

SENATE BILL NO. 437—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 27, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to physical therapy.
(BDR 54-483)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to physical therapy; revising the definition of the
practice of physical therapy; revising provisions
prohibiting the use of certain names, titles and initials
related to the practice of physical therapy; providing
penalties; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of physical therapists and physical therapist assistants. (Chapter 640 of NRS) With certain exceptions, existing law prohibits a person from practicing physical therapy unless the person holds a license issued by the State Board of Physical Therapy Examiners. (NRS 640.029, 640.169) **Section 2** of this bill revises the definition of the services that constitute the practice of physical therapy to include the examination and evaluation of clients who have certain health conditions related to physical movement and certain other services. Thus, under **section 2**, a person must hold a license issued by the Board to perform these services unless the person is exempt from the provisions of existing law governing physical therapists.

Existing law exempts from the law governing the licensure and regulation of physical therapists an occupational therapist, occupational therapy assistant and athletic trainer who is licensed to practice his or her profession in this State, practices within the scope of his or her profession and does not represent that he or she is a physical therapist or physical therapist's assistant or is practicing physical therapy. (NRS 640.029) **Section 3** of this bill extends this exemption to any provider of health care who is licensed to practice his or her profession in this State, who acts within the scope of his or her profession and who does not represent that



he or she is a physical therapist or physical therapist's assistant or is practicing physical therapy.

Existing law provides that a person who does not hold a license issued by the Board is guilty of a misdemeanor if he or she practices physical therapy or holds himself or herself out as a physical therapist or physical therapist's assistant. (NRS 640.169, 640.170, 640.175) **Section 4** of this bill provides that a business entity that holds itself out as providing services constituting the practice of physical therapy is guilty of a misdemeanor unless those services are provided by or under the supervision of a licensed physical therapist. **Sections 4 and 5** of this bill further authorize the Board to impose certain penalties on a person who violates this provision, including, without limitation, an administrative penalty of not more than \$5,000. Finally, **sections 4 and 5** require physical therapists and physical therapists' assistants to use a certain designation.

Existing law authorizes the Board to seek an injunction in district court against a person who has engaged or is about to engage in an act that violates or will violate a provision of existing law governing physical therapists. (NRS 640.210) **Section 6** of this bill provides that if the Board is seeking an injunction against a person improperly holding himself or herself out as a licensed physical therapist or physical therapist's assistant or as practicing physical therapy, the Board must only show that the person violated existing law to establish that immediate and irreparable injury, loss or damage will result from the person's continued action.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means:

(a) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;

(b) A physician assistant;

(c) A dentist;

(d) A licensed nurse;

(e) A person who holds a license as an attendant or who is certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS;

(f) A dispensing optician;

(g) An optometrist;

(h) A speech-language pathologist;

(i) An audiologist;

(j) A practitioner of respiratory care;

(k) A ~~registered~~ **licensed** physical therapist;

(l) An occupational therapist;

(m) A podiatric physician;

(n) A licensed psychologist;

(o) A licensed marriage and family therapist;

(p) A licensed clinical professional counselor;

(q) A music therapist;



- 1 (r) A chiropractor;
- 2 (s) An athletic trainer;
- 3 (t) A perfusionist;
- 4 (u) A doctor of Oriental medicine in any form;
- 5 (v) A medical laboratory director or technician;
- 6 (w) A pharmacist;
- 7 (x) A licensed dietitian;
- 8 (y) An associate in social work, a social worker, an independent
- 9 social worker or a clinical social worker licensed pursuant to chapter
- 10 641B of NRS;

11 (z) An alcohol and drug abuse counselor or a problem gambling

12 counselor who is certified pursuant to chapter 641C of NRS;

13 (aa) An alcohol and drug abuse counselor or a clinical alcohol

14 and drug abuse counselor who is licensed pursuant to chapter 641C

15 of NRS; or

16 (bb) A medical facility as the employer of any person specified

17 in this subsection.

18 2. For the purposes of NRS 629.051, 629.061, 629.065 and

19 629.077, the term includes a facility that maintains the health care

20 records of patients.

21 3. For the purposes of NRS 629.400 to 629.490, inclusive, the

22 term includes:

23 (a) A person who holds a license or certificate issued pursuant to

24 chapter 631 of NRS; and

25 (b) A person who holds a current license or certificate to

26 practice his or her respective discipline pursuant to the applicable

27 provisions of law of another state or territory of the United States.

28 **Sec. 2.** NRS 640.024 is hereby amended to read as follows:

29 640.024 "Practice of physical therapy":

30 1. Includes:

31 (a) *The examination and evaluation of clients with*

32 *physiological and developmental impairments, functional*

33 *limitations and disabilities or other health conditions relating to*

34 *physical movement;*

35 (b) The performing and interpreting of tests and measurements

36 as an aid to evaluation or treatment;

37 ~~[(b)]~~ (c) The planning of initial and subsequent programs of

38 treatment on the basis of the results of tests; ~~and~~

39 ~~—(e)]~~ (d) The administering of treatment through the use of

40 therapeutic exercise and massage, the mobilization of joints by the

41 use of ~~[therapeutic exercise without chiropractic adjustment,]~~

42 mechanical devices, and ~~[therapeutic]~~ *biophysical* agents which

43 employ the properties of air, water, electricity, sound and radiant

44 energy ~~[(d)]~~ ;



(e) *The reduction of the risk to a client of injury, impairment, functional limitation or disability, including, without limitation, the promotion and maintenance of the fitness, health and wellness of a client; and*

(f) *The incorporation into the treatment of a client the safe and appropriate use of physical agents, modalities and techniques which have been acquired through a curriculum of physical therapy approved by the Board pursuant to subsection 2 of NRS 640.080 or a program of continuing education required pursuant to subsection 3 of NRS 640.150.*

2. Does not include:

(a) ~~[[The]]~~ *Engaging in acts of medical diagnosis ;* ~~[[of physical disabilities]]~~

(b) The use of roentgenic rays or radium;

(c) The use of electricity for cauterization or surgery; ~~[[or]]~~

(d) The occupation of a masseur who massages only the superficial soft tissues of the body ~~[[; or]]~~

(e) *The performance of a chiropractic adjustment, as defined in NRS 634.014.*

Sec. 3. NRS 640.029 is hereby amended to read as follows:

640.029 *1. This chapter does not apply to ~~[[an occupational therapist, occupational therapy assistant or athletic trainer]]~~ a provider of health care* who:

~~[[;]]~~ (a) Is licensed to practice in this state;

~~[[;]]~~ (b) Practices within the scope of that license; and

~~[[;]]~~ (c) Does not *use any letters, words or insignia listed in NRS 640.170 or 640.175 in connection with his or her name or otherwise* represent that he or she is a physical therapist or physical therapist's assistant, or that he or she practices physical therapy.

2. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 4. NRS 640.170 is hereby amended to read as follows:

640.170 *1. A person who is licensed under this chapter as a physical therapist shall use the words or letters "P.T." or "Physical Therapist" immediately following his or her name when representing himself or herself as a licensed physical therapist.*

2. A person who is not licensed under this chapter as a physical therapist, or whose license has been suspended, revoked or has expired and who uses in connection with his or her name the words or letters "L.P.T.," "Licensed Physical Therapist," "R.P.T.," "Registered Physical Therapist," "P.T.," "Physical Therapist," or any other letters, words or insignia indicating or implying that the person is a licensed physical therapist, or who in any other way, orally, or in writing, or in print, by sign, directly or by implication,



1 represents himself or herself as a licensed physical therapist, is
2 guilty of a misdemeanor.

3 *3. A sole proprietorship, corporation, limited-liability*
4 *company, association, partnership or other form of business*
5 *organization shall not:*

6 *(a) Use in connection with its name or business activities the*
7 *words or letters "L.P.T.," "Licensed Physical Therapist,"*
8 *"R.P.T.," "Registered Physical Therapist," "P.T.," "Physical*
9 *Therapist," "physical therapy," or any other letters, words or*
10 *insignia indicating or implying that the sole proprietorship,*
11 *corporation, limited-liability company, association, partnership or*
12 *other form of business organization provides, through employees,*
13 *agents, independent contractors or representatives, services*
14 *constituting the practice of physical therapy; or*

15 *(b) Represent in any other way, orally, or in writing, or in*
16 *print, by sign, directly or by implication, that the sole*
17 *proprietorship, corporation, limited-liability company, association*
18 *or partnership provides services constituting the practice of*
19 *physical therapy,*

20 *↪ unless the services constituting the practice of physical therapy*
21 *are provided by or under the supervision of a licensed physical*
22 *therapist. A sole proprietorship, corporation, limited-liability*
23 *company, association, partnership or other form of business*
24 *organization that violates this subsection is guilty of a*
25 *misdemeanor.*

26 *4. In addition to any criminal penalty that may be imposed*
27 *for a violation of subsection 2 or 3, the Board, after notice and*
28 *hearing, may:*

29 *(a) Issue an order against any person who has violated*
30 *subsection 2 or 3 imposing an administrative penalty of not more*
31 *than \$5,000 for each violation. Any administrative penalty*
32 *collected pursuant to this paragraph must be deposited in the State*
33 *General Fund.*

34 *(b) Issue and serve on the person an order to cease and desist*
35 *until the person obtains from the Board the proper license or*
36 *otherwise demonstrates that he or she is no longer in violation of*
37 *subsection 2 or 3. An order to cease and desist must include a*
38 *telephone number with which the person may contact the Board.*

39 *(c) Issue a citation to the person. A citation issued pursuant to*
40 *this paragraph must be in writing, describe with particularity the*
41 *nature of the violation and inform the person of the provisions of*
42 *this paragraph. Each activity in which the person is engaged*
43 *constitutes a separate offense for which a separate citation may be*
44 *issued. To appeal a citation, the person must submit a written*



1 *request for a hearing to the Board not later than 30 days after the*
2 *date of issuance of the citation.*

3 *(d) Impose any combination of the penalties set forth in*
4 *paragraphs (a), (b) and (c).*

5 **Sec. 5.** NRS 640.175 is hereby amended to read as follows:

6 640.175 1. *A person who is licensed under NRS 640.230 to*
7 *640.290, inclusive, as a physical therapist's assistant shall use the*
8 *words or letters "P.T.A." or "Physical Therapist's Assistant"*
9 *immediately following his or her name when representing himself*
10 *or herself as a licensed physical therapist's assistant.*

11 2. Any person:

12 ~~1-1~~ (a) Who is not licensed under NRS 640.230 to 640.290,
13 inclusive, as a physical therapist's assistant;

14 ~~1-2~~ (b) Whose license has been suspended or revoked; or

15 ~~1-3~~ (c) Whose license has expired and has not been reinstated,
16 ➔ and who uses in connection with his or her name the words or
17 letters "P.T.A." or "Physical Therapist's Assistant," or any other
18 letters, words or insignia indicating or implying that he or she is a
19 licensed physical therapist's assistant, or who in any other way,
20 orally, or in writing, or in print, by sign, directly, or by implication,
21 represents himself or herself as a licensed physical therapist's
22 assistant, is guilty of a misdemeanor.

23 3. *In addition to any criminal penalty that may be imposed*
24 *for a violation of subsection 2, the Board, after notice and*
25 *hearing, may:*

26 (a) *Issue an order against any person who has violated*
27 *subsection 2 imposing an administrative penalty of not more than*
28 *\$5,000 for each violation. Any administrative penalty collected*
29 *pursuant to this paragraph must be deposited in the State General*
30 *Fund.*

31 (b) *Issue and serve on the person an order to cease and desist*
32 *until the person obtains from the Board the proper license or*
33 *otherwise demonstrates that he or she is no longer in violation of*
34 *subsection 2. An order to cease and desist must include a*
35 *telephone number with which the person may contact the Board.*

36 (c) *Issue a citation to the person. A citation issued pursuant to*
37 *this paragraph must be in writing, describe with particularity the*
38 *nature of the violation and inform the person of the provisions of*
39 *this paragraph. Each activity in which the person is engaged*
40 *constitutes a separate offense for which a separate citation may be*
41 *issued. To appeal a citation, the person must submit a written*
42 *request for a hearing to the Board not later than 30 days after the*
43 *date of issuance of the citation.*

44 (d) *Impose any combination of the penalties set forth in*
45 *paragraphs (a), (b) and (c).*



1 **Sec. 6.** NRS 640.210 is hereby amended to read as follows:

2 640.210 1. The Board shall investigate every supposed
3 violation of this chapter coming to its notice and shall report to the
4 proper district attorney all cases that in the judgment of the Board
5 warrant prosecution.

6 2. Whenever any person has engaged or is about to engage in
7 any acts or practices which constitute or will constitute an offense
8 against this chapter, the district court of any county, on application
9 of the Board, may issue an injunction or any other order restraining
10 such conduct. ~~Proceedings~~ *Except as otherwise provided in*
11 *subsection 3, proceedings* under this subsection shall be governed
12 by Rule 65 of the Nevada Rules of Civil Procedure, except that no
13 bond or undertaking shall be required in any action commenced by
14 the Board.

15 3. *In obtaining an injunction or any other order to restrain*
16 *any conduct which constitutes or will constitute a violation of*
17 *subsection 2 or 3 of NRS 640.170 or subsection 2 of NRS 640.175,*
18 *the Board must only show that the person engaging or about to*
19 *engage in the conduct violated subsection 2 or 3 of NRS 640.170*
20 *or subsection 2 of NRS 640.175 to establish that immediate and*
21 *irreparable injury, loss or damage will result from the continued*
22 *action of the person.*

