HOUSE BILL 18-1155

A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF THE PHYSICAL THERAPY BOARD,
AND, IN CONNECTION THEREWITH, IMPLEMENTING THE
RECOMMENDATIONS CONTAINED IN THE 2017 SUNSET REVIEW
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
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).

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

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

12-41-130. Repeal of part. (1) This part 1 is repealed, effective September 1, 2018:

(2) (a) This part 1 and the licensing functions of the board as set forth in this part 1 are terminated September 1, 2018 REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

(b) Prior to such termination BEFORE THE REPEAL, the licensing
functions shall be reviewed as provided for in of the board are scheduled for review in accordance with section 24-34-104. C.R.S.

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

12-41-221. Repeal of part. This part 2 is repealed, effective September 1, 2018. Prior to the September 1, 2024, before its repeal, the functions of the board of physical therapy board in regulating physical therapist assistants under this part 2 must be reviewed as provided for in are scheduled for review in accordance with section 24-34-104. C.R.S.

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

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

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

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

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

(XVII) The licensing of physical therapists by the physical therapy board in accordance with part 1 of article 41 of title 12;

(XVIII) The certification of physical therapist assistants by the physical therapy board in accordance with part 2 of
ARTICLE 41 OF TITLE 12.

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

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

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

(b) Physical therapy practice consists of patient and client management, which includes physical therapy diagnosis and prognosis to optimize physical function, movement, performance, health, quality of life, and well-being across the life-span and also includes contributions to public health services aimed at improving the health of the population; and

(c) The professional scope of physical therapy practice evolves in response to innovation, research, collaboration, and change in societal needs.

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

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

(6) (a) (I) "Physical therapy" means the examination, physical therapy diagnosis, treatment, or instruction of patients and clients to detect, assess, prevent, correct, alleviate, or limit physical disability,
movement dysfunction, bodily malfunction, or pain from injury, disease, and other bodily conditions.

(b) For the purposes of subparagraph (II) of paragraph (a) of this subsection (6)(a)(II) of this section:

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

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

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

SECTION 7. In Colorado Revised Statutes, 12-41-105, add (2) as follows:
12-41-105. Limitations on authority. (2) Nothing in this section prevents a physical therapist from making a physical therapy diagnosis within the physical therapist's scope of practice.

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

12-41-113. Special practice authorities and requirements - rules. (5) Physical therapists may perform dry needling. The performance of dry needling in accordance with this section is not the practice of acupuncture as defined in section 12-29.5-102 and is not a violation of section 12-29.5-105.

SECTION 9. In Colorado Revised Statutes, 12-41-114, amend (1) introductory portion and (1)(a) as follows:

12-41-114. Scope of article - exclusions. (1) Nothing contained in this article prohibits:

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

SECTION 10. In Colorado Revised Statutes, 12-41-114.6, repeal (1)(b)(III) and (1)(c).

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

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

(e) Failed to provide adequate or proper supervision when
utilizing CERTIFIED PHYSICAL THERAPIST ASSISTANTS, unlicensed persons, or persons with a provisional license in a physical therapy practice;

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

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

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

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

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

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

SECTION 13. In Colorado Revised Statutes, add 12-41-210.5 as follows:

12-41-210.5. Continued professional competency - rules. (1) A CERTIFIED PHYSICAL THERAPIST ASSISTANT SHALL MAINTAIN CONTINUING PROFESSIONAL COMPETENCY TO PRACTICE. CONTINUING PROFESSIONAL COMPETENCY INCLUDES A SELF-ASSESSMENT OF THE KNOWLEDGE AND SKILLS OF A PHYSICAL THERAPIST ASSISTANT SEEKING TO RENEW OR REINSTATE A CERTIFICATION AS SPECIFIED IN SUBSECTION (2) OF THIS
SECTION 14. In Colorado Revised Statutes, 12-36-106, amend (3) introductory portion and (3)(r)(II) as follows:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - unauthorized practice by physician assistants and anesthesiologist assistants - penalties - rules - repeal. (3) A person may engage in, and shall not be required to obtain a license or a physician training license under this article, any of the following acts:

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

SECTION 15. In Colorado Revised Statutes, 24-34-110, amend (3)(a)(XIII) as follows:

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

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

SECTION 16. Act subject to petition - effective date. This act
takes effect September 1, 2018; except that, if a referendum petition is
filed pursuant to section 1 (3) of article V of the state constitution against
this act or an item, section, or part of this act within the ninety-day period
after final adjournment of the general assembly, then the act, item,
section, or part will not take effect unless approved by the people at the
general election to be held in November 2018 and, in such case, will take
effect on the date of the official declaration of the vote thereon by the
governor.