGNOSIS WITHIN THE PHYSICAL THERAPIST'S SCOPE OF
4 PRACTICE.

5 **SECTION 8.** In Colorado Revised Statutes, 12-41-113, **add** (5)
6 as follows:

7 **12-41-113. Special practice authorities and requirements -**
8 **rules.** (5) **Dry needling.** A PHYSICAL THERAPIST IS AUTHORIZED TO
9 PERFORM DRY NEEDLING IF THE PHYSICAL THERAPIST:

10 (a) (I) HAS THE KNOWLEDGE, SKILL, ABILITY, AND DOCUMENTED
11 COMPETENCY TO PERFORM THE ACT;

12 (II) HAS SUCCESSFULLY COMPLETED A DRY NEEDLING COURSE OF
13 STUDY THAT MEETS THE SUPERVISION, EDUCATIONAL, AND CLINICAL
14 PREREQUISITES; AND

15 (III) OBTAINS ONE WRITTEN INFORMED CONSENT FROM EACH
16 PATIENT FOR DRY NEEDLING, INCLUDING INFORMATION CONCERNING
17 POTENTIAL BENEFITS AND RISKS OF DRY NEEDLING.

18 (b) THE BOARD SHALL PROMULGATE RULES TO UPDATE THE
19 REQUIREMENTS FOR A PHYSICAL THERAPIST TO PERFORM DRY NEEDLING
20 IN ORDER TO ENSURE ADEQUATE PROTECTION OF THE PUBLIC. PRIOR TO
21 PROMULGATING THE INITIAL UPDATE OF THE RULE, THE BOARD SHALL SEEK
22 INPUT FROM THE COLORADO MEDICAL BOARD AS CREATED IN SECTION
23 12-36-103 (1) AND FROM THE DIRECTOR.

24 (c) THE PERFORMANCE OF DRY NEEDLING IN ACCORDANCE WITH
25 THIS SECTION IS NOT THE PERFORMANCE OF ACUPUNCTURE AS DEFINED IN
26 SECTION 12-29.5-102 AND IS NOT A VIOLATION OF SECTION 12-29.5-105.

27 **SECTION 9.** In Colorado Revised Statutes, 12-41-114, **amend**

1 (1) introductory portion and (1)(a) as follows:

2 **12-41-114. Scope of article - exclusions.** (1) Nothing contained
3 in this ~~article~~ ARTICLE 41 prohibits:

4 (a) The practice of physical therapy by students enrolled in an
5 accredited physical therapy or physical therapist assistant program and
6 performing under the ~~direction and immediate~~ DIRECT supervision of a
7 physical therapist currently licensed in this state;

8 **SECTION 10.** In Colorado Revised Statutes, 12-41-114.6,
9 **amend** (1)(b) introductory portion and (1)(b)(III); and **add** (1)(e) as
10 follows:

11 **12-41-114.6. Continuing professional competency - rules.**

12 (1) (b) The board shall adopt rules establishing a continuing professional
13 competency program. ~~that includes, at a minimum,~~ THE RULES SHALL SET
14 FORTH the following elements:

15 (III) Periodic demonstration of knowledge and skills through
16 documentation of PROFESSIONAL DEVELOPMENT activities necessary to
17 ensure at least minimal ability to safely practice the profession; except
18 that a licensed physical therapist need not retake any examination
19 required by section 12-41-107 for initial licensure.

20 (e) PROFESSIONAL DEVELOPMENT ACTIVITIES MUST BE MEASURED
21 BY A CONTACT-HOUR-TO-CREDIT-HOUR RATIO.

22 **SECTION 11.** In Colorado Revised Statutes, 12-41-115, **amend**
23 (1)(e); and **add** (1)(z) as follows:

24 **12-41-115. Grounds for disciplinary action.** (1) The board may
25 take disciplinary action in accordance with section 12-41-116 against a
26 person who has:

27 (e) Failed to provide adequate or proper supervision when

1 utilizing CERTIFIED PHYSICAL THERAPIST ASSISTANTS, unlicensed persons,
2 or persons with a provisional license in a physical therapy practice;

3 (z) FAILED TO REPORT AN ADVERSE ACTION, THE SURRENDER OF
4 A LICENSE, OR OTHER DISCIPLINE TAKEN IN ANOTHER JURISDICTION.

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6 **SECTION 12.** In Colorado Revised Statutes, 12-41-209, **amend**
7 (1)(d) and (1)(e); and **add** (1)(f) as follows:

8 **12-41-209. Scope of part 2 - exclusions.** (1) This part 2 does not
9 prohibit:

10 (d) Practice as a physical therapist assistant in this state by a
11 legally qualified physical therapist assistant from another state or country
12 for the purpose of participating in an educational program of not more
13 than sixteen weeks' duration; ~~or~~

14 (e) The practice of a physical therapist assistant licensed, certified,
15 or registered in this or any other state or territory of the United States who
16 is employed by the United States government or a bureau, division, or
17 agency thereof while within the course and scope of the physical therapist
18 assistant's duties; OR

19 (f) THE PERFORMANCE OF NONINVASIVE DEBRIDEMENT, SUCH AS
20 AUTOLYTIC AND ENZYMATIC DEBRIDEMENT TREATMENT.

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22 **SECTION 13.** In Colorado Revised Statutes, 12-36-106, **amend**
23 (3) introductory portion and (3)(r)(II) as follows:

24 **12-36-106. Practice of medicine defined - exemptions from**
25 **licensing requirements - unauthorized practice by physician**
26 **assistants and anesthesiologist assistants - penalties - rules - repeal.**

27 (3) A person may engage in, and shall not be required to obtain a license

1 or a physician training license under this ~~article~~ ARTICLE 36 with respect
2 to, any of the following acts:

3 (r) (II) The performance of wound debridement under a
4 physician's order within the scope of physical therapy practice as provided
5 in section 12-41-113 (3) OR ~~THE PERFORMANCE OF NONINVASIVE WOUND~~
6 ~~DEBRIDEMENT WITHIN THE SCOPE OF PRACTICE AS A PHYSICAL THERAPIST~~
7 ASSISTANT AS PROVIDED IN SECTION 12-41-209 (1)(f);

8 **SECTION 14.** In Colorado Revised Statutes, 24-34-110, **amend**
9 (3)(a)(XIII) as follows:

10 **24-34-110. Medical transparency act of 2010 - disclosure of**
11 **information about health care licensees - fines - rules - short title -**
12 **legislative declaration - repeal.** (3) (a) As used in this section,
13 "applicant" means a person applying for a new, active license,
14 certification, or registration or to renew, reinstate, or reactivate an active
15 license, certification, or registration to practice:

16 (XIII) Physical therapy pursuant to article 41 of title 12; ~~or part 37~~
17 ~~of article 60 of this title 24;~~

18 **SECTION 15. Act subject to petition - effective date.** This act
19 takes effect September 1, 2018; except that, if a referendum petition is
20 filed pursuant to section 1 (3) of article V of the state constitution against
21 this act or an item, section, or part of this act within the ninety-day period
22 after final adjournment of the general assembly, then the act, item,
23 section, or part will not take effect unless approved by the people at the
24 general election to be held in November 2018 and, in such case, will take
25 effect on the date of the official declaration of the vote thereon by the
26 governor.