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(As Passed by the House)

**Reps. Fessler, Reidelbach, Seitz, J. McGregor, Peterson, Brown, Allen, Strahorn, Barrett, Distel, Cassell, Kilbane, Yuko, Hood, Combs, Book, Carano, Chandler, DeBose, Domenick, C. Evans, Hagan, Key, Luckie, Mitchell, Otterman, Perry, Raussen, Widener, Williams**

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**BILL SUMMARY**

**Chapter reorganization**

- Reorganizes the chapter that governs the professions of occupational therapy, physical therapy, and athletic training.

**Characteristics of the Occupational Therapy, Physical Therapy, and Athletic Trainers Board**

- Establishes different and staggered terms of membership for the four additional Physical Therapy Section members of the Board whose terms commence on August 28, 2007.
- Establishes a limit of three consecutive terms for all Board members and provides that if a member has served more than nine years, the member may complete the member's current term but is ineligible for reappointment for the following term.
- Adds a requirement that each Board member and additional member of the Physical Therapy Section sign and file with the Board's Executive Director a notarized statement that the member has read and understands the Open Meetings Law, the Public Records Law, and the provisions of the Ohio Administrative Procedure Act that are applicable to the duties of the Board.
- Eliminates the requirement in current law that the Board member who represents the public must be at least 60 years old.

**Provisions applicable to all three sections of the Board**

- Expands the investigatory scope of all three sections of the Board.
- Expands the authority of all three sections of the Board to seek orders enjoining persons from violating any section of the occupational therapy, physical therapy, and athletic trainers practices law (R.C. Chapter 4755.).
- Maintains all three sections' authority to conduct hearings, keep records and minutes, and enforce the relevant sections of the law, but removes the authority of the sections to "do all things necessary and proper to carry out" the relevant sections of the law.
- Allows each section to charge a person who has been sanctioned by the appropriate section through an administrative hearing a fee for the actual cost of the hearing.
- Requires that the annual report the Board must prepare contain recommendations and findings with respect to the "status" of the professions of physical therapy, occupational therapy, and athletic training.
- Provides that all fees (not just licensure fees) collected and assessed by the Board must be deposited in the state treasury to the credit of the Occupational Licensing and Regulatory Fund.
- Makes the penalties for the unauthorized practice of occupational therapy, physical therapy, and athletic training consistent.
- Requires the appropriate section of the Board to comply with the sections of Ohio law and administrative rules that govern defaults under child support orders.

**Provisions exclusively applicable to the Occupational Therapy Section of the Board**

- Amends the definitions of "occupational therapy," "occupational therapist," and "occupational therapy assistant."
- Repeals the provision in current law regarding applicants for licensure who fail to pass the required examination after two successive examinations.

- Eliminates the license renewal timetable based on a licensee's last name and replaces it with a schedule established by the Occupational Therapy Section in rules.
- Requires a licensee to file proof of completion of continuing education requirements with the licensee's application for renewal.
- Permits the Occupational Therapy Section to fine a license or limited permit holder.
- Amends nine of the twelve grounds for which the Occupational Therapy Section can discipline a licensee.
- Adds new grounds for which the Occupational Therapy Section can discipline a licensee.
- Authorizes the Occupational Therapy Section to summarily suspend a license when the Section determines that the licensee poses an immediate threat to the public.
- Makes changes and additions to the matters for which the Occupational Therapy Section can adopt rules.

**Provisions exclusively applicable to the Physical Therapy Section of the Board**

- Makes changes to the definitions of "physical therapy," "physical therapist," and "physical therapist assistant."
- Specifies licensure requirements for persons who wish to teach a physical therapy theory and procedures course.
- Allows the Physical Therapy Section to investigate and discipline a person for teaching a physical therapy theory and procedures course without a license in violation of the bill's provisions.
- Eliminates the reference in current law to the Physical Therapy Section's authority to conduct examinations and instead, provides that an applicant must pass (1) a national examination *approved* by the Section and (2) a jurisprudence examination.
- Requires the Physical Therapy Section to issue a license if an applicant passes both examinations.

- Establishes separate sections that govern the requirements a person must meet to obtain a license to practice as a physical therapist or physical therapist assistant, respectively, without taking the national examination.
- Establishes separate license application procedures for physical therapists and physical therapist assistants.
- Eliminates the license renewal timetable based on a licensee's last name and authorizes the Physical Therapy Section to establish a schedule in rules.
- Permits the Physical Therapy Section, subject to the approval of the Controlling Board, to establish fees for licensure and renewal in excess of the \$125 limit placed on the Section under the bill.
- Eliminates the provision in current law that authorizes any member of the Physical Therapy Section to undertake or hold an investigation, inquiry, or hearing that the Section as a whole is authorized to undertake or hold.
- Permits the Physical Therapy Section to limit a license or fine a licensee.
- Amends six of the eleven grounds for which the Physical Therapy Section may discipline a licensee.
- Adds new grounds for which the Physical Therapy Section can discipline a licensee.
- Authorizes the Physical Therapy Section to summarily suspend a licensee's license when the Section determines that the licensee poses an immediate threat to the public.
- Requires the Physical Therapy Section to notify an applicant of the Section's decision to refuse issuance of a license and the reason for its decision.
- Expands provisions in current law that prohibit a person from making certain representations unless that person holds a valid license.
- Changes one of the conditions that must be met before a person can practice physical therapy without a prescription or referral from a certain health care professional.

- For purposes of the submission of insurance claims for the provision of physical therapy, requires that claims contain the national provider identifiers of physical therapists or other health care professionals (as opposed to their license numbers).
- Eliminates the broad statement of rulemaking authority for the Physical Therapy Section and replaces it with a list of specific items for which the Section must adopt rules.
- Requires the Section to deposit all fees in accordance with the law governing the deposit of all fees collected and assessed by the Board.
- Requires the Physical Therapy Section, on receipt of an application for a license, to provide to the applicant the Section's address, dates of upcoming Section meetings, and a list of names of the Section members.
- Eliminates the authority the Physical Therapy Section has in current law to do all other things necessary and proper to carry out and enforce the sections of law that specifically pertain to the practice of physical therapy.
- Repeals the provision in current law that provides that the books and records of the Physical Therapy Section are prima facie evidence of the matters contained in the books and records.

**Provisions exclusively applicable to the Athletic Training Section of the Board**

- Modifies some of the requirements a person needs to meet to obtain a license to practice as an athletic trainer.
- Eliminates the reference in current law to licenses expiring every two years and replaces it with a provision stating that licenses expire biennially in accordance with a schedule adopted in rules.
- Requires an applicant for license renewal to submit proof of satisfactory completion of the continuing education units the Athletic Trainers Section requires by rule, rather than six units of continuing education.
- Expands provisions in current law that prohibit a person from making certain representations unless that person holds a valid license.

- Prohibits educational institutions (in addition to partnerships, associations, and corporations) from advertising or otherwise offering to provide or convey the impression that the entity is providing athletic training unless an individual licensed as an athletic trainer is employed by, or under contract to, the educational institution and will be performing athletic training services.
- Permits the Athletic Trainers Section to fine a licensee.
- Amends three of the twelve grounds for which the Athletic Trainers Section may discipline a licensee.
- Authorizes the Athletic Trainers Section to summarily suspend a licensee's license when the Section determines that the licensee poses an immediate threat to the public.
- Adds licensed physical therapists to the health professionals who are not prevented or restricted, by the sections of law governing the delivery of athletic training services, from practicing, providing services, or engaging in the activities of their profession.
- Repeals current law regarding unlicensed, non-resident athletic trainers and provides that such persons cannot be prevented or restricted in their practice, services, or activities if they are traveling with a visiting team or organization from outside of Ohio or an event approved by the Athletic Trainers Section for the purpose of providing athletic training to the visiting team, organization, or event.
- Expands the matters regarding which the Athletic Trainers Section must adopt rules.

### *Miscellaneous*

- Adds licensed occupational therapists to the professionals that can form, and must comply with laws governing the formation and activities of, corporations, limited liability companies, partnerships, and professional associations incorporated or organized for the purpose of providing professional services.

**Technical changes**

- Makes technical changes, including changing cross-references and gender-specific references.

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## CONTENT AND OPERATION

### Chapter reorganization

(R.C. Chapter 4755.)

The bill reorganizes the chapter that governs the professions of occupational therapy, physical therapy, and athletic training (Revised Code Chapter 4755.) by designating R.C. 4755.01 through 4755.03 as sections applicable to all three professions, R.C. 4755.04 through 4755.13 as sections applicable to occupational therapy and the Occupational Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, R.C. 4755.40 through 4755.52 as sections applicable to physical therapy and the Physical Therapy Section of the Board, and R.C. 4755.61 through 4755.65 as provisions applicable to athletic training and the Athletic Trainers Section of the Board.



## **Board characteristics**

(R.C. 4755.03 (current law); R.C. 4755.01 and Section 3 (the bill))

### **Background**

Under current law, the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board consists of 16 Ohio residents, appointed by the Governor with the advice and consent of the Ohio Senate. One Board member represents the public and must be at least 60 years old. The remaining Board members are divided into three sections as follows:

(1) Physical Therapy Section--nine members:

(a) Five Section members must be physical therapists who are licensed to practice physical therapy and who have been engaged in or actively associated with the practice of physical therapy in Ohio for at least five years preceding appointment. These Section members are members of the Board.

(b) Four additional Section members must satisfy the same requirements as the five members described in (1)(a), above. However, these additional Section members are *not* members of the Board. These additional members are vested with only the powers of the Physical Therapy Section and must perform only the duties that relate to the affairs of the Physical Therapy Section.

(2) Occupational Therapy Section--five members:

(a) Four members must be occupational therapists who have been engaged in or actively associated with the practice of occupational therapy in Ohio for at least five years immediately preceding appointment. These Section members are members of the Board.

(b) One member must be a licensed occupational therapy assistant who has been engaged in or actively associated with the practice as an occupational therapy assistant in Ohio for at least five years immediately preceding appointment. This Section member is a member of the Board.

(3) Athletic Trainers Section--five members:

(a) Four members must be athletic trainers who have been engaged in the practice of athletic training in Ohio for at least five years immediately preceding appointment. These Section members are members of the Board.

(b) One member must be a physician licensed to practice medicine and surgery in Ohio. This Section member is a member of the Board.

### **Length of terms**

**Current law.** Under current law, each Board member and additional member of the Physical Therapy Section who is not a member of the Board serves a term of three years. Each member must serve beyond the expiration of the member's term until a successor is appointment and qualifies, or until a period of 60 days has elapsed, whichever occurs first.

**The bill.** The bill establishes different and staggered terms of membership for the four additional Physical Therapy Section members whose terms commence on August 28, 2007. These additional Section members serve terms of one year, two years, three years, and four years, respectively.

The bill leaves unchanged the three-year term of membership for all other members of the Board and additional members of the Physical Therapy Section whose terms begin on dates other than August 28, 2007. However, the bill establishes a three consecutive term limit for all members (therefore, a member cannot serve for more than nine consecutive years). In addition, the bill provides that if a person who is a member as of the effective date of the bill has served more than nine years on the Board, the member may complete the member's current term but is ineligible for reappointment for the following term.

### **Constitutional oath of office; understanding of other laws**

**Current law.** Under current law, each member of the Board and additional member of the Physical Therapy Section must subscribe to and file with the Secretary of State the constitutional oath of office.

**The bill.** The bill maintains the constitutional oath requirement, but adds a requirement that each Board member and additional member of the Physical Therapy Section also sign and file with the Executive Director of the Board a notarized statement that the member has read and understands the Open Meetings Law (R.C. 121.22), the Public Records Law (R.C. 149.43), and the provisions of the Ohio Administrative Procedure Act (R.C. Chapter 119.) that are applicable to the duties of the Board.

### **Public member of the Board**

**Current law.** As described above, one member of the Board must represent the public and be at least 60 years old.

**The bill.** The bill removes the requirement that the Board member who represents the public be at least 60 years old. It also adds a requirement that this Board member must attend at least three meetings, annually, of each of the three sections of the Board.

## **Duties of the Executive Director**

(R.C. 4755.03 (current law); R.C. 4755.01(H) (the bill))

### **Current law**

Under continuing law, the Board must meet as a whole to determine all administrative, personnel, and budgetary matters. The Executive Director of the Board, who is appointed by the Board, cannot be a physical therapist, an occupational therapist, or an athletic trainer who has been licensed to practice physical therapy, occupational therapy, or as an athletic trainer in this state within three years immediately preceding appointment. The Executive Director serves at the pleasure of the Board.

### **The bill**

The bill requires the Executive Director to do all of the following: (1) execute, under the Board's direction, the policies, orders, directives, and administrative functions of the Board, (2) direct, under rules adopted by the Board, the work of all persons employed by the Board, and (3) report to the Board on any matter, upon the request of the Board.

## **Provisions applicable to all three Sections (Occupational Therapy, Physical Therapy, and Athletic Trainers Sections)**

### **Investigations**

(R.C. 4755.04 (current law); R.C. 4755.02(A), (D), and (E) (the bill))

**Current law.** Presently, the appropriate section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board must investigate complaints concerning the unauthorized practice of physical therapy, occupational therapy, or athletic training or alleged grounds for the suspension, revocation, or refusal to issue or renew licenses to practice these professions.

In connection with investigations, the appropriate section may subpoena witnesses. It may also employ investigators who must, under the direction of the secretary of the section, make investigations of complaints and such inspections and other inquiries as in the judgment of the section are appropriate to enforce the prohibitions against the unauthorized practice of physical therapy, occupational therapy, or athletic training, or to uphold the grounds for the suspension, revocation, or refusal to issue or renew licenses to practice these professions. These investigators have the right to review and audit the records of licensees at the place of business of the licensees or any other place where these records may be and must be given access to the records during normal business hours.



Information obtained by investigators concerning a licensee must be held in confidence by the appropriate section and its employees, except pursuant to a court order.

**The bill.** The bill expands the investigatory scope of the three sections of the Board by requiring the sections to investigate compliance with all of the chapter governing the Board (R.C. Chapter 4755.) and any rule or order issued under that chapter, as well as alleged grounds for the suspension, revocation, or refusal to issue or renew licenses to practice the professions regulated by the Board.

The bill also removes the requirement that the investigators the sections may employ conduct investigations under the direction of the secretary of the appropriate section.

In addition to the right to review and audit the records of licensees, the bill gives the investigators the right to review, obtain copies, and audit the patient records and personnel files of licensees.

Further, the bill establishes that, in general, information and records received or generated by the Board pursuant to an investigation are confidential, are not public records as defined by the Public Records Law (R.C. 149.43), and are not subject to discovery in any civil or administrative action. However, the bill provides an exception to this general rule of confidentiality that the Board may disclose information gathered pursuant to an investigation to any federal, state, or local law enforcement, prosecutorial, or regulatory agency or its officers or agents engaging in an investigation the Board believes is within the agency's jurisdiction. An agency that receives confidential information must comply with the same requirements regarding confidentiality as those with which the Board must comply. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, or in an administrative hearing conducted by an agency, but the court or agency must require that appropriate measures be taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients, complainants, or others whose confidentiality was protected by the Board when the information was in the Board's possession. Measures to ensure confidentiality that may be taken by the court or agency include sealing its records or redacting specific information from its records.

### **Injunctions**

(R.C. 4755.04 (current law); R.C. 4755.02(B) and (C) (the bill))

**Current law.** Under current law, the appropriate section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board may apply to an appropriate court for an order enjoining a person from engaging in the unauthorized practice of physical therapy or occupational therapy or from offering to practice or claiming to the public to have the ability to practice as a physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, or athletic trainer, as described in R.C. 4755.02, 4755.48, or 4755.62.<sup>1</sup> On a showing by the section that a person has violated or is about to violate these sections, the court must grant an injunction, restraining order, or such other order as is appropriate.

**The bill.** The bill explicitly states that the appropriate section, *through the Ohio Attorney General or an appropriate prosecuting attorney*, may apply for such an order. The bill also adds that when requested by the appropriate section, the prosecuting attorney of a county, or the village solicitor or city director of law of a municipal corporation, where a violation of the chapter governing the practice of physical therapy, occupational therapy, or athletic training allegedly occurs, must take charge of and conduct the prosecution.

In addition, the bill expands the scope of each section's injunction authority to permit the appropriate section to seek an order enjoining a person from violating *any* section of the Physical Therapy, Occupational Therapy, and Athletic Trainers Practices Act (R.C. Chapter 4755.). It also provides that such injunction proceedings are in addition to all penalties and other remedies provided by the Physical Therapy, Occupational Therapy, and Athletic Trainers Practices Act.

### **Hearings; records and minutes of the sections**

(R.C. 4755.04 (current law); R.C. 4755.02(F) (the bill))

**Current law.** Existing law requires the appropriate section "to conduct such hearings, keep records and minutes, and do all such other things necessary and proper to carry out and enforce" the relevant sections of the law governing physical therapy, occupational therapy, and athletic trainers.

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<sup>1</sup> *The Ohio Attorney General represents the Board in administrative hearings conducted under the Ohio Administrative Procedure Act (R.C. Chapter 119.) and in all Ohio and federal courts (R.C. 119.10). Therefore, the Attorney General, or his representative, is the person that applies for injunctions on behalf of the Board.*

**The bill.** The bill removes the authority of the sections to "do all such other things necessary and proper to carry out" the relevant sections of the law governing physical therapy, occupational therapy, and athletic trainers. However, it maintains the sections' authority to conduct hearings, keep records and minutes, and enforce the relevant sections of the law.

**Annual report to Governor and the General Assembly**

(R.C. 4755.04 (current law); R.C. 4755.02(H) (the bill))

**Current law.** At present, the Board must submit to the Governor and General Assembly, on an annual basis, a report of all its official actions during the preceding year, together with any recommendations and findings with regard to the "improvement" of the professions of physical therapy and occupational therapy.

**The bill.** The bill maintains the requirement of an annual report, but in addition to a report of all official actions, the report must contain recommendations and findings with regard to the "status" of the professions of physical therapy, occupational therapy, *and* athletic training.

**Deposit of fees**

(R.C. 4755.13 (current law); R.C. 4755.03 (the bill))

**Current law.** Under current law, all licensure fees collected and assessed by the Board must be deposited in the state treasury to the credit of the Occupational Licensing and Regulatory Fund.

**The bill.** The bill eliminates the reference to "licensure fees," instead providing that *all* fees collected and assessed by the Board must be deposited in the state treasury to the credit of the Occupational Licensing and Regulatory Fund.

**Fee for administrative hearing**

(R.C. 4755.031 (the bill))

The bill requires a person sanctioned pursuant to an administrative hearing to pay a fee in the amount of the actual cost of the administrative hearing, including the cost of the court reporter, the hearing officer, transcripts, and any witness fees for lodging and travel, as determined by the appropriate section of the Board. The appropriate section must collect the fee.

**Unauthorized practice violations, penalties, and deposit of fines**

(R.C. 4755.05, 4755.48, 4755.62, and 4755.99; R.C. 4755.49 (repealed by the bill))

The specific descriptions of violations for the unauthorized practice of physical therapy, occupational therapy, and athletic training, as well as the corresponding penalties for these violations in current law and the bill, are compared in the table below. Language that is new in the bill appears in italics.

As the table reflects, the bill makes the penalties for the unauthorized practice violations consistent for all three professions.

Profession	Description of violation		Penalty	
	Current law	The bill	Current law	The bill
<b>Occupational Therapy</b>	No person who does not hold a current license or permit to practice as an occupational therapist or occupational therapy assistant shall practice or offer to practice occupational therapy, or use in connection with the person's name, or otherwise assume, use or advertise, any title, initials, or description tending to convey the	Same as current law, except refers to permit as a "limited permit."	First offense: Minor misdemeanor. <sup>2</sup>  Subsequent offenses: Misdemeanor of the fourth degree. <sup>3</sup>	First offense: Same as current law.  Second offense: Misdemeanor of the third degree. <sup>4</sup>  Subsequent offenses: Misdemeanor of the first degree. <sup>5</sup>

<sup>2</sup> In general, for a minor misdemeanor, a person can be fined no more than \$150 plus court costs (R.C. 2929.28(A)). No jail term is prescribed.

<sup>3</sup> In general, for a misdemeanor of the fourth degree, a person can be fined no more than \$250 plus court costs and be sentenced to a jail term not to exceed 30 days (R.C. 2929.28(A) and 2929.24(A)(4)).

<sup>4</sup> In general, for a misdemeanor of the third degree, a person can be fined no more than \$500 plus court costs and be sentenced to a jail term not to exceed 60 days (R.C. 2929.28(A) and 2929.24(A)(3)).

<sup>5</sup> In general, for a misdemeanor of the first degree, a person can be fined no more than \$1,000 plus court costs and sentenced to a jail term not to exceed 180 days (R.C. 2929.28(A) and 2929.24(A)(1)).

Profession	Description of violation		Penalty	
	Current law	The bill	Current law	The bill
	impression that the person is an occupational therapist or occupational therapy assistant.			
<b>Physical Therapy</b>	<p>(1) No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.</p> <p>(2) No person shall practice or in any way claim to the public to be able to practice physical therapy, including practice as a physical therapist assistant, unless the person holds a valid license or except as provided in R.C. 4755.56 (which requires physical therapists and health care professionals who render physical therapy services or services within their scope of practice to provide current license numbers when submitting insurance claims).</p> <p>(3) No person shall use the words or letters, "physical therapist," "physical therapy,"</p>	<p>(1) Same as current law.</p> <p>(2) No person shall practice or in any way <i>imply or claim to the public by words, actions, or the use of the letters</i> to be able to practice physical therapy or to provide <i>physical therapy services</i>, including practice as a physical therapist assistant, unless the person holds a valid license or except <i>for submission of claims</i> as provided in R.C. 4755.56.</p> <p>(3) No person shall use the words or letters, "physical therapist," "physical therapy," <i>physical therapy</i></p>	<p>(1) Any offense: Misdemeanor of the third degree.</p> <p>(2) Any offense: Misdemeanor of the second degree.<sup>6</sup></p> <p>(3) Any offense: Misdemeanor of the second degree.</p>	<p>(1) First offense: Minor misdemeanor.</p> <p>Second offense: Misdemeanor of the third degree.</p> <p>Subsequent offenses: Misdemeanor of the first degree.</p> <p>(2) First offense: Minor misdemeanor.</p> <p>Second offense: Misdemeanor of the third degree.</p> <p>Subsequent offenses: Misdemeanor of the first degree.</p> <p>(3) First offense: Same as current law.</p> <p>Second offense: Misdemeanor of the</p>

<sup>6</sup> In general, for a misdemeanor of the second degree, a person can be fined no more than \$750 plus court costs and be sentenced to a jail term not to exceed 90 days (R.C. 2929.28(A) and 2929.24(A)(2)).



Profession	Description of violation		Penalty	
	Current law	The bill	Current law	The bill
	<p>"physiotherapist," "licensed physical therapist," "P.T.," "Ph.T.," "P.T.T.," "R.P.T.," "L.P.T.," "M.P.T.," "D.P.T.," "M.S.P.T.," "P.T.A.," "physical therapy assistant," "physical therapist assistant," "physical therapy technician," "licensed physical therapist assistant," "L.P.T.A.," "R.P.T.A.," or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant without a valid license.</p> <p>(4) No person who practices physical therapy or assists in the provision of physical therapy treatments under the supervision of a physical therapist shall fail to display the person's current license in a conspicuous location in the place where the person spends the major part of the person's time so engaged.</p> <p>(5) No person shall practice physical therapy other than on the prescription of, or the referral of a patient by, a person</p>	<p><i>services,</i> "physiotherapist," <i>"physiotherapy,"</i> <i>"physiotherapy services,"</i> "licensed physical therapist," "P.T.," "Ph.T.," "P.T.T.," "R.P.T.," "L.P.T.," "M.P.T.," "D.P.T.," "M.S.P.T.," "P.T.A.," "physical therapy assistant," "physical therapist assistant," "physical therapy technician," "licensed physical therapist assistant," "L.P.T.A.," "R.P.T.A.," or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant without a valid license.</p> <p>(4) Same as current law.</p> <p>(5) Same as current law.</p>	<p>(4) Any offense: Misdemeanor of the second degree.</p> <p>(5) Any offense: Misdemeanor of the second degree.</p>	<p>third degree. Subsequent offenses: Misdemeanor of the first degree.</p> <p>(4) First offense: Same as current law.  Second offense: Misdemeanor of the third degree.  Subsequent offenses: Misdemeanor of the first degree.</p> <p>(5) First offense: Same as current law.  Second offense: Misdemeanor of the third degree.</p>

Profession	Description of violation		Penalty	
	Current law	The bill	Current law	The bill
	who is licensed in this or another state to practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery, or to practice nursing as an advanced practice nurse, within the scope of such practices, and whose license is in good standing, unless certain requirements are met.			Subsequent offenses: Misdemeanor of the first degree.
<b>Athletic Training</b>	<p>(1) No person shall claim to the public to be an athletic trainer or imply by words or letters that the person is an athletic trainer unless the person is licensed as an athletic trainer.</p> <p>(2) Except for certain health professionals who are practicing within their scopes of practice, no partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing athletic training unless an individual licensed as an athletic trainer is employed by, or under contract to, the partnership,</p>	<p>(1) No person shall claim to the public to be an athletic trainer or imply by words, <i>actions</i>, or letters that the person is an athletic trainer, <i>or otherwise engage in the practice of athletic training</i>, unless the person is licensed as an athletic trainer.</p> <p>(2) Except for certain health professionals who are practicing within their scopes of practice, no <i>educational institution</i>, partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing athletic training unless an individual licensed as an athletic trainer is employed by, or under contract to, the <i>educational institution</i>, partnership, association,</p>	<p>(1) Any offense: Misdemeanor of the first degree.</p> <p>(2) Any offense: Misdemeanor of the first degree.</p>	<p>(1) First offense: Minor misdemeanor.</p> <p>Second offense: Misdemeanor of the third degree.</p> <p>Subsequent offenses: Misdemeanor of the first degree.</p> <p>(2) First offense: Minor misdemeanor.</p> <p>Second offense: Misdemeanor of the third degree.</p> <p>Subsequent offenses: Misdemeanor of the first degree.</p>



Profession	Description of violation		Penalty	
	Current law	The bill	Current law	The bill
	association, or corporation and will be performing athletic training services to which reference is made.	or corporation and will be performing the athletic training services to which reference is made.		

Current law also provides that one-half of all fines collected for violation of the prohibition against practicing or holding oneself out as an occupational therapist or occupational therapy assistant without a license or limited permit must be distributed to the Occupational Therapy Section and then paid into the state treasury to the credit of the Occupational Licensing and Regulatory Fund. The other one-half of fines collected must be distributed to the treasury of the municipal corporation in which the offense was committed or, if the offense was committed outside the limits of a municipal corporation, to the treasury of the county in which the offense occurred. Similarly, one-half of all fines collected for violation of the prohibition against practicing or holding oneself out as a physical therapist without a license must be distributed to the Physical Therapy Section and then paid into the state treasury to the credit of the Occupational Licensing and Regulatory Fund. The other one-half of fines collected must be distributed to the treasurer of the municipal corporation or the county in which the offense was committed.

The bill maintains the division of fines for the Occupational Therapy Section and the Physical Therapy Section and extends it to the Athletic Trainer Section as well. Consequently, one-half of all fines collected for violation of the prohibition against practicing or holding oneself out as an athletic trainer without a license must be distributed to the Athletic Trainers Section and then paid into the state treasury to the credit of the Occupational Licensing and Regulatory Fund. The other one-half of fines collected must be distributed to the treasury of the municipal corporation in which the offense was committed or, if the offense was committed outside the limits of a municipal corporation, to the treasury of the county in which the offense occurred.

**Defaults under child support orders**

(R.C. 4755.66; R.C. 3123.41 to 3123.50 and 3123.60 (not in the bill))

**Current law.** Under current law, when a court or child support enforcement agency makes a final and enforceable determination that an individual is in default under a child support order, or an individual fails, after



receiving appropriate notice, to comply with a subpoena or warrant issued in connection with a proceeding to enforce the child support order, the child support enforcement agency administering the order may determine whether the individual holds a license issued by a professional or occupational licensing board or, if possible, whether the individual has applied for, or is likely to apply for, a license. If the child support enforcement agency makes such a determination, it must send a notice to the individual specifying (1) that the court or agency has determined the individual to be in default under a child support order or that the individual is an obligor who has failed to comply with a subpoena or warrant issued by a court or agency in connection with a child support order, (2) that a notice containing the individual's name and social security number or other identification number may be sent to every board that has the authority to issue or has issued the individual a license, and (3) that if the board receives that notice and determines that the individual is the individual named in that notice and the board has not received another notice that the individual is actually not in default under R.C. 3123.45 and 3123.46, all of the following will occur:

- The board will not issue a license to the individual or renew any license of the individual.
- The board will suspend any license of the individual if it determines that the individual is the individual named in the notice sent to the board.
- If the individual is the individual named in the notice, the board will not issue any license to the individual, and will not reinstate a suspended license, until the board receives a notice that the individual is not in default.

With respect to the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, specifically, if the Board receives a notice that a licensee has defaulted on a child support order, the Board must comply with the sections of Ohio law and administrative rules that govern defaults under child support orders.

***The bill.*** The bill specifies that if the Board receives the notice described above, the appropriate section, rather than the Board, must comply with the sections of Ohio law and administrative rules that govern defaults under child support orders.

## **Provisions exclusively applicable to the Occupational Therapy Section**

### **Definitions**

(R.C. 4755.01 (current law); R.C. 4755.04 (the bill))

**Current law.** Current law defines "occupational therapy" as the evaluation of learning and performance skills and the analysis, selection, and adaptation of activities for an individual whose abilities to cope with daily living, perform tasks normally performed at the individual's stage of development, and perform vocational tasks are threatened or impaired by developmental deficiencies, the aging process, environmental deprivation, or physical, psychological, or social injury or illness, through specific techniques which include the following:

(1) Planning and implementing activities and programs to improve sensory and motor functioning at the level of performance normal for the individual's stage of development;

(2) Teaching skills, behaviors, and attitudes crucial to the individual's independent, productive, and satisfying social functioning;

(3) Designing, fabricating, applying, recommending, and instructing in the use of selected orthotic or prosthetic devices and other equipment that assists the individual to adapt to the individual's potential or actual impairment;

(4) Analyzing, selecting, and adapting activities to maintain the individual's optimal performance of tasks and to prevent further disability;

(5) Administration of topical drugs that have been prescribed by a licensed health professional authorized to prescribe drugs, as defined in the Pharmacists and Dangerous Drug Law (R.C. Chapter 4729. of the Revised Code; R.C. 4729.01, not in the bill).

Under current law, an "occupational therapist," is a person who is licensed to practice occupational therapy and who offers such services to the public under any title incorporating the words "occupational therapy," "occupational therapist," or any similar title or description of services. Current law defines "occupational therapy assistant" to mean a person licensed to apply the more standard occupational therapy techniques under the general supervision of an occupational therapist.

**The bill.** The bill repeals the base definition of "occupational therapy" and the techniques listed under (1), (2), and (4) immediately above. Under the bill, "occupational therapy" means therapeutic use of everyday life activities or occupations with individuals or groups for the purpose of participation in roles and

situations in the home, school, workplace, community, and other settings. The practice of occupational therapy includes all of the following:

- The techniques described under (3) and (5) immediately above;
- Methods or strategies selected to direct the process of interventions, including, but not limited to, establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired and compensation, modification, or adaptation of activity or environment to enhance performance;
- Evaluation of factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure, and social participation, including, but not limited to, sensory motor abilities, vision, perception, cognition, psychosocial, and communication and interaction skills;
- Interventions and procedures to promote or enhance safety and performance in activities of daily living, education, work, play, leisure, and social participation, including, but not limited to, application of physical agent modalities, use of a range of specific therapeutic procedures to enhance performance skills, rehabilitation of driving skills to facilitate community mobility, and management of feeding, eating, and swallowing to enable eating and feeding performance;
- Consultative services, case management, and education of patients, clients, or other individuals to promote self-management, home management, and community and work reintegration.

The bill also amends the definition of "occupational therapist" to include not only a person who is licensed, but also a person who *holds a limited permit* to practice occupational therapy and who offers such services to the public under any title incorporating the words "occupational therapy," "occupational therapist," or any similar title or description of services. Additionally, the bill amends the definition of "occupational therapy assistant" to include not only a person who is licensed, but also a person who *holds a limited permit to provide* occupational therapy techniques under the general supervision of an occupational therapist.

### **Examination of applicants**

(R.C. 4755.06(D) (current law); R.C. 4755.07(D) (the bill))

**Current law.** One of the requirements a person must meet to be licensed as an occupational therapist or an occupational therapy assistant under current law is

that the person must have successfully passed a written examination testing the person's knowledge of the basic and clinical sciences related to occupational therapy and occupational therapy theory. Current law also prescribes that any applicant who fails to pass the examination at two successive examinations is ineligible for a similar examination until after the expiration of one full year from the time the applicant last took the examination, and then only upon making application as in the first instance.

**The bill.** The bill repeals the provision regarding applicants who fail to pass the examination after two successive examinations. It also repeals a provision requiring the Occupational Therapy Section to offer examinations at least twice each year at places in Ohio that the Section determines and a requirement that the Section must notify, by mail, applicants of the time and place of the examination.

### **License renewal**

(R.C. 4755.10)

**Current law.** Under current law, every licensed occupational therapist and occupational therapy assistant is required to renew his or her license biennially. The timetable for renewal is based on the licensee's last name: licensees with last names beginning with any letter from "A" to "L" must apply for renewal by June 30 of each even-numbered calendar year; licensees with last names beginning with any letter from "M" to "Z" must apply for renewal by June 30 of each odd-numbered year. Each application for license renewal must be accompanied by the biennial renewal fee determined by the Section. In all other respects, licenses must be renewed according to the Revised Code's standard renewal procedure (R.C. Chapter 4745.).

A license that is not renewed by June 30 of the appropriate year automatically expires on that date unless the Section, for good cause shown determines that the application for renewal could not have been filed by that date. The Section is required to adopt rules in accordance with the Ohio Administrative Procedure Act (R.C. Chapter 119.) prescribing the late fees and conditions under which the license of a licensee who files a late application for renewal will be reinstated.

**The bill.** The bill eliminates the renewal timetable based on a licensee's last name and instead, requires licensees to renew their licenses in accordance with the schedule established in rules adopted by the Section.

The bill also requires a licensee to file proof of completion of continuing education requirements (as provided in rules adopted by the Section) with the license renewal application and fee.

**Disciplinary action**

(R.C. 4755.10 (current law); R.C. 4755.11 (the bill))

**Current law.** Currently, the Occupational Therapy Section may, in accordance with the Ohio Administrative Procedure Act, suspend, revoke, or refuse to issue or renew an occupational therapist or occupational therapy assistant license, or reprimand or place a license holder on probation for any of a number of grounds for discipline.

**The bill**

I. Sanctions

The bill amends current law to permit the Section to not only suspend, revoke, or refuse to issue or renew a license, or to reprimand or place a license holder on probation, but also to issue the previously mentioned sanctions against a *limited permit holder* and to fine a license holder or limited permit holder.

II. Grounds for discipline

The bill amends nine of the twelve current grounds for discipline. The following table shows these changes:

Ground for discipline in current law	Ground for discipline under the bill
Conviction of an offense involving moral turpitude or a felony reasonably related to the practice of occupational therapy, regardless of the state or country in which the conviction occurred.	Conviction of an offense involving moral turpitude or a felony regardless of the state or country in which the conviction occurred.
Obtaining a license or any order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.	<i>Obtaining or attempting to obtain a license or limited permit issued by the Occupational Therapy Section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statement in relation to these activities.</i>
Negligence or gross misconduct in the pursuit of the profession of occupational therapy.	Negligence, <i>unprofessional conduct</i> , or gross misconduct in the <i>practice</i> of the profession of occupational therapy.



Ground for discipline in current law	Ground for discipline under the bill
Communicating, willfully and without authorization, information received in professional confidence.	Communicating, without authorization, information received in professional confidence.
Using any narcotic or alcohol to the extent that it impairs the ability to perform the work of an occupational therapist or occupational therapy assistant with safety to the public.	Using <i>controlled substances, habit forming drugs</i> , or alcohol to the extent that it impairs the ability to perform the work of an occupational therapist, occupational therapy assistant, <i>occupational therapist limited permit holder, or occupational therapy assistant limited permit holder</i> .
Practicing in an area of occupational therapy for which the individual is clearly untrained or incompetent.	Practicing in an area of occupational therapy for which the individual is untrained or incompetent.
Failing the licensing examination.	Failing the licensing <i>or Ohio jurisprudence</i> examination.
Aiding or abetting the unlicensed practice of occupational therapy.	Aiding, abetting, <i>directing, or supervising</i> the unlicensed practice of occupational therapy.
Having been disciplined by the occupational therapy licensing authority of another state or country for an act that would constitute grounds for discipline under Ohio law.	<i>Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including occupational therapy, for any reason other than failure to renew, in Ohio or another state or jurisdiction.</i>

The bill also adds several new grounds for which an occupational therapist or occupational therapist assistant can be disciplined by the Section. These new grounds are the following:

(1) Working or representing oneself as an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder without a current and valid license or limited permit issued by the Occupational Therapy Section;

(2) Engaging in a deceptive trade practice;

(3) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the Section;

(4) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders, whether or not actual injury to a patient is established;

(5) An adjudication by a court that the applicant, licensee, or limited permit holder is incompetent for the purpose of holding a license or limited permit and has not thereafter been restored to legal capacity for that purpose;

(6) In general, failure to cooperate with an investigation conducted by the Section, including failure to comply with a subpoena or orders issued by the Section or failure to answer truthfully a question presented by the Section at a deposition or in written interrogatories. However, failure to cooperate with an investigation does not constitute grounds for discipline if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue.

(7) Conviction of a misdemeanor reasonably related to the practice of occupational therapy, regardless of the state or country in which the conviction occurred;

(8) Inability to practice according to acceptable and prevailing standards of care because of mental or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;

(9) Violation of conditions, limitations, or agreements placed by the Occupational Therapy Section on a license or limited permit to practice;

(10) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of occupational therapy;

(11) Failure to complete continuing education requirements as prescribed in rules adopted by the Occupational Therapy Section.

### III. Summary suspension

The bill authorizes the Section, on receipt of a complaint that a person who holds a license or limited permit issued by the Section has committed any of the acts for which disciplinary action is prescribed, to immediately suspend the person's license or limited permit prior to holding an administrative hearing if it determines, based on the complaint, that the person poses an immediate threat to the public. The Section must notify the person of the suspension in accordance with the Ohio Administrative Procedure Act. If the person fails to make a timely request for an administrative adjudication, the Section must enter a final order permanently revoking the person's license or limited permit.

**Rulemaking authority**

(R.C. 4755.05 (current law); R.C. 4755.06 (the bill))

**Current law.** Under current law, the Occupational Therapy Section has broad rulemaking authority because the Section may "make reasonable rules in accordance with" R.C. Chapter 119. (the Ohio Administrative Procedure Act) relating "*but not limited to*" a list of specific items.

**The bill.** The bill makes a few changes to the items in current law for which the Section may adopt rules and adds some new items to this list. The following table summarizes the items for which the bill makes changes and shows the specific items the bill adds.

<b>Current law</b>	<b>The bill</b>
The issuance, suspension, and revocation of (occupational therapist and occupational therapy assistant) licenses, and the conducting of hearings.	The issuance, suspension, and revocation of (occupational therapist and occupational therapy assistant) licenses, and the conducting of <i>investigations and</i> hearings.
Certificates of renewal.	<i>The form and manner for filing applications for renewal and a schedule of deadlines for renewal.</i>
No provision.	Late fees and the conditions under which a license of a licensee who files a late application for renewal will be reinstated.
No provision.	The amount, scope, and nature of continuing education activities required for license renewal, including waivers and the establishment of appropriate fees to be charged for the administrative costs associated with the review of continuing education activities.
No provision.	Limited permit guidelines.

**Provisions exclusively applicable to the Physical Therapy Section**

**Definitions**

(R.C. 4755.40)

**Definition of "physical therapy."** Under current law, "physical therapy" means the evaluation and treatment of a person by physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating any disability. If

performed by a person who is adequately trained, physical therapy includes the design, fabrication, revision, education, and instruction in the use of various assistive devices including braces, splints, ambulatory or locomotion devices, wheelchairs, prosthetics, and orthotics. Physical therapy includes the administration of topical drugs that have been prescribed by a licensed health professional authorized to prescribe drugs as defined in the Pharmacist and Dangerous Drug Law (R.C. 4729.01, not in the bill). Physical therapy also includes the establishment and modification of physical therapy programs, treatment planning, instruction, and consultative services. Physical therapy includes physiotherapy. Physical measures include massage, heat, cold, air, light, water, electricity, sound, and the performance of tests of neuromuscular function as an aid to such treatment. Physical therapy does not include the medical diagnosis of a patient's disability, the use of Roentgen rays or radium for diagnostic or therapeutic purposes, or the use of electricity for cauterization or other surgical purposes.

The bill does not substantively change this definition, except to add that patient education is also included in the definition.

**Definition of "physical therapist."** Existing law provides that a "physical therapist" is a person who practices or teaches physical therapy and includes a physiotherapist.

The bill eliminates the reference to "teaching" and instead provides that a physical therapist is a person who practices *or provides patient education and instruction in* physical therapy and includes a physiotherapist.

**Definition of "physical therapist assistant."** Current law defines "physical therapist assistant" as a person who assists in the provision of physical therapy treatments under the supervision of a physical therapist, or teaches physical therapy under the supervision of a physical therapist, and includes physical therapy assistant.

The bill eliminates the reference to "teaching" and instead provides that physical therapist is a person who assists in the provision of physical therapy treatments, *including the provision of patient education and instruction*, under the supervision of a physical therapist.

#### **Examination and licensure of applicants--in general**

(R.C. 4755.41(A), 4755.43, 4755.431, 4755.44, and 4755.441)

**Current law.** Current law requires the Physical Therapy Section to license *and* examine persons desiring to practice physical therapy or to practice as

physical therapist assistants in Ohio. If a person meets certain requirements, and if the Section is unaware of the grounds for refusal to issue a license, the Section must admit the applicant to the examination the Section administers. The examination must be held at least twice a year at a time and place the Section determines. In addition, the examination must be conducted in accordance with rules the Section prescribes.

**The bill.** The bill eliminates the reference to the Section's authority to conduct examinations. Rather, the bill provides that, in most cases, to be eligible to receive a license to practice as a physical therapist or physical therapist assistant, an applicant must pass both (1) a national physical therapy examination for physical therapists or physical therapist assistants (as applicable) *approved* by the Physical Therapy Section that tests the applicant's knowledge of the basic and applied sciences as they relate to physical therapy and physical therapy theory and procedures, and (2) a jurisprudence examination on Ohio's laws and rules governing the practice of physical therapy. Therefore, the bill permits an entity, other than the Section, to examine the applicant's knowledge.

The bill also affirmatively provides that if an applicant passes both examinations,<sup>7</sup> the Section must issue to the applicant a license to practice as a physical therapist or physical therapist assistant (as applicable), attested by the seal of the Board.

#### **Waiver of examination requirement**

(R.C. 4755.45 and 4755.451)

**Current law.** Currently, the Physical Therapy Section may issue a license to a person to practice as a physical therapist or physical therapist assistant without requiring that person to take the examination the Section administers if the person pays the fee determined by the Section and meets *either* of the following requirements:

(1) Is registered or licensed as a physical therapist or physical therapist assistant in another state or foreign country, provided the requirements for registration or licensure under the appropriate category in that state or country were, on the date of registration or licensure, substantially equal to the requirements in force in Ohio;

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<sup>7</sup> Or only the jurisprudence examination, if the applicant does not need to pass the national examination again because the applicant previously passed the national examination as described in R.C. 4755.45 or 4755.451.

(2) Has previously passed a qualifying examination for physical therapists or physical therapist assistants that is acceptable to the Section.

**The bill.** The bill alters these requirements and establishes separate sections that list the requirements a person must meet to obtain a license to practice as a physical therapist or physical therapist assistant.

I. Physical therapists

Under the bill, a person can still obtain a license to practice as a physical therapist without passing the national examination for physical therapists within one year of filing an application for licensure if the person does all of the following:

(1) Presents evidence satisfactory to the Section that the person received a score on the national physical therapy examination (described in "**Examination and licensure of applicants--in general,**" above) that would have been a passing score according the Board in the year the person sat for the national examination;

(2) Presents evidence satisfactory to the Section that the person passed the jurisprudence examination (also described in "**Examination and licensure of applicants--in general,**" above);

(3) Holds a current and valid license or registration to practice physical therapy in another state or country;

(4) Demonstrates that the person's education is reasonably equivalent to the educational requirements that were in force for licensure in Ohio on the date of the person's initial licensure or registration in the other state or country;

(5) Pays a fee determined by the Section that does not exceed \$125;

(6) Is not in violation of the chapter governing the practice of physical therapy, occupational therapy, and athletic training (R.C. Chapter 4755.) or any rule adopted under it.

Under the bill, for purposes of meeting the requirement specified under (4) above, if, after receiving the results of an equivalency evaluation from a credentialing organization identified by the Section pursuant to rules, the Section determines that regardless of the results of the evaluation, the applicant's education is not reasonably equivalent to the educational requirements that were in force for licensure in this state on the date of the applicant's initial licensure or registration in another state or foreign country, the Section must send a written notice to the applicant stating that the Section is denying the applicant's application and stating the specific reason why the Section is denying the applicant's application. The

Section must send the notice to the applicant through certified mail within 30 days after the Section makes that determination.

## II. Physical therapist assistants

Under the bill, a person can still obtain a license to practice as a physical therapist assistant without passing the national examination for physical therapist assistants within one year of filing an application for licensure if the person does all of the following:

(1) Presents evidence satisfactory to the Section that the person received a score on the national physical therapy examination (described in **Examination and licensure of applicants--in general**," above) that would have been a passing score according to the Board in the year the person sat for the examination;

(2) Presents evidence satisfactory to the Section that the applicant passed the jurisprudence examination (also described in **Examination and licensure of applicants--in general**," above);

(3) Holds a current and valid license or registration to practice as a physical therapist assistant in another state;

(4) Demonstrates that the person's education is reasonably equivalent to the educational requirements that were in force for licensure in Ohio on the date of the applicant's initial licensure or registration in the other state;

(5) Pays a fee determined by the Section that does not exceed \$125;

(6) Is not in violation of the chapter governing the practice of physical therapy, occupational therapy, and athletic training (R.C. Chapter 4755.) or any rule adopted under it.

### **Application for licensure**

(R.C. 4755.42 and 4755.421)

**Current law--physical therapists only.** Current law provides that each person who desires to practice physical therapy must file with the Secretary of the Physical Therapy Section an application, under oath, on a form prescribed by the Section, and must furnish satisfactory proof that the applicant has the following qualifications:

(1) Is at least 18 years old;

(2) Is of good moral character;



(3) Has completed a program of physical therapy education approved by the Section that includes both (a) a minimum of 60 academic semester credits or its equivalent from a recognized college, including courses in biological and other physical sciences, and (b) an accredited course in physical therapy education that has provided adequate instruction in the basic sciences, clinical sciences, and physical therapy theory and procedures, as determined by the Section.

The applicant must also pay a fee in an amount determined by the Section.

**Current law--physical therapist assistants only.** Current law provides that each person who desires to practice as a physical therapist assistant must file with the Secretary of the Section an application, under oath, on a form prescribed by the Section, and must furnish satisfactory proof that the applicant meets both of the following requirements:

(1) Is of good moral character;

(2) Has either (a) completed a program of education approved by the Section, or (b) on November 21, 1977, has been for at least two years engaged full time in Ohio as a physical therapist assistant.

Existing law provides that an approved education program for physical therapist assistants must be at least a two-year program offered by a college accredited by a recognized accrediting agency, and must include such elementary or intermediate courses in anatomical, biological, and other physical sciences as are prescribed by rule of the Section.

**The bill.** The bill separates the application procedure for physical therapists and physical therapist assistants into separate sections.

#### I. Physical therapists only

With respect to physical therapists, the bill still requires that an applicant file an application form with the Secretary of the Section. However, it eliminates the requirement that it be made under oath on a form prescribed by the Board. Instead, the bill provides that the applicant must file a *notarized* application. In addition, the bill changes the information an applicant must supply with an application form. Specifically, the bill provides that an application must include all of the following:

(1) The applicant's name;

(2) The applicant's current address;

(3) A physical description and photograph of the applicant;



(4) Proof that the applicant has completed a master's or doctorate program of physical therapy education that is accredited by a national physical therapy accreditation agency recognized by the U.S. Department of Education that includes both (a) a minimum of 120 (up from 60 in current law) academic semester credits or its equivalent, including courses in the biological and other sciences, and (b) a course in physical therapy education that has provided instruction in basic sciences, clinical sciences, and physical therapy theory and procedures.

## II. Physical therapist assistants only

With respect to physical therapist assistants, the bill still requires that an applicant file an application form with the Secretary of the Section. However, it eliminates the requirement that it be made under oath on a form prescribed by the Board. Instead, the bill provides that the applicant must file a *notarized* application. In addition, the bill changes the information an applicant must supply with an application form. Specifically, the bill provides that an applicant's application must include all of the following:

- (1) The applicant's name;
- (2) The applicant's current address;
- (3) A physical description and photograph of the applicant;

(4) Proof that the applicant has completed a two-year program of education that is accredited by a national physical therapy accreditation agency recognized by the U.S. Department of Education.

## III. Provisions applicable to both physical therapists and physical therapist assistants

The bill provides that an applicant for a license to practice physical therapy or to practice as a physical therapist assistant must pay an application fee of no more than \$125.

The bill also requires the Section to approve an application to sit for the required national examination for physical therapists or physical therapist assistants not later than 120 days after receiving an application that the Section considers complete unless the Board has either (1) requested documents relevant to the Section's evaluation of the application, or (2) notified the applicant in writing of the Section's intent to deny a license and the applicant's right to request a hearing in accordance with the Ohio Administrative Procedure Act (R.C. Chapter 119.) to appeal the Section's intent to deny a license.

If the Section fails to comply with the 120-day requirement, the Section must refund one-half of the application fee to the applicant.

**License renewal**

(R.C. 4755.412 and 4755.46)

**Current law.** Under current law, every licensed physical therapist and physical therapist assistant is required to renew his or her license biennially. The timetable for renewal is based on the licensee's last name: licensees with last names beginning with any letter from "A" to "L" must apply for renewal by January 31 of each even-numbered calendar year; licensees with last names beginning with any letter from "M" to "Z" must apply for renewal by January 31 of each odd-numbered year. All licenses must be renewed according to the standard renewal procedure of R.C. Chapter 4745.

Each application must be accompanied by the biennial renewal fee determined by the Section and, if applicable, the applicant's signed statement that in the two-year period ending on December 31 of the preceding year, the applicant completed the requisite continuing education courses.

A license that is not renewed by January 31 of the appropriate year automatically expires on that date. The Section is required to adopt rules in accordance with the Ohio Administrative Procedure Act prescribing the late fees and conditions under which the license of a licensee who files a late application for renewal will be reinstated.

**The bill.** The bill eliminates the renewal timetable based on a licensee's last name and instead, requires licensees to renew their licenses in accordance with the schedule established in rules adopted by the Section. The bill also eliminates the requirement that licenses be renewed in accordance with the state's standard license renewal procedure (R.C. Chapter 4745.) and instead, provides that licenses may be renewed in accordance with rules adopted by the Board.

The bill maintains the requirement that a renewal application be accompanied by a biennial renewal fee and establishes that the renewal fee cannot exceed \$125. However, the bill permits the Physical Therapy Section, subject to the approval of the Controlling Board, to establish fees for licensure and renewal of licensure in excess of the \$125 limit placed on the Section under the bill.

The bill provides that the renewal application must be accompanied by a signed statement in which the licensee affirms that the licensee completed the requisite continuing education within the time frame established by the Section in rules. The bill also adds a new requirement that each licensee report to the Section

in writing a change in name, business address, or home address not later than 30 days after the date of the change.

**Teaching a physical therapy theory and procedures course without a license**

(R.C. 4755.40 and 4755.482)

**Current law.** Current law defines "physical therapist" as a person who practices or *teaches* physical therapy. A person must be licensed by the Section to indicate or imply that the person is a physical therapist. Therefore, under current law, a person must be licensed to teach physical therapy. If a person teaches physical therapy without a license, the person is guilty of a minor misdemeanor unless the person has previously been convicted of an offense regarding practicing physical therapy, in which case the person is guilty of a fourth degree misdemeanor.

**The bill.** As discussed under "**Definition of a physical therapist,**" above, the bill removes the word "teaches" from the definition of a physical therapist. However, except as described below, the bill continues to prohibit a person from teaching a physical therapy theory and procedures course in physical therapy education without obtaining a license. The bill prohibits a person who is registered or licensed as a physical therapist under the laws of another state from teaching a physical therapy theory and procedures course in physical therapy education for more than one year without obtaining a license as a physical therapist. The bill permits a person who is registered or licensed as a physical therapist under the laws of a foreign country and is not registered or licensed as a physical therapist in any state who wishes to teach a physical therapy theory and procedures course in physical therapy education in this state, or an institution that wishes the person to teach such a course at the institution, to apply to the Section to request authorization for the person to teach such a course for a period of not more than one year. Any member of the Section may approve the person's or institution's application. The bill prohibits such a person from teaching such a course for longer than one year without obtaining a license from the Section.

Under the bill, the Section may investigate any person who allegedly teaches a physical therapy theory and procedures course without a license in violation of the bill's provisions. The bill states that the Section has the same powers to investigate this type of alleged violation by a non-licensee as the powers the Section has to investigate alleged violations by licensees (see "**Investigations, inquiries, and hearings,**" below). If, after investigation, the Section determines that reasonable evidence exists that a person is teaching such a course without a license in violation of the bill, within seven days after that determination, the Section must send a written notice to that person in the same manner as prescribed

in the Ohio Administrative Procedure Act for licensees, except that the notice must specify that a hearing will be held and specify the date, time, and place of the hearing.

The bill requires the Section to hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under the Ohio Administrative Procedure Act. If the Section, after the hearing, determines a violation has occurred, the Section may discipline the person in the same manner as the Section disciplines licensees (see "Disciplinary action," below). The Section's determination is an order that the person may appeal in accordance with the Ohio Administrative Procedure Act.

Under the bill, if a person who allegedly committed a violation fails to appear for a hearing, the Section may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the Section for a hearing. If the Section assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the Section, the Section must forward to the Attorney General the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed, the person also must pay any fee assessed by the Attorney General for collection of the civil penalty.

**Investigations, inquiries, and hearings**

(R.C. 4755.41(B))

Existing law provides that an investigation, inquiry, or hearing that the Section is authorized to undertake or hold may be undertaken or held by or before any member of the Section.

The bill eliminates this provision and instead provides that an investigation, inquiry, or hearing may be undertaken or held in accordance with the section that governs investigations, inquiries, and hearings for *all* sections of the Board (for a discussion of this section, see "Provisions applicable to all three Sections (Occupational Therapy, Physical Therapy, and Athletic Trainers Sections)," above).

**Disciplinary action**

(R.C. 4755.47)

**Current law.** The Physical Therapy Section may refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by a vote of at least five members, may suspend or revoke

the license of a physical therapist or physical therapist assistant or reprimand or place a license holder on probation for a number of grounds.

**The bill**

I. Sanctions

The bill amends current law to permit the Section, by *an affirmative* vote of *not less than five members*, to not only suspend or revoke a license, or reprimand or place a license holder on probation, but also to limit a license or to fine a license holder.

II. Grounds for discipline

The bill amends six of the eleven current grounds for discipline. The following table shows these changes:

Ground for discipline in current law	Ground for discipline under the bill
Obtaining or attempting to obtain a license by fraud or deception.	Obtaining or attempting to obtain a license <i>issued by the Physical Therapy Section</i> by fraud or deception, <i>including the making of a false, fraudulent, deceptive, or misleading statement.</i>
Subject to the section of law governing the authorized forms of business entities for providing physical therapy services (R.C. 4755.471), violation of the code of ethics of the American Physical Therapy Section.	Subject to the section of law governing the authorized forms of business entities for providing physical therapy services (R.C. 4755.471), violation of the code of ethics <i>adopted by the Physical Therapy Section.</i>
Violation of the sections of law governing the practice of physical therapists and physical therapist assistants (R.C. 4755.40 to 4755.56) or any order issued or rule adopted under those sections.	<i>Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate</i> the sections of law governing the practice of physical therapists and physical therapist assistants (R.C. 4755.40 to 4755.56) or any order issued or rule adopted under those sections.
Failure of the licensing examination.	Failure of <i>one or both of the examinations required under the sections governing examinations</i> (R.C. 4755.43 or 4755.431).

Ground for discipline in current law	Ground for discipline under the bill
Aiding or abetting the unlicensed practice of physical therapy.	<i>Permitting the use of one's name or license by a person, group, or corporation when the one permitting the use is not directing the treatment given.</i>
Having been disciplined by the physical therapy licensing authority of another state or country for an act that would constitute grounds for discipline.	<i>Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including physical therapy, for any reason other than failure to renew, in Ohio or another state or jurisdiction.</i>

The bill also adds several new grounds for which a physical therapist or physical therapist assistant can be disciplined by the Section. These new grounds are the following:

- (1) Failure to maintain minimal standards of practice in the administration or handling of drugs or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment;
- (2) Willful betrayal of a professional confidence;
- (3) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of physical therapy;
- (4) A departure from, or the failure to conform to, minimal standards of care required of licensees when under the same or similar circumstances, whether or not actual injury to a patient is established;
- (5) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;
- (6) Violation of the conditions of limitation or agreements placed by the Physical Therapy Section on a license to practice;
- (7) Failure to renew a license in accordance with the section of law governing license renewal (R.C. 4755.46);
- (8) Except as provided in the section of law that permits certain professionals to form business entities for the purpose of providing a combination of professional services, engaging in the division of fees for referral of patients or

receiving anything of value in return for a specific referral of a patient to utilize a particular service or business;

(9) Inability to practice according to acceptable and prevailing standards of care because of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;

(10) The revocation, suspension, restriction, or termination of clinical privileges by the United States Department of Defense or Department of Veterans Affairs;

(11) Termination or suspension from participation in the Medicare or Medicaid program for an act or acts that constitute a violation of the sections of the law governing the practice of physical therapists and physical therapist assistants (R.C. 4755.40 to 4755.56);

(12) Failure of a physical therapist to maintain supervision of a student, physical therapist assistant, unlicensed support personnel, other assistant personnel, or a license applicant in accordance with the sections of the law governing the practice of physical therapists and physical therapist assistants and rules adopted under those sections;

(13) Failure to complete continuing education requirements as prescribed in the sections of law governing continuing education requirements or to satisfy any rules applicable to continuing education requirements that are adopted by the Physical Therapy Section;

(14) Conviction of a misdemeanor when the act that constitutes the misdemeanor occurs during the practice of physical therapy;

(15) In general, failure to cooperate with an investigation conducted by the Physical Therapy Section, including failure to comply with a subpoena or orders issued by the Section or failure to answer truthfully a question presented by the Section at a deposition or in written interrogatories. However, failure to cooperate with an investigation does not constitute grounds for discipline if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue.

(16) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the physical therapist or physical therapist assistant, in any of the following:

(a) Sexual contact;<sup>8</sup>

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(17) Failure to notify the Physical Therapy Section of a change in name, business address, or home address within 30 days after the date of change;

(18) Violation of any section of laws governing physical therapists (R.C. Chapter 4755.) or rules adopted under those laws.

### III. Summary suspension

The bill authorizes the Section, on receipt of a complaint that a person licensed by the Section has committed any of the acts for which disciplinary action is prescribed, to immediately suspend the person's license prior to holding an administrative hearing if it determines, based on the complaint, that the person poses an immediate threat to the public. The Section must notify the person of the suspension in accordance with the Ohio Administrative Procedure Act. If the person fails to make a timely request for an administrative adjudication, the Section must enter a final order permanently revoking the person's license.

### IV. Notification requirement

The bill adds a new requirement that when the Physical Therapy Section refuses an application for an initial or renewed license, the Section must notify the applicant in writing of the Section's decision to refuse issuance of a license and the reason for its decision.

### **Prohibited representations**

(R.C. 4755.48(B), (C), and (F))

Current law prohibits a person from making certain representations unless that person holds a valid license issued by the Physical Therapy Section. The bill expands a few of these prohibitions. The table below shows the differences in the prohibitions that are changed under the bill.

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<sup>8</sup> "Sexual contact" is defined as any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.



Prohibition in current law	Prohibition under the bill
<p>No person shall practice or in any way claim to the public to be able to practice physical therapy, including practice as a physical therapist assistant, unless the person holds a valid license or except as provided in R.C. 4755.56 (which requires physical therapists and health care professionals who render physical therapy services or services within their scope of practice to provide current license numbers when submitting insurance claims).</p>	<p>No person shall practice or in any way <i>imply or</i> claim to the public <i>by words, actions, or the use of the letters</i> to be able to practice physical therapy <i>or to provide physical therapy services</i>, including practice as a physical therapist assistant, unless the person holds a valid license or <i>except for submission of claims</i> as provided in R.C. 4755.56.</p>
<p>No person shall use the words or letters, "physical therapist," "physical therapy," "physiotherapist," "licensed physical therapist," "P.T.," "Ph.T.," "P.T.T.," "R.P.T.," "L.P.T.," "M.P.T.," "D.P.T.," "M.S.P.T.," "P.T.A.," "physical therapy assistant," "physical therapist assistant," "physical therapy technician," "licensed physical therapist assistant," "L.P.T.A.," "R.P.T.A.," or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant without a valid license.</p>	<p>No person shall use the words or letters, "physical therapist," "physical therapy," "<i>physical therapy services</i>," "physiotherapist," "<i>physiotherapy</i>," "<i>physiotherapy services</i>," "licensed physical therapist," "P.T.," "Ph.T.," "P.T.T.," "R.P.T.," "L.P.T.," "M.P.T.," "D.P.T.," "M.S.P.T.," "P.T.A.," "physical therapy assistant," "physical therapist assistant," "physical therapy technician," "licensed physical therapist assistant," "L.P.T.A.," "R.P.T.A.," or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant without a valid license.</p>

The bill also adds that nothing in the sections of law governing the practice of physical therapy or practice as a physical therapist assistant prevents or restricts the activities or services of a person pursuing a course of study leading to a degree in physical therapy in an accredited or approved educational program if the activities or services constitute a part of a supervised course of study and the person is designated by a title that clearly indicates the person's status as a student.

**Practicing physical therapy without a prescription or referral**

(R.C. 4755.48(G))

**Current law.** Under existing law, a person is prohibited from practicing physical therapy other than on the prescription of, or the referral of a patient by, a person who is licensed in Ohio or another state to practice medicine and surgery,

chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery, or to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, within the scope of such practices, and whose license is in good standing, unless either of the following are true:

(1) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the U.S. Department of Education and by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board.

(2) On or before December 31, 2004, the person completed at least two years of practical experience as a licensed physical therapist.

**The bill.** The bill changes the first condition to specify that the person must hold a master's or doctorate degree from a professional physical therapy program that is accredited by a national *physical therapy* accreditation agency recognized by the U.S. Department of Education. The bill eliminates the requirement that the program be recognized by the Board.

**Other health professionals who practice within scope of licenses**

(R.C. 4755.50)

**Current law.** Current law provides that nothing in the chapter governing the professions of physical therapy, occupational therapy, and athletic training (R.C. Chapter 4755.) can be construed to prevent or restrict the practice of any person who is a licensed health professional in Ohio while that person practices within the scope of the person's license and according to the standards and ethics of the person's profession, or of any person acting under the supervision of that licensed health care professional. Current law also prohibits the services rendered by a person acting under the supervision of a licensed health care professional from being designated as physical therapy.

**The bill.** The bill expands the provision discussed above by adding that nothing in the chapter governing the professions of physical therapy, occupational therapy, and athletic training can be construed to prevent or restrict the activities of a person *employed by* a licensed health professional when that employee is working for a health care professional who practices within the scope of the professional's license.

### **Submission of insurance claims**

(R.C. 4755.56)

**Current law.** Existing law requires each person and governmental entity, when submitting to a governmental health care program or third-party payer a claim for payment for services rendered in Ohio that are designated in the claim as physical therapy, to specify either of the following:

- (1) The current license number of the licensed physical therapist;
- (2) The current license number of another health care professional who rendered the services within the scope of the professional's license.

Current law also requires each licensed physical therapist who renders or supervises physical therapy, and each licensed health care professional who renders services within the professional's scope of practice, to provide a patient, when the patient is responsible for submitting a claim to a governmental health care program or third-party payer, with the physical therapist's or health care professional's license number.

Finally, current law specifies that a governmental health care program or third-party payer is not required to pay a claim for payment of services designated as physical therapy that does not specify the physical therapist's or health care professional's license number.

**The bill.** The bill eliminates all references in the provisions discussed above to "license numbers" and replaces them with references to the physical therapist's or health care professional's *national provider identifier*--a unique, ten-digit number that is assigned by the U.S. Secretary of Health and Human Services or the Secretary's designee to a health care provider in accordance with federal regulations.<sup>9</sup>

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<sup>9</sup> *The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) require the U.S. Secretary of Health & Human Services to adopt a standard unique identifier for health care providers. In response, the Secretary adopted the National Provider Identifier (NPI), a unique, ten-digit identifier, as the standard identifier (45 C.F.R. 162.406). Most health care providers, in order to comply with HIPAA, must have an identifier by May 23, 2007. Even if a provider is not required to have an NPI, the provider can still obtain one. Centers for Medicare & Medicaid Services. Overview: National Provider Identifier Standard (visited Dec. 20, 2005), accessible at <<http://www.cms.hhs.gov/NationalProvIdentStand/>>.*

### **Standard insurance claim form**

(R.C. 3902.22)

**Current law.** Related to the requirement described above (see "**Submission of insurance claims**"), the Superintendent of Insurance must develop a standard claim form to be used by all third-party payers and providers for reimbursement of health care services and supplies. While the Superintendent is permitted to prescribe the design of the form in rules, the form must include a method to specify the license numbers of physical therapists or other health care professionals rendering services designated as physical therapy.

**The bill.** The bill eliminates the reference to physical therapists' or other health care professionals' license numbers and instead, requires the standard claim form to include a method to specify the national provider identifiers assigned to physical therapists or other health care professionals who render services designated as physical therapy.

### **Rulemaking authority**

(R.C. 4755.41(A) (current law); R.C. 4755.411 and Section 2 (the bill))

**Current law.** Under current law, the Physical Therapy Section has broad rulemaking authority. Specifically, current law states that "the [S]ection shall adopt rules in accordance with the Ohio Administrative Procedure Act (R.C. Chapter 119.) necessary for the performance of its duties."

**The bill.** The bill eliminates the broad statement of rulemaking authority in current law and replaces it with a list of the specific matters about which the Section must adopt rules:

- (1) Fees for the verification of a license and license reinstatement, and other fees established by the Section;
- (2) Provisions for the Section's government and control of its actions and business affairs;
- (3) Minimum curricula for physical therapy education programs that prepare graduates to be licensed in Ohio as physical therapists and physical therapist assistants;
- (4) Eligibility criteria to take the examinations required by the sections of law governing examinations (R.C. 4755.43 and 4755.431);

(5) The form and manner for filing applications for licensure with the Section;

(6) For purposes of the section of law governing license renewal (R.C. 4755.46), all of the following:

(a) A schedule regarding when licenses to practice as a physical therapist and physical therapist assistant expire during a biennium;

(b) An additional fee, not to exceed \$35, that may be imposed if a licensee files a late application for renewal;

(c) The conditions under which the license of a person who files a late application for renewal will be reinstated.

(7) The issuance, renewal, suspension, and permanent revocation of a license and the conduct of hearings;

(8) Appropriate ethical conduct in the practice of physical therapy;

(9) Requirements, including continuing education requirements, for restoring licenses that are inactive or have lapsed through failure to renew;

(10) Conditions that may be imposed for reinstatement of a license following suspension;

(11) For purposes of the section of law governing licensure with a waiver of the national examination requirement (in R.C. 4755.45), both of the following:

(a) Identification of the credentialing organizations from which the Section will accept equivalency evaluations for foreign physical therapist education. The Section must identify only those credentialing organizations that use a course evaluation tool or form approved by the Section.

(b) Evidence, other than the evaluations described above, that the Section must consider for purposes of evaluating whether an applicant's education is reasonably equivalent to the educational requirements that were in force for licensure in Ohio as a physical therapist on the date of the applicant's initial licensure or registration in another state or country.

(12) Standards of conduct for physical therapists and physical therapist assistants, including requirements for supervision, delegation, and practicing with or without referral or prescription;

(13) Appropriate display of a license;



(14) Procedures for a licensee to follow in notifying the Section within 30 days of a change in name or address, or both.

In addition, the bill specifies that on the effective date of the bill, any rule administered by the Physical Therapy Section that is in conflict with the provisions of the bill is void.

**Deposit of fees**

(R.C. 4755.41(C)(4) (the bill))

The bill requires that the Section deposit all fees collected by the Section in accordance with the section governing the deposit of all fees collected and assessed by the Board.

**Distribution of Section information**

(R.C. 4755.41(C)(5) (the bill))

The bill requires the Section, on receipt of an application for a license to practice as a physical therapist or physical therapist assistant, to provide to the applicant the Section's address, dates of upcoming Section meetings, and a list of names of the Section members.

**Authority to perform other tasks as necessary and proper**

(R.C. 4755.41(C)(4) (current law))

The bill eliminates the authority the Section has in current law to do all other things necessary and proper to carry out and enforce the sections of Ohio law that specifically pertain to the practice of physical therapy.

**Section books and records**

(R.C. 4755.41(D) (current law))

The bill repeals the provision in current law that provides that the books and records of the Section are prima facie evidence<sup>10</sup> of the matters contained in the books and records.

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<sup>10</sup> *Prima facie evidence is evidence that is sufficient (in the judgment of the law) to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient.* BLACK'S LAW DICTIONARY 825-826 (6th ed. abridged 1991).

**Provisions exclusively applicable to the Athletic Trainers Section**

**Requirements for a license**

(R.C. 4755.62(C))

The bill changes some of the requirements that a person needs to meet to obtain a license to practice as an athletic trainer. The table, below, compares the requirements in current law with the requirements in the bill.

Requirement in current law	Requirement under the bill
Satisfactorily complete an application for licensure in accordance with rules adopted by the Athletic Trainers Section.	Same as current law.
Pay the required examination fee.	Same as current law.
Be a resident of Ohio or perform substantial athletic training in Ohio.	This requirement is repealed.
Be of good moral character.	Same as current law.
Show, to the satisfaction of the Board, that the applicant has received a baccalaureate or higher degree from an institution of higher education, approved by the Section and the federal regional accreditation agency and recognized by the Council on Postsecondary Accreditation, and has completed a program that meets the academic standards for athletic trainers established by the National Athletic Trainers Association, Inc. The program must include satisfactory completion of the educational course work requirements established in rules adopted by the Section.	Show, to the satisfaction of the <i>Section</i> , that the applicant has received a baccalaureate or higher degree from an institution of higher education, approved by the Section and the federal regional accreditation agency and recognized by the Council on Postsecondary Accreditation, and has <i>satisfactorily</i> completed the educational course work requirements established in rules adopted by the Section.
In addition to the requirement described immediately above, complete 800 hours of supervised clinical experience over a minimum of a two-year period.	In addition to the requirement described immediately above, have <i>obtained</i> supervised clinical experience <i>that meets the requirements in rules adopted by the Section</i> .
Pass an examination adopted by the Section. Each applicant for licensure must pay, at the time of application, the nonrefundable examination fee set by the Section.	Same as current law.

The bill provides that a license issued by the Section entitles the holder not only to claim to the public to be an athletic trainer or to imply by words or letters that the licensee is an athletic trainer, but also to *engage in the practice of athletic training*.

**License renewal**

(R.C. 4755.63)

**Current law.** Under current law, each license to provide athletic training expires two years after the date it is issued. However, each person who holds a valid, unexpired license may apply to the Section for license renewal on forms and according to the schedule approved by the Section. The Section must renew a license on the payment of the license renewal fee and submission to the Section of proof of satisfactory completion of not less than six units of continuing education courses acceptable to the Section or reexamination.

**The bill.** The bill eliminates the specific reference to licenses expiring every two years and instead, provides that licenses expire biennially in accordance with the schedule established in rules adopted by the Section. In addition, it changes the continuing education requirement: an applicant must submit proof of satisfactory completion of the "required" (as opposed to six) units of continuing education courses, as specified by the Section in rules. The bill also adds one new requirement that must be met before the Section will renew a license: an applicant must submit a renewal application to the Section.

**Prohibited representations**

(R.C. 4755.62(A) and (B))

**Current law.** Current law prohibits a person from claiming to the public to be an athletic trainer or imply by words or letters that the person is an athletic trainer unless the person is licensed as an athletic trainer by the Athletic Trainers Section.

In addition, current law generally prohibits a partnership, association, or corporation from advertising or otherwise offering to provide or convey the impression that it is providing athletic training unless an individual licensed as an athletic trainer is employed by, or under contract to, the partnership, association, or corporation and will be performing the athletic training services.

**The bill.** The bill expands the prohibitions described above. First it prohibits a person from claiming to the public to be an athletic trainer or imply by words, actions, or letters that the person is an athletic trainer, or otherwise engages



in the practice of athletic training, unless the person is licensed as an athletic trainer by the Athletic Trainers Section.

Second, the bill prohibits, in addition to partnerships, associations, and corporations, educational institutions from advertising or otherwise offering to provide or convey the impression that it is providing athletic training unless an individual licensed as an athletic trainer is employed by, or under contract to, the educational institution and will be performing athletic training services.

**Disciplinary action**

(R.C. 4755.64)

**Current law.** The Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board may suspend, revoke, or refuse to issue or renew an athletic trainers license, or reprimand or place a licensee on probation for a number of grounds.

**The bill**

I. Sanctions

The bill amends current law to permit the Section to not only suspend, revoke, or refuse to issue or renew a license, or to reprimand or place a licensee on probation, but also to fine the licensee.

II. Grounds for discipline

The bill substantively amends three of the twelve current grounds for discipline. The following table shows these changes:

Ground for discipline in current law	Ground for discipline under the bill
Conviction of an offense involving moral turpitude, regardless of the state or country in which the conviction occurred.	Conviction of <i>a felony or</i> offense involving moral turpitude, regardless of the state or country in which the conviction occurred.
Practicing in an area of athletic training for which the individual is clearly untrained or incompetent or practice without the referral of a physician, a dentist, a chiropractor, or a physical therapist.	Practicing in an area of athletic training for which the individual is untrained, incompetent, or practicing without the referral of a physician, a dentist, a chiropractor, or a physical therapist.



Ground for discipline in current law	Ground for discipline under the bill
Having been disciplined by the athletic training licensing authority of another state or country for an act that would constitute grounds for discipline.	<i>Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than failure to renew, in Ohio or another state or jurisdiction.</i>

### III. Summary suspension

The bill authorizes the Section, on receipt of a complaint that a person who holds a license issued by the Section has committed any of the acts for which disciplinary action is prescribed, to immediately suspend the person's license prior to holding an administrative hearing if it determines, based on the complaint, that the person poses an immediate threat to the public. The Section must notify the person of the suspension in accordance with the Ohio Administrative Procedure Act. If the person fails to make a timely request for an administrative adjudication, the Section must enter a final order permanently revoking the person's license.

#### **Other health professionals who practice within scope of licenses**

(R.C. 4755.65(A)(1))

**Current law.** Current law prohibits any provision in the sections of law governing the delivery of athletic training services to prevent or restrict the practice, service, or activities of any of the following who are licensed in Ohio: physicians, dentists, chiropractors, dieticians, or qualified members of any other occupation or profession practicing within the scope of such persons' licenses or professions and who do not claim to the public to be athletic trainers.

**The bill.** The bill specifically adds physical therapists who are licensed in Ohio to the health professionals who are not prevented or restricted, by the sections of law governing the delivery of athletic training services, from practicing, providing services, or engaging in the activities of their profession.

#### **Unlicensed, non-resident athletic trainers**

(R.C. 4755.65(A)(4))

**Current law.** Current law prohibits any provision in the sections of law governing the delivery of athletic training services from preventing or restricting the practice, services, or activities of any person who is a nonresident of Ohio

practicing or offering to practice athletic training, if the nonresident offers athletic training services for not more than 90 calendar days per year or, with approval of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, more than 90 days but not more than 180 calendar days per year and meets either of the following requirements:

(1) The nonresident qualifies for licensure, except for passage of the examination adopted by the Board.

(2) The nonresident holds a valid license issued by a state that has licensure requirements considered by the Section to be comparable to those of Ohio.

**The bill.** The bill repeals the provision described above and instead, provides that a person who practices or offers to practice athletic training, but is not an individual licensed as an athletic trainer in Ohio, cannot be prevented or restricted in the person's practice, services, or activities if the person is traveling with a visiting team or organization from outside Ohio or an event approved by the Section for the purpose of providing athletic training to the visiting team, organization, or event.

**Rulemaking authority**

(R.C. 4755.61(A)(1))

**Current law.** The Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board must adopt rules, not inconsistent with the law governing occupational therapy, physical therapy, and athletic trainers (R.C. Chapter 4755.), including rules that specify educational course work requirements for licensure.

In addition, the Section must adopt rules to determine the scope and nature of the continuing education courses that comply with the requirement for renewal of a license (R.C. 4755.63).

**The bill.** The bill expands the rules the Section must adopt to include the following:

- Rules that specify the *application form and* educational course work *and clinical experience* requirements for licensure.
- Rules *specifying* the scope and nature of the continuing education courses that *are acceptable to the Section and the number of courses that must be completed* to comply with the requirement for renewal of a license.

- Rules establishing the schedule when licenses to practice as an athletic trainer expire during a biennium.

**Fees**

(R.C. 4755.61(A)(2))

**Current law.** The Athletic Trainers Section must establish license and examination fees in accordance with the section of law governing fees and the section of law governing how fees are to be deposited.

**The bill.** The bill provides that the Section must establish *and deposit* all fees that are collected by the Section in accordance with the section of law governing fees and the section of law governing how fees are to be deposited.

**Miscellaneous**

**Occupational therapists--formation and operation of business entities**

(R.C. 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 4723.16, 4729.161, 4731.226, 4731.65, 4732.28, and 4734.17)

The bill adds occupational therapists licensed by the Occupational Therapy Section of the Occupational Therapy, Physical Therapy, and Athletic Trainers Board to the professionals that:

- Can form limited liability companies or professional associations for the purpose of rendering occupational therapy services with other occupational therapists or in connection with other health care professionals who provide services within the scopes of their licenses, certificates, or registrations.
- Must comply with the sections of law governing the formation and activities of limited liability companies and professional associations organized for the purpose of rendering one or more specific professional services.
- Must comply with the sections of law governing foreign limited liability companies that are registered in Ohio.
- Are permitted to join with registered nurses or licensed practical nurses to form corporations, limited liability companies, partnerships, or professional associations for the purpose of providing a combination of professional services, so long as each person who practices as a part of

the business entity is licensed, certificated, or otherwise legally authorized to practice.

- Are permitted to join with pharmacists to form corporations, limited liability companies, partnerships, or professional associations for the purpose of providing a combination of professional services, so long as each person who practices as a part of the business entity is licensed, certificated, or otherwise legally authorized to practice.
- Are permitted to join with physicians to form corporations, limited liability companies, partnerships, or professional associations for the purpose of providing a combination of professional services, so long as each person who practices as a part of the business entity is licensed, certificated, or otherwise legally authorized to practice.
- Are permitted to join with psychologists to form corporations, limited liability companies, partnerships, or professional associations for the purpose of providing a combination of professional services, so long as each person who practices as a part of the business entity is licensed, certificated, or otherwise legally authorized to practice.
- Are permitted to join with chiropractors to form corporations, limited liability companies, partnerships, or professional associations for the purpose of providing a combination of professional services, so long as each person who practices as a part of the business entity is licensed, certificated, or otherwise legally authorized to practice.
- Are included in the definition of "group practice" used in the law governing physicians (R.C. Chapter 4731.).

### **Technical changes**

(R.C. 3701.881, 4755.05, 4755.08, 4755.09, 4755.12, 4755.13, 4755.51, 4755.511, 4755.52, and 4755.61 (the bill))

The bill includes changes to some provisions of existing law for purposes of reorganization and for making conforming changes, corrections, and other technical changes. Examples of the changes include the following:

(1) For purposes of the sections governing occupational therapists and occupational therapy assistants, including a reference to "limited permits" or "limited permit holders" in addition to "licenses" and "licensees" to make the law consistent with other sections governing these professions.

(2) Separating the continuing education requirements for physical therapists and physical therapist assistants into separate sections.

(3) Replacing references to a "board" of another state that governs the licensure of physical therapists and physical therapist assistants to an "agency" of another state that performs this activity.

(4) Changing gender-specific references to gender-neutral references.

(5) Correcting cross-references that result from the reorganization of sections.

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## **HISTORY**

ACTION	DATE
Introduced	11-01-05
Reported, H. Commerce & Labor	12-06-06
Passed House (98-0)	12-12-06

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