House Bill 505 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43\textsuperscript{rd}, Ramsey of the 72\textsuperscript{nd}, Bennett of the 94\textsuperscript{th}, Gasaway of the 28\textsuperscript{th}, Cheokas of the 138\textsuperscript{th}, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 33 of Title 43 of the Official Code of Georgia Annotated, relating to physical therapists, so as to revise various provisions regarding the licensure and regulation of physical therapists and physical therapy assistants; to revise definitions; to include additional powers of the State Board of Physical Therapy; to revise provisions regarding use of titles; to revise provisions regarding granting licenses and discipline of licensees; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 33 of Title 43 of the Official Code of Georgia Annotated, relating to physical therapists, is amended by revising Code Section 43-33-3, relating to definitions, as follows:

"43-33-3. As used in this chapter, the term:

(1) 'Board' means the State Board of Physical Therapy.
(2) 'License' means a valid and current certificate of registration issued by the board, which shall give the person to whom it is issued authority to engage in the practice prescribed thereon.
(3) 'Licensee' means any person holding a license under this chapter.
(4) 'Person' means a human being only, not a legal entity.
(5) 'Physical therapist' means a person licensed to practice physical therapy as defined in this chapter and whose license is in good standing. A physical therapist shall be designated by the initials 'P.T.'
(6) 'Physical therapist assistant' or 'physical therapy assistant' means a person who is licensed by the board to assist a physical therapist, whose activities are supervised and directed by a physical therapist, and whose license is in good standing. A physical therapist assistant shall be designated by the initials 'P.T.A.'
(7) 'Physical therapy' means the care and services provided by or under the direction and supervision of a physical therapist who is licensed pursuant to this chapter. The term..."
'physiotherapist' shall be synonymous with 'physical therapy' pursuant to this chapter. The practice of physical therapy means:

(A) Examining, evaluating, and testing patients and clients with mechanical, physiological, and developmental impairments, activity limitations, participation restrictions, and disabilities or other movement related conditions in order to determine a physical therapy diagnosis, prognosis, and plan of intervention and to assess the ongoing effects of intervention;

(B) Alleviating impairments of body structure or function by designing, implementing, and modifying interventions to improve activity limitations or participation restrictions for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction, and pain;

(C) Reducing the risk of injury, impairment, activity limitations, participation restrictions, and disability, including the promotion and maintenance of health, fitness, and wellness in populations of all ages;

(D) Planning, administering, evaluating, and modifying intervention and instruction, including the use of physical measures, activities, and devices, including but not limited to dry needling for preventative and therapeutic purposes; and

(E) Engaging in administration, consultation, education, teaching, research, telehealth, and the provision of instructional, consultative, educational, and other advisory services.

the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain from injury, disease, and any other bodily and mental conditions and includes the administration, interpretation, documentation, and evaluation of tests and measurements of bodily functions and structures; the planning, administration, evaluation, and modification of treatment and instruction, including the use of physical measures, activities, and devices, for preventative and therapeutic purposes, including but not limited to dry needling; and the provision of consultative, educational, and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction, and pain.

(8) 'Physical therapy aide' means a person who only performs designated and supervised physical therapy tasks. The physical therapy aide must receive direct supervision and must be directed on the premises at all times by a licensee. Physical therapy aides are not licensed under this chapter.

(9) 'Trainee' means an individual who is approved for a traineeship.
(10) 'Traineeship' means a period of activity during which a trainee works under the
direct supervision of a licensed physical therapist who has practiced for not less than one
year prior to assuming the supervisory role.

(11) 'Training permit' means a valid and current certificate of registration issued by the
board; which gives the person to whom it is issued authority to engage in practice through
a traineeship prescribed thereon."

SECTION 2.

Said chapter is further amended by revising Code Section 43-33-7, relating to conduct of
business by telephone, as follows:

"43-33-7.

With the exception of hearings in contested cases, the board may conduct business in
conference by telephone or other digital means, provided that members of the board shall
not receive compensation for business conducted in conference by telephone or other
digital means."

SECTION 3.

Said chapter is further amended by revising Code Section 43-33-11, relating to license
required for physical therapists or physical therapy assistants, use of titles, and limitation on
scope of Code section, as follows:

"43-33-11.

A physical therapist shall display either the title 'physical therapist' or the abbreviation
'P.T.' on a name tag or other similar form of identification during times when such person
is providing direct patient care. A physical therapist assistant shall display either the title
'physical therapist assistant' or the abbreviation 'P.T.A.' on a name tag or other similar form
of identification during times when such person is providing direct patient care. A physical
therapy aide shall be required to display the title 'physical therapy aide' on a name tag or
other similar form of identification during times when such person is assisting a licensee.
No person shall practice as a physical therapist or as a physical therapist assistant nor hold
himself or herself out as being able to practice as a physical therapist or as a physical
therapist assistant or as providing physical therapy or use the initials P.T. or P.T.A. in
conjunction therewith or use any word or title to induce the belief that he or she is engaged
in the practice of physical therapy unless he or she holds a license and otherwise complies
with the provisions of this chapter and the rules and regulations adopted by the board:

(a) A physical therapist shall clearly inform the public of his or her professional credential
as a physical therapist. A physical therapist shall use the appropriate regulatory designator
as identified by the board.
(b) A physical therapist assistant shall use the letters 'PTA' immediately following his or her name to designate licensure under this chapter. A person shall not use the title 'physical therapist assistant,' the letters 'PTA,' or any other words, abbreviations, or insignia in connection with that person's name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is licensed as a physical therapist assistant pursuant to this chapter.

(c) A person or business entity and its employees, agents, or representatives shall not use in connection with that person's name or the name or activity of the business entity the words 'physical therapy,' 'physical therapist,' 'physiotherapist,' or 'doctor of physical therapy,' the letters 'PT,' 'CPT,' 'DPT,' 'LPT,' 'RPT,' or 'MPT,' or any other words, abbreviations, or insignia indicating or implying, directly or indirectly, that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to this chapter. A person or business entity shall not advertise or otherwise promote another person as being a physical therapist or physiotherapist unless the individual so advertised or promoted is licensed as a physical therapist under this chapter. A person or business entity that offers, provides, or bills any other person for services shall not characterize those services as physical therapy unless the individual directing and supervising those services is a person licensed under this chapter.

(d) Nothing in this Code section shall be construed as preventing or restricting the practice, services, or activities of:

(1) Any person licensed under any other law of this state who is engaged in the professional or trade practices properly conducted under the authority of such other licensing laws;

(2) Any person pursuing a course of study leading to a degree or certificate as a physical therapist or as a physical therapist assistant in an entry level educational program approved by the board, if such person is designated by a title indicating student status, is fulfilling work experiences required for the attainment of the degree or certificate, and is under the supervision of a licensed physical therapist;

(3) Any person enrolled in a course of study designed to develop advanced physical therapy skills when the physical therapy activities are required as part of an educational program sponsored by an educational institution approved by the board and are conducted under the supervision of a physical therapist licensed under this chapter. If such person provides physical therapy services outside the scope of the educational program, he or she shall then be required to be licensed in accordance with this chapter;

(4) A physical therapist licensed in another state or country or employed by the United States government conducting a teaching or clinical demonstration in connection with an academic or continuing education program;
(5) Any person employed as a physical therapist or as a physical therapist assistant by the United States government if such person provides physical therapy services solely under the direction or control of the employing organization. If such person shall engage in the practice of physical therapy or as a physical therapist assistant outside the course and scope of such employment, he or she shall then be required to be licensed in accordance with this chapter; or

(6) A person currently licensed in another state who is present in this state for treatment of a temporary sojourner only, said such treatment in this state not to exceed a total of 60 days during any 12 month period; or

(7) A person currently licensed in another state who is present in this state providing physical therapy services during a declared local, jurisdictional, or national disaster or emergency, such services not to exceed a total of 60 days during any 12 month period."

SECTION 4.

Said chapter is further amended by revising Code Section 43-33-12, relating to requirements for license to practice physical therapy, as follows:

"43-33-12.

A license to practice physical therapy shall be issued to any person who:

(1) Is a graduate of an educational program that prepares physical therapists and which is accredited by a recognized accrediting agency and approved by the board or, in the case of an applicant who has graduated from an educational program which prepares physical therapists conducted in a foreign country, has submitted, in a manner prescribed by the board, credentials approved by the board and who has further demonstrated the ability to speak, write, and understand the English language and has satisfactorily completed a three-month board approved traineeship under the supervision of a physical therapist licensed under this chapter;

(2) Has satisfactorily passed an examination prepared or approved by the board and has acquired any additional education and training required by the board; and

(3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18 or subsection (a) or (c) of Code Section 43-1-19."

SECTION 5.

Said chapter is further amended by revising Code Section 43-33-13, relating to requirements for license to practice as physical therapy assistant, as follows:

"43-33-13.

A license to practice as a physical therapist assistant shall be issued to any person who:
(1) Is a graduate of an educational program that prepares physical therapist assistants and which is accredited by a recognized accrediting agency and approved by the board or, in the case of an applicant who has graduated from an educational program which prepares physical therapist assistants conducted in a foreign country, has submitted, in a manner prescribed by the board, credentials approved by the board and who has further demonstrated the ability to speak, write, and understand the English language and has satisfactorily completed a three-month board approved traineeship under the supervision of a physical therapist licensed under this chapter;

(2) Has satisfactorily passed an examination prepared or approved by the board; and

(3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18 or subsection (a) (b) or (c) of Code Section 43-1-19.

SECTION 6.

Said chapter is further amended by revising Code Section 43-33-18, relating to refusal to grant or restore licenses, discipline of licensees, suspension, revocation, or restriction of licenses, and immunity for violation reporters, as follows:

43-33-18. (a) The board shall have authority to refuse to grant or restore a license to an applicant or to discipline a physical therapist licensed under this chapter upon a finding by the board that the licensee or applicant has:

(1) Identified himself or herself as a doctor without also clearly informing the public of his or her professional credential as a physical therapist;

(2) Performed physical therapy care and services without examination and evaluation of patients or clients in order to determine a physical therapy diagnosis, prognosis, and plan of intervention, which, in the case of patients who have self-referred, means the physical therapist has:

(A) Failed to refer the patient to an individual licensed pursuant to Article 2 of Chapter 11 of Title 43 or Article 2 of Chapter 34 of Title 43 if at any time the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment beyond the scope of practice of the physical therapist or, regardless of the patient's condition, if after 21 days or eight visits from the initiation of a physical therapy plan of intervention, the physical therapist has not received a referral from the patient's provider who is licensed pursuant to Article 2 of Chapter 11 of Title 43 or Article 2 of Chapter 34 of Title 43. The day and visit limitations contained in this subparagraph shall not apply:

(i) In the case of services provided for health promotion, wellness, fitness, or maintenance purposes, in which case the physical therapist shall refer a client seen for
health promotion, wellness, fitness, or maintenance purposes to an appropriate
individual licensed pursuant to Article 2 or 4 of Chapter 34 of Title 43 if the client
exhibits or develops signs and symptoms beyond the scope of practice of the physical
therapist;
(ii) In the case of a patient diagnosed within the previous nine months with a
neuromuscular or developmental condition when the evaluation, treatment, or services
are being provided for problems or symptoms associated with that previously
diagnosed condition; or
(iii) In the case of a patient diagnosed within the previous 90 days with a chronic
musculoskeletal condition and noted by a current relevant document from an
appropriate licensed health care provider;
(B) Ordered radiology, performed surgery, ordered laboratory or body fluid testing,
diagnosed disease, or practiced medicine;
(C) Failed to provide each self-referred patient with a written disclosure that a physical
therapy diagnosis is not a medical diagnosis by a physician or based on radiological
imaging and that such services might not be covered by the patient's health plan or
insurer;
(D) Not satisfied the additional requirements for seeing a patient who has self-referred,
which shall include:
(i) A doctorate in physical therapy or equivalent degree from an accredited institution
plus two years of clinical practice experience;
(ii) A doctorate in physical therapy or equivalent and:
   (I) Post graduate certification;
   (II) American Board of Physical Therapy Specialties Board Certification; or
   (III) Residency or fellowship training; or
(iii) Five years of clinical practice experience; or
(E) Performed dry needling treatment interventions without consulting an individual
licensed pursuant to Article 2 or 4 of Chapter 34 of Title 43; or
(3) Acted in a manner inconsistent with generally accepted standards of physical therapy
practice, regardless of whether actual injury to a patient occurs, or failed to provide the
expected minimal standard of patient or client management, which shall include that:
(A) A physical therapist is fully responsible for managing all aspects of the physical
therapy care of each patient. A physical therapist shall provide:
   (i) The initial evaluation, determination of physical therapy diagnosis, prognosis, and
      plan of intervention and documentation of the initial evaluation;
   (ii) Periodic reevaluation and documentation of findings for each patient; and
(iii) The documented episode of care for each patient, including the patient's response
to the plan of intervention at the time of completion of the episode of care;

(B) A physical therapist shall assure the qualifications of all physical therapist
assistants and physical therapy aides under his or her direction and supervision;

(C) For each patient on each date of service, a physical therapist shall provide all of the
intervention that requires the education, skills, knowledge, and abilities of a physical
therapist;

(D) A physical therapist shall determine the use of physical therapist assistants and
physical therapy aides to ensure the delivery of care that is safe, effective, and efficient.
A physical therapist may use physical therapy aides for designated routine tasks. A
physical therapy aide shall work under the supervision of a physical therapist;

(E) A physical therapist shall communicate the overall plan of care with the patient or
the patient's legally authorized representative;

(F) A physical therapist's responsibility shall include accurate documentation and
billing of the services provided;

(G) A physical therapist shall adhere to the recognized standards for professional
conduct and code of ethics of the physical therapy profession as established by rule; and

(H) A physical therapist shall ensure that he or she has liability coverage either
independently or provided by the entity by which he or she is employed.

(b) The board shall have authority to refuse to grant or restore a license to an applicant or
to discipline a physical therapist assistant licensed under this chapter upon a finding by the
board that the licensee or applicant has:

(1) Worked outside the supervision of a physical therapist;

(2) Failed to provide accurate documentation or billing of services provided;

(3) Failed to adhere to the recognized standards of ethical conduct and code of ethics as
established by rule; or

(4) Acted in a manner inconsistent with generally accepted standards of the physical
therapist assistant's scope of work, regardless of whether actual injury to the patient
occurs.

(c) The board shall have authority to refuse to grant or restore a license to an applicant
or to discipline a physical therapist or physical therapist assistant licensed under this
chapter or any antecedent law upon a finding by the board that the licensee or applicant
has:

(1)(A) Implemented or continued a program of physical therapy treatment without
consultation with an appropriate licensed practitioner of the healing arts, except that a
physical therapist may implement a program of physical therapy treatment without
consultation with an appropriately licensed practitioner of the healing arts when:
(i) Services are provided for the purpose of fitness, wellness, or prevention that is not related to the treatment of an injury or ailment; or

(ii)(I) The patient was previously diagnosed and received treatment or services for that diagnosis and the patient returns to physical therapy within 60 days of discharge from physical therapy for problems and symptoms that are related to the initial referral to the physical therapist. In such a situation the physical therapist shall notify the original referral source of the return to physical therapy within five business days; and

(H) The physical therapist holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States Department of Education and approved by the Georgia State Board of Physical Therapy or the physical therapist has completed at least two years of practical experience as a licensed physical therapist;

If after 90 days of initiating physical therapy services the physical therapist determines that no substantial progress has been made with respect to the primary complaints of the patient, the physical therapist shall refer the patient to an appropriately licensed practitioner of the healing arts. If at any time the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of the physical therapist, the physical therapist shall refer the patient to an appropriately licensed practitioner of the healing arts; or

(B) In the case of practice as a physical therapist assistant, practiced other than under the supervision and direction of a licensed physical therapist;

1 Displayed an inability or has become unable to practice as a physical therapist or as a physical therapist assistant with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition:

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by an appropriate practitioner of the healing arts licensed health care provider designated by the board. The expense of such mental or physical examination shall be borne by the licensee or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-5-501. Every person who shall accept the privilege of practicing physical therapy in this state or who shall file an application for a license to practice physical therapy in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the
board upon the grounds that the same constitutes a privileged communication. If a
licensee or applicant fails to submit to such an examination when properly directed to
do so by the board, unless such failure was due to circumstances beyond his or her
control, the board may enter a final order upon proper notice, hearing, and proof of such
refusal. Any licensee or applicant who is prohibited from practicing physical therapy
under this paragraph shall at reasonable intervals be afforded an opportunity to
demonstrate to the board that he or she can resume or begin the practice of physical
therapy with reasonable skill and safety to patients;
(B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
any and all records relating to the mental or physical condition of a licensee or
applicant, including psychiatric records; and such records shall be admissible in any
hearing before the board, notwithstanding any privilege under a contrary rule of law or
statute, including, but not limited to, Code Section 24-5-501. Every person who shall
accept the privilege of practicing physical therapy in this state or who shall file an
application to practice physical therapy in this state shall be deemed to have given his
or her consent to the board's obtaining any such records and to have waived all
objections to the admissibility of such records in any hearing before the board upon the
grounds that the same constitute a privileged communication; and
(C) If any licensee or applicant could, in the absence of this paragraph, invoke a
privilege to prevent the disclosure of the results of the examination provided for in
subparagraph (A) of this paragraph or the records relating to the mental or physical
condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
paragraph, all such information shall be received by the board in camera and shall not
be disclosed to the public, nor shall any part of the record containing such information
be used against any licensee or applicant in any other type of proceeding;
(3) Been convicted of a felony or crime involving moral turpitude in the courts of this
state; or the United States; or the conviction of an offense in another jurisdiction which
if committed in this state would be deemed a felony. For the purpose of this Code
section, a 'conviction' shall include a finding or verdict of guilty, a plea of guilty, or a plea
of nolo contendere in a criminal proceeding regardless of whether the adjudication of
guilt or sentence is withheld or not entered thereon pursuant to the provisions of Code
Sections 42-8-60 through 42-8-64, relating to first offenders, or any comparable rule or
statute;
(4) Knowingly made misleading, deceptive, untrue, or fraudulent representations to
a patient, consumer, or other person or entity in connection with the practice of physical
therapy or in any document connected therewith; practiced fraud or deceit or intentionally
made any false statement in obtaining or attempting to obtain a license to practice
physical therapy or as a physical therapist assistant; or made a false or deceptive biennial
registration with the board;

(4) Practiced physical therapy contrary to this Code section or to the rules and
regulations of the board; knowingly aided, assisted, procured, or advised any person to
practice physical therapy contrary to this Code section or to the rules and regulations of
the board; or knowingly performed any act which in any way aids, assists, procures,
advises, or encourages any unlicensed person to practice physical therapy;

(5) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
practice harmful to the public, which conduct or practice need not have resulted in actual
injury to any person; unprofessional conduct shall also include any departure from, or the
failure to conform to, the minimal standards of acceptable and prevailing physical therapy
practice or the failure to comply with the code of ethics of the board;

(6) Failed to report to the board any act or omission of a licensee or applicant or any
other person which violates the provisions of this subsection; or

(7) Divided fees or agreed to divide fees received for professional services with any
person, firm, association, corporation, or other entity for bringing or referring a patient.

(1) When the board finds that a person is unqualified to be granted a license or
finds that any person should be disciplined pursuant to subsection (a), (b), or (c) of this
Code section, the board may take any one or more of the following actions:

(A) Refuse to grant or restore a license to an applicant;

(B) Administer a public or private reprimand, but a private reprimand shall not be
disclosed to any person except the licensee;

(C) Suspend any license for a definite period;

(D) Limit or restrict any license;

(E) Revoke any license;

(F) Condition the penalty or withhold formal disposition, upon the physical therapist's,
physical therapist assistant's, or other person's submission to the care, counseling, or
treatment of physicians or other professional persons, and the completion of such care,
counseling, or treatment, as directed by the board; or

(G) Impose a fine not to exceed $500.00 for each violation of law, rule, or regulation
of the board.

(2) In addition to or in conjunction with the actions enumerated pursuant to paragraph (1)
of this subsection, the board may make a finding adverse to the licensee or applicant but
withhold imposition of judgment and penalty, or it may impose the judgment and penalty
but suspend enforcement thereof and place the licensee or applicant on probation, which
probation may be vacated upon noncompliance with such reasonable terms as the board
may impose.
In its discretion, the board may restore and reissue a license issued under this chapter or any antecedent law and, as a condition thereof, it may impose any disciplinary or corrective measure provided in this chapter.

A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting the acts or omissions of a licensee or applicant which violate the provisions of subsection (a), (b), or (c) of this Code section or any other provision of law relating to a licensee's or applicant's fitness to practice as a physical therapist or as a physical therapist assistant, if such report is made in good faith without fraud or malice. Any person who testifies without fraud or malice before the board in any proceeding involving a violation of the provisions of subsection (a), (b), or (c) of this Code section or any other law relating to a licensee's or applicant's fitness to practice as a physical therapist or as a physical therapist assistant shall be immune from civil and criminal liability for so testifying.

The provisions of this Code section shall not prevent any other health care provider from administering techniques authorized within his or her scope of practice."

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.