

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: WV BOARD OF PHYSICAL THERAPY TITLE NUMBER: Title 16

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: General Provisions

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 159

SECTION 64-9-37, PASSED ON March 12, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: April 5, 1994

Frankie S. Cayton, Exec. Sec.

Frankie S. Cayton, Exec. Sec.
Authorized Signature

4.20

KEN HECHLER
Secretary of State

MARY P. RATLIFF
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(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 15, 1994

Frank Cayton
Physical Therapy
Rt. 1, Box 306
Lost Creek, WV 26385

SB 159 authorizing, Title 16, Series 1, General Provisions, passed the Legislature on **March 12, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 159, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 159** section 64-9-37. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

16CSR1

TITLE 16
LEGISLATIVE RULES

WEST VIRGINIA BOARD OF PHYSICAL THERAPY

SERIES 1

GENERAL PROVISIONS

§16-1-1. General.

1.1. Scope. --- This legislative rule provides for the procedures of the West Virginia Board of Physical Therapy.

1.2. Authority. --- W. Va. Code § 30-20-1, et. seq.

1.3. Filing Date. --- _____, 1993.

1.4. Effective Date. --- _____, 1993.

§16-1-2. Definitions.

The following words and phrases as used in these rules shall have the following meanings, unless the context otherwise requires:

2.1. "Licensed physical therapist" means any physical therapist holding a license or temporary permit issued by the West Virginia Board of Physical Therapy. An individual who possesses a temporary permit issued by the Board to practice physical therapy is subject to the conditions set forth in W. Va. Code § 30-20-9(a) and section 7 of this Rule.

2.2. "Licensed therapy assistant" means a physical therapy assistant holding a license issued by the West Virginia Board of

Physical Therapy. An individual who possesses a temporary permit as a physical therapy assistant is not fully licensed to practice as a physical therapy assistant, and as such is subject to the conditions set forth in W. Va. Code § 30-20-9(b) and Section 8 of this rule.

2.3. "Physical therapy" means the therapeutic treatment of any person by the use of massage, mechanical stimulation, heat, cold, light, air, water, electricity, sound and exercise, including mobilization of the joints and training in functional activities, for the purpose of correcting or alleviating any physical or mental condition or preventing the development of any physical or mental disability, and the performance of neuro-muscular-skeletal tests and measurements as an aid in diagnosis, evaluation or determination of the existence of and the extent of any body malfunction: Provided, That electromyography examination and electrodiagnostic studies other than the determination of chronaxia and strength duration curves shall not be performed except under the supervision of a physician electromyographer and electrodiagnostician. Physical therapy does not include the use of radiology and radium for diagnostic and therapeutic purposes, or the use of electricity for surgical purposes, including cauterization.

2.4. "Physical therapist assistant" means a health-care worker who assists the licensed physical therapist in the provision of physical therapy. The physical therapist assistant is required to work under the direction and supervision of the licensed physical therapist. The physical therapist assistant may also carry out routine operational functions, including supervision of the physical therapy aide or equivalent, and documentation of treatment progress. The ability of

the physical therapist assistant to perform selected and delegated tasks shall be assessed on an ongoing basis by the supervising licensed physical therapist. The physical therapist assistant may, with prior approval by the supervising licensed physical therapist, adjust a specific treatment procedure in accordance with changes in patient status. In addition, the physical therapist assistant shall function within the following guidelines:

(i) When the licensed physical therapist and the physical therapist assistant are not within the same physical setting, the performance of the delegated functions by the physical therapist assistant must be consistent with safe and legal physical therapy practice predicated on the following factors:

- (a) Complexity and activity of the patient's needs;
- (b) proximity and accessibility to the licensed physical therapist;
- (c) supervision available in the event of emergencies or critical events; and
- (d) type of setting in which the service is rendered.

(ii) The physical therapist assistant shall not perform the following physical therapy activities:

- (a) interpretation of referrals;
- (b) physical therapy initial evaluation and re-evaluation;
- (c) identification, determination, or modification of plans of care (including goals and treatment programs);
- (d) final discharge assessment/evaluation or establishment of the discharge plan; or

(e) therapeutic techniques beyond the education, skill and knowledge of the physical therapist assistant.

(iii) As contained in this section, the term "supervision" shall mean authoritative procedural guidance by a licensed physical therapist for the accomplishment of a function or activity, with initial direction and periodic inspection on a regular basis by a licensed physical therapist of the actual act of accomplishing the function of activity. The supervising licensed physical therapist is responsible for and as such must participate in the patient's care to the degree specified below depending upon the practice setting.

(iv) In addition to the supervision requirements under W. Va. Code § 30-20-2, varying degrees of supervision of the physical therapist assistant are required depending upon the practice setting in which the care is delivered:

(a) when care is delivered in a hospital or other acute-care center, free-standing, or independent practice setting, a licensed physical therapist must be on premises at all times.

(b) when care is delivered in a skilled/unskilled nursing facility, home health, or school system setting, the following requirements must be observed and documented in the patient records:

(1) a licensed physical therapist must be accessible by telecommunications to the physical therapist assistant at all times that the physical therapist assistant is treating patients.

(2) an initial visit must be made by a licensed physical therapist for evaluation of the patient and establishment of a plan of care.

(3) a joint visit by the licensed physical therapist and the physical therapist assistant must be made on the physical therapist assistant's first visit to the patient.

(4) at least once every ten (10) physical therapist assistant visits, or within fifteen (15) calendar days, whichever occurs first, there must be a joint on-site visit by the licensed physical therapist assistant and the licensed physical therapist.

(5) the licensed physical therapist must make the final visit to terminate the plan of care.

(v) The abbreviation "P.T.A" denotes by statute "Physical Therapy Assistant", however it may also denote "Physical Therapist Assistant", as the two terms are considered by the Board to indicate the same level of practice.

(vi) There shall be no more than two physical therapy assistants licensed to practice in the State for every physical therapist so licensed.

(vii) No more than two physical therapy assistants may perform under the direct supervision of a licensed physical therapist at any one time.

2.5. A licensed physical therapist must be on the premises at all times while the activities of a physical therapy aide involving assistance in the practice of physical therapy are being performed.

§16-1-3. Fees.

The applicant shall pay to the Board the application fee established by statute. In addition, the Board may charge fees reasonably related to the cost of providing services to applicants or

interested parties. The services for which fees may be collected include, but are not limited to, verification of licensure to another State; duplication of license cards or wall certificates; copying; postage expenses; mailing lists; and processing of returned checks.

§16-1-4. Licensing Individuals outside the United States.

4.1. A physical therapist candidate for licensure in West Virginia who was educated outside of the United States must meet the following criteria in order to be eligible for licensure by the Board:

4.1.1. Credentials:

(1) Education.

(a) The applicant is to be a physical therapy graduate of a foreign institution of higher learning with at least the equivalent of a B. S. degree in Physical Therapy as determined by the Board.

(b) Equivalent education is to be reported to the Board through a Board approved credentialing agency.

(2) English Proficiency:

(a) Unless the native language is English, the applicant must demonstrate proficiency in English by passing the Test of English as a Foreign Language (TOEFL) with a grade of at least five hundred fifty (550); and Test of Spoken English (TSE) with a total score of at least two hundred twenty (220), and the Test of Written English (TWE) with a score of at least four (4).

4.1.2. Supervised Practice.

(a) The applicant must successfully complete a period of supervised practice under a licensed physical therapist. Said

period shall be a minimum of six (6) months, and shall not differ in length based upon the nationality of said foreign graduates.

§16-1-5. Scores.

The applicant must take the examination and obtain a passing score that is established by the Board. The Board will review this required score periodically and amend it as necessary to ensure that applicants have the necessary training and education.

§16-1-6. Issuance, Renewal or Reinstatement of License.

(a) The Board reserves the right to evaluate the applicant according to the testing, licensure, or procedural requirements as initiated by the agency (Federation of State Boards of Physical Therapy) responsible for administering the exam.

§16-1-7. Temporary Permit for Physical Therapists.

7.1. An individual possessing a temporary permit issued by the Board to practice physical therapy in the State of West Virginia shall practice under the supervision of a licensed physical therapist.

7.2. A temporary permit may be issued in the following instances only to individuals who have met the eligibility criteria set forth in W. Va. Code § 30-20-6, and who have submitted proper application and identification as determined by the Board:

(a) Pending examinations, to any physical therapist applicant who is a new graduate of a program approved by the accrediting body of the APTA. Said temporary permit shall expire thirty (30) days after the Board gives written notice of the results of the examination held next following the issuance of such temporary permit. Upon such expiration, no additional temporary permit may be obtained by such applicant.

(b) To a person who possesses an unencumbered license in another state or territory or possession of the United States and who is a graduate of a program approved by the accrediting body of the APTA. Said temporary permit shall be valid only for a period of ninety (90) days in the calendar year in which issued and such permit may not be renewed, nor another thereof issued to the same person in the same calendar year.

(c) To a foreign-trained physical therapist who possesses an unencumbered license in another state or territory or possession of the United States and who meets all other West Virginia requirements. Said temporary permit may be issued during the period of supervised practice as set forth in W. Va. Code § 30-20-6(a)(5). Said period of supervised practice shall be at least six (6) months and shall not be based upon the nationality of said foreign graduate.

(d) To a foreign-trained physical therapist who has never been licensed in another state or territory or possession of the United States and who meets all other West Virginia requirements. Said temporary permit may be issued during the period of supervised practice as set forth in W. Va. Code § 30-20-6(a)(5). Said period of supervised practice shall be at least six (6) months and shall not be based upon the nationality of said foreign graduate.

§16-1-8. Temporary Permits for Physical Therapy Assistants.

8.1. Upon proper application and identification as determined by the Board, and the payment of the applicable non-refundable fee, the Board may issue, without examination, a temporary permit to act as a physical therapy assistant in this State.

8.2. While the physical therapist assistant is practicing under a temporary permit, a licensed physical therapist must be on the premises at all times. All progress notes written by the physical therapist assistant with a temporary permit shall be cosigned by a licensed physical therapist supervisor within twenty-four (24) hours.

8.3. Said temporary permit may be issued :

(a) To any physical therapist assistant who meets the requirements of W. Va. Code § 30-20-6(b)(1) and (2). Said temporary permit shall expire thirty (30) days after the Board gives written notice of the results of the examination held next following the issuance of such temporary permit. Upon such expiration, no additional temporary permit may be obtained by such applicant.

(b) To a person who possesses an unencumbered license in another state or territory or possession of the United States and who is a graduate of a program approved by the accrediting body of the APTA. Said temporary permit shall be valid only for a period of ninety (90) days in the calendar year in which issued and such permit may not be renewed, nor another thereof issued to the same person in the same calendar year.

§16-1-9. Applications.

The applicant must complete the application form provided by the Board and supply the following information:

- (a) personal information;
- (b) educational information;
- (c) history of previous work experience, if applicable;
- (d) written responses to questions regarding criminal offenses;

- (e) name and address of prospective employer in West Virginia;
and
(f) photo identification.

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SENATE BILL NO. 206

(By Senators Manchin, Anderson, Grubb, Macneughtan
and Minard)

[Introduced January 31, 1994; referred to the
Committee on

HEALTH AND HUMAN RESOURCES;

Finance
Judiciary

A BILL to amend article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-six, relating to authorizing the board of physical therapy to promulgate legislative rules relating to the board.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-six, to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
TO PROMULGATE LEGISLATIVE RULES.

§64-9-36. Board of physical therapy.

1 The legislative rules filed in the state register on the
2 nineteenth day of July, one thousand nine hundred ninety-three,
3 modified by the board of physical therapy to meet the objections
4 of the legislative rule-making review committee and refiled in
5 the state register on the twenty-seventh day of October, one
6 thousand nine hundred ninety-three, relating to the board of
7 physical therapy (general provisions), are authorized.

8

9 NOTE: The purpose of this bill is to authorize the Board of
10 Physical Therapy to promulgate legislative rules relating to the
11 Board.

12

13 This section is new; therefore, strike-throughs and
14 underscoring have been omitted.

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H. B. 4284

(By Delegates Gallagher, Douglas, Compton,
Huntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on Health and Human Resources then the
Judiciary

A BILL to amend article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-six, relating to authorizing the board of physical therapy to promulgate legislative rules relating to the board.

Be it enacted by the Legislature of West Virginia:

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ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-36. Board of physical therapy.

4284

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2 nineteenth day of July, one thousand nine hundred ninety-three,
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KEN HECHLER
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
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FRANKIE

TO: Frank Cayton

AGENCY: Physical Therapy

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 8, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 1 TITLE: 16 Physical Therapy

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Frankie J. Cayton / 745-4161

TITLE OF PERSON SIGNING: Exec Sec / Admin. (pg 2 missing info.)

DATE: 4-20-94 (denoted by * on pgs. 1 + 3)

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.