STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

A PERFORMANCE AUDIT
OF THE

BOARD OF PHYSICAL THERAPY EXAMINERS

MAY 1983

A REPORT TO THE
ARIZONA STATE LEGISLATURE

REPORT 83-10

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STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

May 16, 1983

Members of the Arizona Legislature
The Honorable Bruce Babbitt, Governor
Ms. Charlotte Perotti, President
Board of Physical Therapy Examiners

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Board of Physical Therapy Examiners. This report is in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. The performance audit was conducted as a part of the Sunset Review set forth in A.R.S. §§41-2351 through 41-2379.

The blue pages present a summary of the report; a response from the Board of Physical Therapy Examiners is found on the yellow pages preceding the appendices.

My staff and I will be pleased to discuss or clarify items in the report.

Respectfully submitted,

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SUMMARY

The Office of the Auditor General has completed a performance audit of the Arizona Board of Physical Therapy Examiners in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as a part of the Sunset Review process set forth in A.R.S. §§41-2351 through 41-2379.

The Board of Physical Therapy Examiners, established in 1952, is currently comprised of five members appointed by the Governor. Three Board members are licensed physical therapists and two are public members. The purpose of the Board is to examine and license physical therapists and physical therapist assistants, renew licenses biennially, investigate complaints and hold hearings and enforce standards of practice for the physical therapy profession. The Board is provided staff support through the Arizona State Board's Administrative Office. Additional part-time support is provided by the Board of Physical Therapy Examiner's executive secretary.

Need for Licensing (page 11)

Although regulation of physical therapy appears justified because of the potential for public harm, evidence of actual harm caused by physical therapists is lacking. This lack of evidence may, however, be the result of health care institutions' failures to report complaints to the Board. If licensing of physical therapists is continued, improvements are needed to ensure the Board receives complaints involving incompetency or unprofessional conduct. Physical therapist assistants, on the other hand, are unlikely to cause harm and do not need to be licensed.

Because the evidence of harm caused by physical therapists is presently lacking, the need for regulation of physical therapy should be reviewed again in four to six years after reporting and enforcement have been strengthened. To strengthen enforcement, the Legislature should consider amending the statutes to require mandatory reporting of physical therapists

who violate standards of practice and reporting of malpractice claims and settlements to the Board. The Board should pursue means to educate and inform the medical community as to the Board's responsibilities concerning problem practitioners.

Statutory requirements for licensing physical therapist assistants should be deleted.

Probationary Permits (page 23)

Statutory provisions governing the issuance of probationary permits are overly restrictive and may be unnecessary. Because these provisions are inflexible, qualified foreign-trained graduates cannot receive regular licenses to practice in Arizona until a one-year probationary period is served. As a result, unfair barriers to entry into the profession are imposed and the supply of physical therapists in Arizona may be unnecessarily limited. The Legislature should either (1) give the Board discretionary authority to waive or reduce probationary permit requirements or (2) delete probationary permit requirements and allow foreign-trained therapists to receive licensure through temporary permit procedures.

Areas for Further Audit Work (page 31)

Further review is needed in three areas. During our audit we identified potential problems including the 1) adequacy of Board record keeping and record maintenance, 2) efficiency of administering Board clerical and support functions through the State Board's Administrative Office, and 3) extent to which examinations and licensing fees are adequate to support Board operations.

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has completed a performance audit of the Arizona Board of Physical Therapy Examiners in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as a part of the Sunset Review process set forth in A.R.S. §§41-2351 through 41-2379.

Physical therapy is primarily an external form of treatment designed to relieve pain, improve or maintain body functions and test for body strength, mobility or coordination. Treatment agents used by physical therapists include water, light, sound, radiant energy, heat, electricity, massage and exercise. Physical therapy emerged as a specialized form of health care following the polio epidemics of the early 1900s.

The Board of Physical Therapy Examiners, established in 1952, is currently comprised of five members appointed by the Governor. Three Board members are licensed physical therapists and two are public members. The purpose of the Board is to examine and license physical therapists and physical therapist assistants, renew licenses biennially, investigate complaints and hold hearings and enforce standards of practice for the physical therapy profession. The Board is provided staff support through the Arizona State Board's Administrative Office. Additional part-time support is provided by the Board of Physical Therapy Examiner's executive secretary.

The Board operates on an annual General Fund appropriation. Also 90 percent of the examination and licensing fees collected by the Board are deposited in a special Board fund to support its operation. Table 1 shows Board expenditures and receipts for fiscal years 1978-79 through 1982-83. Table 2 shows the Board's activity levels during this period.

TABLE 1

ACTUAL EXPENDITURES AND REVENUES FOR
FISCAL YEARS 1978-79 THROUGH 1981-82
AND ESTIMATED EXPENDITURES AND REVENUES FOR FISCAL YEAR 1982-83

	Actual				Estimated
	1978-79	1979-80	1980-81	1981-82	1982-83
Personal services	$ 1,795	$ 1,683	$ 1,874	$ 4,700	$ 5,800
Employee-related expenses	5	43	82	100	100
Professional and outside services	4,661	5,914	8,219	9,200	14,800
Travel	3,045	2,325	1,894	2,000	2,500
Other operating	613	942	1,320	2,800	2,200
Other	25	28	37	200	
Total	$10,144	$10,935	$13,426	$19,000	$25,400
Revenues* (90% of receipts)	$10,319	$10,904	$29,996	$12,420	$46,170

* The Board retains 90 percent of its receipts and deposits 10 percent into the General Fund. The majority of the Board's receipts came from examination and license fees and renewal fees. In 1980, the Board implemented a biennial renewal system. Thus, revenues for fiscal years 1980-81 and 1982-83 exceed those for other years.

TABLE 2

SUMMARY OF BOARD ACTIVITIES
FISCAL YEARS ENDING 1978-79 THROUGH 1982-83

	Fiscal Years				
	Actual				Estimated
Activity	1978-79	1979-80	1980-81	1981-82	1982-83
Licenses issued	72	98	84	102	110
Renewals	464	460	485	12	605
Examinations administered	26	43	51	33	37
Complaints received*	2	7	2	3	N/A
Hearings			1**	1***	

* Complaint figures were determined by Auditor General staff reviewing Board records.
** Drafting 1980 legislation
*** Hearing on rules and regulations

Scope of Audit

Our audit of the Board of Physical Therapy Examiners addressed issues set forth in the 11 Sunset factors in A.R.S. §41-2354. Additional detailed work was conducted on the following issues:

- The need to regulate the practice of physical therapy,
- Effectiveness of the Board's enforcement activities, and
- The adequacy of licensing provisions.

Due to time constraints, we were unable to address several other issues of concern. See page 31 for a list of areas for further audit work.

The Auditor General and staff express appreciation to the members of the Board of Physical Therapy Examiners and its executive secretary for their cooperation and assistance during the course of this audit.

SUNSET FACTORS

In accordance with A.R.S. §§41-2351 through 41-2379, 11 factors are considered to determine, in part, whether the Arizona Board of Physical Therapy Examiners should be continued or terminated.

1. Objective and purpose in establishing the Board

The Board's objective and purpose is not explicitly stated in State law. According to a statement submitted by the Board president, however, the Board's original purpose in licensing physical therapists was to assure the public that those persons holding themselves out as physical therapists were properly trained as such. Since the Board's inception in 1952, its purpose has evolved to include protection of the public from incompetent practitioners. This purpose is accomplished through examination of physical therapists and physical therapist assistant license applicants, renewal of licenses, investigation of complaints and dissemination of information to Board licensees and the public.

According to the Board president, a secondary purpose of the Board is to provide the licensing required for third-party reimbursement of physical therapy services. However, licensing by a State agency is not necessary to satisfy this requirement (see Sunset Factor 10, page 9).

2. The effectiveness with which the Board has met its objectives and purpose and the efficiency with which the Board has operated

The Board has effectively examined and licensed qualified physical therapy applicants, however, enforcement activity has been minimal. The Board does not receive complaints directly alleging patient harm and has not suspended or revoked a license in at least eight years. Health care facilities apparently handle any problems with physical

therapy practitioners "in-house" without Board involvement. The Board needs to improve its enforcement effort by strengthening the reporting process and increasing public awareness of the Board (see page 16).

The Board has increased its efficiency by offering the licensing examination more frequently, up to four times per year, and by setting somewhat flexible testing dates. These improvements have enabled the Board to issue licenses on a schedule which more closely coincides with the graduation of Arizona physical therapy students.

Three issues related to Board efficiency could not be addressed due to time and staffing constraints. These issues concern Board record keeping, fees and administration and are potential issues for further audit work (see page 31).

3. The extent to which the Board has operated within the public interest

The Board's examination and licensing function serves the public interest by ensuring that physical therapists practicing in Arizona meet minimum education and training standards. However, overly restrictive probationary permit requirements do not serve the public interest. Regardless of qualifications, foreign-trained applicants cannot be licensed until a minimum one-year supervised probationary period is served. This restriction imposes an unnecessary barrier to entry into physical therapy and reduces the supply of physical therapists available to serve the public (see page 23).

4. The extent to which rules and regulations promulgated by the Board are consistent with the legislative mandate

Following enactment of its new practice act in 1980, the Board promulgated rules and regulations which became effective in June 1982. Prior to their promulgation, these rules were reviewed for consistency with statutes and were approved by the Attorney General.

5. The extent to which the Board has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public

Before the Board's 1982 rules were promulgated, the Board held a hearing and public input was solicited. The Board sent letters requesting input to the Northern Arizona University Physical Therapy School, the Arizona Physical Therapy Association and the Arizona Hospital Association. A notice of the meeting was sent to all licensees and the meeting was advertised in a newspaper.

The Board appears to have complied with Open Meeting Law requirements. Meetings have been properly noticed and minutes adequately maintained. Additional efforts are needed, however, to increase public awareness of the Board and its enforcement responsibilities (see page 16).

6. The extent to which the Board has been able to investigate and resolve complaints that are within its jurisdiction

Complaints received by the Board as of July 17, 1982, none of which directly alleged patient harm, have been investigated and resolved. Health care facilities, however, appear reluctant to report problem practitioners to the Board, and public awareness of the Board's complaint handling authority is low. To overcome these problems, the Board needs to strengthen the reporting process and increase public awareness of its role and responsibilities (see page 16).

7. The extent to which the Attorney General or any other applicable agency of State Government has the authority to prosecute actions under enabling legislation

A.R.S. §32-2043 establishes criminal penalties for violation of the physical therapy statutes. The following offenses constitute a class 1 misdemeanor: 1) obtaining a license by fraud or misrepresentation,

2) knowingly making a false statement in an oath or affirmation in connection with licensing or enforcement activities of the Board, 3) practicing physical therapy without a license unless exempt from licensing requirements, and 4) violating any other provisions of the physical therapy statutes. Violations may be prosecuted by the Attorney General or County Attorney.

8. The extent to which the Board has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate

The Board has addressed deficiencies in its enabling statutes. Comprehensive new legislation enacted in 1980 modernized the Board's statutes and corrected deficiencies in the Board's previous legislation. Some of the provisions of the new law, such as enforcement procedures, may be deficient; however, these provisions have not been widely used and remain largely untested. Nevertheless, the Board supports the following statutory changes:

- Clarification of supervisory requirements for physical therapist assistants, aides and attendants.

- Amendment of membership requirements to allow Board members to serve consecutive five-year terms. Currently, Board members are restricted from serving consecutive five-year terms of office.

- Revision of both temporary and probationary permit requirements. The Board would issue temporary permits valid for 45 to 60 days to graduates of an approved school or therapists licensed in another state. The therapist would be required to work under supervision of a licensed Arizona physical therapist and could apply for a one-time extension of the permit. No specific proposal has been developed for revision of probationary permit requirements.

- Revision of fee provisions to allow the Board to charge higher fees.

- Clarification and review of enforcement procedures.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in the Sunset Law

Additional changes are needed in Board statutes. The Legislature should consider:

- Deleting the requirement to license physical therapist assistants,

- Enacting a mandatory reporting law applicable to physical therapists and health care facilities which employ therapists,

- Revising probationary permit requirements to allow qualified foreign-trained graduates to obtain licenses in Arizona without serving a probationary period, and

- Amending the insurance code to require reporting of malpractice claims and settlements to the Board.

For justification of these changes, see Finding I (page 11) and Finding II (page 23).

10. The extent to which the termination of the Board would significantly harm the public health, safety or welfare

We were unable to conclusively determine whether termination of the Board would significantly harm the public health, safety or welfare. The practice of physical therapy appears to have potential for harm, however, actual evidence of harm caused is lacking both in Arizona and nationally (see page 12).

According to a statement from the Board president, termination of the Board would jeopardize reimbursement of costs by third-party payers. Licensing of physical therapists by a State Board, however, is not required. For example, Federal regulations require State licensing for Medicare reimbursement if the State licenses physical therapists. In the absence of a State regulatory program, the therapist may still be reimbursed for services if other training and experience requirements are met.

11. The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate

The level of regulation exercised by the Board can be reduced. Physical therapist assistants do not need to be licensed (see page 18). In addition, statutory provisions governing probationary permits can be made less restrictive or eliminated (see page 23).

FINDING I

REGULATION OF PHYSICAL THERAPY APPEARS NECESSARY DUE TO THE POTENTIAL FOR PUBLIC HARM; HOWEVER, EVIDENCE OF ACTUAL HARM CAUSED BY PHYSICAL THERAPISTS IS LACKING.

Although regulation of physical therapy appears justified because of the potential for public harm, evidence of actual harm caused by physical therapists is lacking. This lack of evidence may, however, be the result of health care institutions' failures to report complaints to the Board. If licensing of physical therapists is continued, improvements are needed to ensure the Board receives complaints involving incompetency or unprofessional conduct.

Physical therapist assistants, on the other hand, are unlikely to cause harm and do not need to be licensed.

Physical Therapy Regulation

The Board of Physical Therapy Examiners licenses both physical therapists and physical therapist assistants. Physical therapists must obtain a bachelor's degree or certificate from an approved school to be licensed. Their schooling provides the necessary background to allow therapists to evaluate patients and write treatment programs. Physical therapist assistants receive associate degrees from junior colleges after two years of schooling and are considered skilled technicians who may administer certain portions of the treatment program written by the physical therapist. Physical therapist assistants must work under the direct supervision of a physical therapist.

State regulation of an occupation or profession is justified if the unregulated practice of that occupation or profession poses a serious threat to the public health, safety, or welfare. This potential for public harm must outweigh the possible negative effects of licensure. Licensure may also be justified when the consumer cannot be expected to possess the knowledge required to properly evaluate the qualifications of the person providing professional services.

The Need for Licensing Physical Therapists

The practice of physical therapy appears to have the potential for public harm, however, there is little actual evidence of harm caused by physical therapists. The Board has received relatively few complaints and none have directly alleged patient injury. On a national level, the Board's low complaint activity appears consistent with experience in other states. Moreover, physical therapists pay relatively low malpractice premiums, also suggesting that little public harm is actually caused. However, harm may be occurring which is not reported. One reason the Board may receive few complaints is that medical institutions may handle complaints against physical therapists in-house, without making referrals to the Board.

Potential for Harm - The practice of physical therapy appears to pose a potential threat to the public health, safety and welfare. The potential for injury during physical therapy care is suggested by both the vulnerable condition of some patients treated as well as the treatment techniques commonly used. This potential for harm could increase as therapists gain greater autonomy in the practice of their profession.

The potential for risk to the consumer's life, health and safety is demonstrated by both the serious condition of certain patients and the complexity of physical therapy techniques. Physical therapists, particularly those employed in hospitals, work with stroke and post head injury patients. Therapists also work in intensive care units and/or with patients just days out of surgery. These patients may be weak, elderly or completely unaware of their surroundings. They may be unable to speak or have little control over their own movements. Therapists are involved in lifting these patients in and out of wheelchairs, teaching them to walk,

or administering various forms of exercise. These motor-skill impaired patients are completely dependent on the therapists. In addition, therapists in all settings use techniques which, if misapplied, could injure any type of patient. For example, the use of spinal or body manipulation is becoming increasingly popular. Therapists also employ traction, hydrotherapy and electrical and ultrasound modalities. The improper application of any of these techniques could result in patient injury.

This potential for harm could grow as the physical therapy profession gains increased autonomy. Historically, physical therapists have provided treatment only upon referral by a licensed physician or surgeon. This provides some protection for the patient since the physical therapist is selected by the physician who presumably knows if the therapist is competent. However, therapists have been granted treatment autonomy in Maryland and California, and House Bill 2266 enacted by the Legislature in 1983 will grant similar autonomy to Arizona therapists. Thus, physical therapists will be able to offer services directly to the public without physician referral.

Lack of Complaints - Although physical therapy appears to have the potential for public harm, actual evidence of harm is lacking. A review of Board records since 1975 revealed the Board has not received any complaints against physical therapists which directly allege patient injury. The Board received and acted upon fifteen complaints between November 30, 1979, and July 17, 1982. Files for those complaints are maintained at the State Board Administrative Office. The nature of each complaint is shown in Table 3.

TABLE 3

NATURE OF EACH BOARD COMPLAINT
NOVEMBER 30, 1979, THROUGH JULY 17, 1982

Number	Type
6	Professionals other than licensed physical therapists advertising physical therapy care
2	Physical therapists offering diagnostic services
1	Physical therapist practicing in a physician's office
1	Physical therapist violated prescription
2	Aides working without supervision
2	Naturopath and physiatrist offering physical therapy services
1	Physical therapists offering services without referral
15	

The majority of complaints were registered against practitioners who were illegally offering or advertising physical therapy services. Further review of Board records revealed that historically the Board has not received complaints directly alleging patient injury. At least 23 complaints were filed between January 1975 and July 1979. Although specific details were lacking for these complaints since files had not been created, information in Board minutes indicated that these complaints did not involve serious patient harm. In addition, a review of Board records since 1975 revealed the Board has not suspended or revoked a license in the past eight years.

National Complaint Data - The low number and minor natures of the complaints registered with the Board are consistent with national data. The complaint activity of 14 other state boards regulating physical therapy was reviewed. The number of complaints filed against physical therapists in the 14 states was low and the majority of the complaints

received concerned advertising improprieties or other professionals offering physical therapy care. Only one state mentioned receiving any complaints which alleged practitioner incompetency. Thus, the lack of evidence of harm caused by physical therapists in Arizona appears consistent with the experiences in other states.

Malpractice Premiums - This minimal level of harm caused is further supported by the low malpractice premiums paid by physical therapists. Table 4 shows the annual premiums which have been established for the lowest protection rate of $100,000 to $300,000.

TABLE 4

MALPRACTICE PREMIUMS*

Private Practice	Employed (Hospital, etc.)	Physical Therapy Assistants
$135	$70	$30

* These rates were obtained from an insurance company endorsed by the Arizona Physical Therapy Association.

The highest premiums, $135 per year, are paid by physical therapists in private practice. For the same amount of protection, medical doctors may pay up to $6,787 annually, depending on the number of claims filed against them.

Problems Not Reported - Harm may be occurring which is not reported. One reason the Board receives few complaints is that health care facilities appear to be handling problem practitioners on their own and not reporting cases of incompetency to the Board. Administrators of various health care institutions indicated complaints against physical therapists, would be resolved "in-house."** Nursing care and hospital administrators explained that patient complaints against physical therapists would be handled by appropriate personnel within the facility.

** Administrators were reluctant to discuss these cases in specific detail.

A major home health care organization also stated that complaints would be handled by that institution's management. Health care institutions are apparently reluctant to allow other entities to investigate complaints and prefer that their own personnel investigate improprieties. According to officials interviewed during our audit, opening medical records to outside scrutiny is discouraged.

Board Enforcement Needs Improvement

If licensing physical therapists is continued, improvements are needed to increase the Board's enforcement effectiveness. The public may be unaware of the Board's duties and authority. In addition, health care professionals and facilities are not required to report incompetent physical therapists to the Board, and insurance companies are not required to report malpractice claims and settlements.

Lack of Public Awareness - Lack of public and professional awareness of the Board's responsibilities may also account for the Board's low level of complaints and enforcement activity. The Board president stated that most physical therapists don't know what the Board does, aside from renewing licenses. One Board member indicated the small number of complaints received is probably due to the public and physical therapists being unaware that there is an agency which provides recourse. If the Board's own licensees are uninformed as to the Board's enforcement responsibilities, then the average consumer is also not likely to know about the Board and its complaint handling authority.

The Board has made attempts to inform licensed physical therapists as to its duties and responsibilities by means of a newsletter. The newsletter, however, has been printed and mailed sporadically over the last few years. Although a newsletter is scheduled to be sent with the 1983 license renewals, the Board is reluctant to formalize newsletter mailing schedules, and a regular publication schedule has not been established.

Health care facilities are also unaware of the Board's complaint jurisdiction and responsibility. This may also explain why so few physical therapy practice problems are reported to the Board. The Board has not taken any measures to educate health care administrators concerning the Board's duties or authority. When contacted, these administrators seemed unaware of the Board's responsibility to handle complaints against physical therapists. Other boards, for example the Board of Nursing, have actively sought through conferences to inform health facility administrators of their boards' responsibilities.

No Mandatory Reporting - Unlike some other regulated health care professions in Arizona, physical therapists and medical officials are not required to report dangerous or incompetent practitioners to the Board. The Board of Medical Examiners and the Board of Osteopathic Examiners, through A.R.S. §32-1451, subsection A and §32-1855, subsection A, respectively, require physicians and medical institutions and associations to report any instances of doctors or osteopathic physicians displaying unprofessional conduct or incompetence, alleged or otherwise, to the Board. Mandatory reporting laws increase the regulating Board's ability to review, discipline and make a matter of public record cases of alleged incompetence or unprofessional conduct. The lack of such statutes in the Physical Therapy Practice Act, on the other hand, allows health care facilities to keep the Board of Physical Therapy Examiners unaware of any problem practitioners.

No Malpractice Reporting - Arizona statutes do not require insurance companies to report to the Board malpractice claims and settlements involving physical therapists. Other health regulatory boards such as the Boards of Medical Examiners, Osteopathic Examiners and Podiatry Examiners have such reporting requirements in their enabling statutes. These reporting requirements are a potentially important source of information regarding problem practicioners.

However, if such a reporting requirement is considered for the Board of Physical Therapy Examiners, the requirement should be placed in the insurance statutes rather than the Board statutes. Previous performance audits have repeatedly found that licensing boards have difficulty in obtaining compliance by insurers with malpractice reporting requirements. In Report No. 81-19, A Performance Audit of the Board of Podiatry Examiners, we addressed this issue and noted

> "A possible solution to the failure of insurance companies to report malpractice data would be to make such practices a violation of the insurance code--possibly with a fine or other penalty for noncompliance. The Department of Insurance could then monitor and enforce the reporting provisions through its market conduct examinations and other regulatory programs. Further, under this system if nonreporting was found, action could be taken by the Department of Insurance, which is involved in the daily regulation of insurance companies. . . ."

Physical Therapist Assistants Do Not Need to Be Licensed

While licensing physical therapists may be justified, physical therapist assistants do not need to be licensed. Assistants work under the direct supervision of licensed physical therapists and are unlikely to cause any harm. Requiring licensure for assistants creates unnecessary barriers to occupational entry.

A.R.S. §32-2001.A.6. defines physical therapist assistant as:

> ". . . a person who assists under the onsite supervision of a physical therapist in the practice of physical therapy and who performs delegated procedures commensurate with the assistant's education and training and who is licensed in accordance with this chapter but does not include evaluation, interpretation, implementation or modification of established treatment programs."

Thus, assistants must be supervised directly by a trained physical therapist. Further, according to the Board's secretary, most physical therapist assistants are employed in institutions which are also licensed.

Persons supervised closely by other licensed professionals do not need to be licensed. Benjamin Shimberg, a noted authority on occupational licensure, comments:

> "There is little justification for licensure if practitioners work under direct supervision. If regulation is needed, it should be the supervisor who is regulated."

While all 50 states license physical therapists, at least 19 do not license physical therapist assistants. In the state of Washington, for example, unlicensed assistants perform the same duties and tasks as their counterparts in Arizona. Yet, there is no evidence that assistants in Washington are less competent nor that they have caused any public harm.

The potential for harm from physical therapist assistants is curtailed by the restrictions imposed on their scope of work. Assistants have limited responsibilities for a patient's treatment and are trained to carry out specific orders. For instance, the therapist is responsible for determining 1) which type of modality the patient should receive, if any, 2) the frequency of application, 3) the dosage necessary, 4) the duration of each treatment, and 5) the specific area to be treated. The assistant may only activate the modality and perform the treatment as described. Assistants may not perform certain complex treatment techniques, such as spinal manipulation. Removing licensure requirements, furthermore, would not eliminate training programs and/or minimum qualifications established for hiring assistants. Education and experience requirements of hospitals and other facilities would not be affected. Therefore, licensing of assistants on the basis of public safety concerns appears to be unjustified.

Requiring licensure for physical therapist assistants creates unnecessary restrictions on entry into this occupation. Persons wishing to work as assistants must pay examination and licensing fees and pass an examination. These requirements could be a burden for some individuals and may discourage others from entering this occupation.

CONCLUSION

Despite the apparent potential for public harm from the practice of physical therapy, actual evidence of public harm is lacking. However, all instances involving harm may not be reported to the Board. If licensing physical therapists is continued, improvements are needed to increase the Board's enforcement effectiveness. Physical therapist assistants, on the other hand, are not likely to cause harm and do not need to be licensed.

RECOMMENDATIONS

1. Because actual evidence of harm caused by physical therapists is lacking, the need for regulation of physical therapy should be reviewed again in four to six years after reporting and enforcement have been strengthened as recommended below.

2. The Legislature should consider amending the statutes to require physical therapists, health care institutions or such other persons as appropriate to report to the Board any information which appears to show that a physical therapist may be involved in unprofessional conduct or may be incompetent.

3. If mandatory reporting by physical therapists is required, the Board should amend its rules and regulations to include failure of a licensee to report violations of the physical therapist statutes as unprofessional conduct.

4. The Board should explore ways to inform and educate health institution administrators, physical therapy department supervisors and license holders of the Board's responsibilities to investigate and resolve matters involving problem practitioners.

5. The Insurance Code should be amended to require companies writing malpractice coverage for physical therapists to report malpractice claims and settlements to the Board.

6. Statutory requirements for licensing of physical therapist assistants should be deleted.

FINDING II

PROBATIONARY PERMIT PROVISIONS ARE TOO RESTRICTIVE.

Statutory provisions governing the issuance of probationary permits are overly restrictive and may be unnecessary. Because these provisions are inflexible, qualified foreign-trained graduates cannot receive regular licenses to practice in Arizona until a one-year probationary period is served. As a result, unfair barriers to entry into the profession are imposed and the supply of physical therapists in Arizona may be unnecessarily limited.

Statutory Requirements

Probationary permits are issued to foreign-trained graduates for a period of at least one year. During this probationary period, the foreign-trained graduate must work under the supervision of a licensed physical therapist in a facility approved by the Board. After satisfactorily completing the probationary period, the therapist may take the Board's examination and, upon passing, receive a license. A.R.S. §32-2022, subsection M establishes the Board's authority to issue probationary permits:

> "An applicant for licensure as a physical therapist whose application is based on a diploma issued to him by a physical therapy school outside of the United States, shall furnish documentary evidence to the satisfaction of the board, that he has satisfactorily completed a course in physical therapy substantially equivalent to the requirements prescribed in subsection H. For licensure as a physical therapist an applicant who meets such requirements shall be issued a probationary permit for a period of twelve months and thereafter shall, to the satisfaction of the board, complete a period of supervised clinical practice, for a fair and reasonable remuneration, of at least twelve months in the state under the continuous and immediate supervision of an Arizona licensed physical therapist in a facility approved by the board. If the applicant satisfactorily completes such period of service, he shall be issued a certificate of licensure as a physical therapist, after having successfully completed the examination required in this section."

The Board originally intended probationary permits to allow qualified foreign-trained therapists to practice in Arizona. During the three-year period 1980-82, the Board has issued six probationary permits to eligible applicants.

Provisions Are Inflexible and May Be Unnecessary

Because statutory provisions governing probationary permits are inflexible, foreign-trained therapists otherwise qualified to practice are denied licensure in Arizona until a one-year probationary period is served. Moreover, these provisions may be unnecessary.

Current probationary permit provisions lack flexibility. Under current law, in addition to passing the examination every graduate of a foreign physical therapy program must serve a supervised period of probation of at least one year in an approved facility. Regardless of the applicant's qualifications, the Board cannot waive or reduce the one-year probationary requirement.

This problem is well illustrated in the following case example. A Canadian-trained physical therapist applied for licensure in Arizona. The applicant had received a Bachelor of Science degree in physical therapy from McGill University in Montreal, Quebec, Canada. Her training was assessed by a professional evaluation service (see below) and certified as equivalent to U.S. bachelor-level training. In addition, the therapist had over eight years experience in physical therapy and was fluent in English. Because probationary provisions were applicable and could not be waived, the therapist was required to find an employer at a Board-approved facility and to serve a supervised probationary period of one year. In light of the therapist's equivalent training, substantial practice experience and English fluency, however, a period of probation appears to have been unnecessary.

Probationary permits for foreign graduates may not be needed. According to Board members, permit provisions were intended to serve as a check on the foreign therapist's competence and ability to adequately communicate

in English. However, equivalency of training is assessed for the Board by the International Education Research Foundation, a professional evaluation service located in Los Angeles. The Foundation's evaluation is comprehensive and includes a records assessment of basic education, professional training and clinical/practical experience. Further, language ability, if in question, can be tested through other means. For example, the Educational Testing Services (E.T.S.) has designed an examination for English competency. The Test of English as a Foreign Language (TOEFL) is currently offered to foreign-trained graduates in other professions, such as pharmacy.

Even if training is judged equivalent to U.S. standards, the Board believes qualitative or other differences in clinical experience may require a probationary period. This need could be addressed, however, through a less restrictive temporary permit procedure. Further, at least three states do not require foreign graduates to serve a probationary period of practice. In Kentucky, Delaware and Montana, foreign-trained graduates may sit for the licensing exam after their training has been determined equivalent to U.S. standards.

Restrictive Licensing Requirements Bar Entry and Limit the Supply of Practitioners

Restrictive probationary permit provisions have at least two adverse impacts. First, they impose barriers to entry into the profession which are unfair to some applicants. Second, they may limit unnecessarily the supply of physical therapists in Arizona.

Current permit provisions impose unfair barriers to entry of qualified foreign-trained therapists. To become licensed, these therapists must first search for an employer willing to supervise their probations and may be required to forego income. As an alternative, some foreign graduates interested in moving to Arizona may seek licensure in other states because of Arizona's restrictive licensing requirements.

As a result of these restrictions, the supply of licensed physical therapists may be unnecessarily limited. Qualified foreign graduates are

restricted in their practices or discouraged from seeking licensure in Arizona. This reduces the supply of physical therapists available to health care facilities and to the public. According to some facility administrators, there is currently a shortage of licensed therapists available for hire.

CONCLUSION

Statutory provisions governing probationary permits are too restrictive and may be unnecessary. Qualified foreign graduates cannot receive a license to practice without first serving a one-year probationary period. As a result, unfair barriers to entry into physical therapy in Arizona are imposed and the supply of practitioners may be unnecessarily limited.

RECOMMENDATION

The Legislature should consider either:

- Giving the Board discretionary authority to waive or reduce probationary permit requirements or
- Deleting probationary permit provisions from the statutes and allowing foreign-trained therapists to receive licensure through temporary permit procedures.

OTHER PERTINENT INFORMATION

During the course of our audit of the Board of Physical Therapy Examiners, we reviewed the following pertinent information.

Relationship of Physical Therapy to Other Forms of Treatment and Therapy

The licensing of physical therapists prohibits unlicensed persons from holding themselves out as "physical therapists" or practicing physical therapy. The scope of physical therapy practice is defined by A.R.S. §32-2001.A., which states in part:

> "7. 'Physical therapy' means the treatment of a bodily or mental condition by the use of physical, chemical or other properties of heat, cold, light, sound, water, or by massage and active and passive exercise, air, mechanical energy, electrical energy, electromagnetic energy and their necessary physical measures, activities and devices. . . ."

A number of other allied health and healing arts practitioners, however, engage in treatment modalities which either overlap with or border on the practice of physical therapy. Some of these occupations, which appear to have the closest relationship to physical therapy, are described below.

Occupational Therapy - The American Occupational Therapy Association recently adopted the following definition:

> "Occupational therapy is the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, poverty and cultural differences or the aging process in order to maximize independence, prevent disability and maintain health. The practice encompasses evaluation, treatment and consultation. Specific occupational therapy services include: teaching daily living skills; developing perceptual-motor skills and sensory integrative functioning; developing play skills and prevocational and leisure capacities; designing, fabricating or applying selected orthotic and prosthetic or selective adaptive equipment; using specifically designed crafts and exercises to enhance functional performance; administering and interpreting tests such as manual muscle and range of motion; and adapting environments for the handicapped."

Occupational therapists must graduate from a certified occupational therapy program. This is usually a four-year college which grants a bachelors degree to graduates. Occupational therapists are also required to serve a clinical affiliation of at least six months. Upon graduation, students are then eligible to be registered through a national examination.

Occupational therapists are not always required to practice with physician referral. Certain facilities (i.e., hospitals) require occupational therapists to practice under physician referral, however, occupational therapists in private consultation may work directly with the client. The practice of occupational therapy is not licensed in Arizona.

Respiratory Therapy - Respiratory therapy involves the treatment of lung disease, breathing problems and certain heart problems. Respiratory therapists use oxygen, carbon dioxide and helium; medicines of various kinds in aerosol spray form; and respirators, exercise and various methods of chest physical therapy in the prevention and treatment of lung and heart diseases and associated breathing problems. Respiratory therapists treat conditions such as asthma, bronchitis, cystic fibrosis, emphysema, hyaline membrane disease, pneumonia, asbestosis, coal miner's "black lung," heart attack and stroke. Respiratory therapists also treat breathing complications following surgery or resulting from automobile or other accidents.

The profession trains for two levels of expertise. Respiratory technicians are trained for approximately one year. Respiratory therapists receive approximately two years of training. Upon completion of training, both groups sit for separate, national exams. Technicians are certified and therapists are registered to practice by the National Board of Respiratory Therapy.

Respiratory therapists work solely in hospitals or other health care facilities. None are in private practice. Respiratory therapists are not subject to the physician referral system although they treat patients under the authority of a licensed health care professional. Respiratory therapy also is not licensed in Arizona.

Speech Therapy - Speech therapy as defined by Collier's Encyclopedia is the treatment of speech disorders. Experts in the profession of speech therapy work with persons whose speech interferes with communication or calls attention to itself and frustrates both speaker and listener. Speech therapists evaluate and correct defective speech and teach new skills. The field of speech therapy is often called speech pathology and speech therapists are also known as speech pathologists or speech clinicians.

In order to be certified, speech therapists must graduate from approved bachelor and master degree programs, complete a year-long clinical fellowship and pass a national exam.

Massage Therapy - Practitioners in the field define massage as the scientific movement of soft tissue, connective tissue and muscle tissue. The body receives a relaxing massage. The treatment is designed to aid circulation, digestion, elimination and respiration. Massage therapists are licensed by the City of Phoenix but are not subject to State licensure requirements.

Rolfing - The executive director of the Rolf Institute defines rolfing as

> ". . . a series of ten sessions of deep connective tissue (fascia) manipulation and education, and is based on the theory that the body is "plastic" or changeable. This quality of plasticity enables the human body to be anatomically ordered, thus lengthened and centered along its vertical axis. The purpose of rolfing is to better balance an individual's body around a vertical line in the field of gravity so that gravity can support the body rather than tear it down. The result of this better balance is said to be enhancement, not only of physical well being, but also of emotional and spiritual well being."

To qualify as a rolfer, a candidate must be certified by the Rolf Institute in Boulder, Colorado, the only institute of its kind.

AREAS FOR FURTHER AUDIT WORK

During the course of our review of the Board of Physical Therapy Examiners, we identified several issues for further audit work. These issues, which were beyond the scope of our review due to time constraints, include:

- The adequacy of Board record keeping and record maintenance,
- The efficiency of administering the Board through the State Board's Administrative Office, and
- The extent to which examination and licensing fees are adequate to support Board operations.

Arizona State Board of Physical Therapy Examiners
1645 West Jefferson, Room 312 Phoenix, AZ 85007

May 12, 1983

MAY 1983 AUDITOR GENERAL

Mr. Douglas R. Norton
Auditor General
111 West Monroe, Suite 600
Phoenix, AZ 85003

Dear Mr. Norton:

The Arizona State Board of Physical Therapy Examiners received the May 4th, 1983 draft report of the performance audit of the Board of Physical Therapy Examiners. The Board thanks you and your staff for meeting with us on April 28th, 1983.

The following areas continue to concern the Board:

PROBATIONARY PERMIT REPORT (Page ii, Paragraph 3 Report)

The Board agrees the current statutory provision in this area is overly restrictive. However, the Board prefers to retain discretionary authority to require a probationary period for foreign trained therapists for the following reasons:

1. No unfair barrier to entry to the profession exists. The foreign-trained therapist works under the on-site supervision of an Arizona licensed therapist during the probationary period and is reimbursed at the same rate as other qualified therapists in the same facility. The foreign-trained therapist only is limited in being unable to set up a private practice during the probationary period.

2. To protect the public the Board proposes the probationary requirement for foreign-trained therapists be reduced to a minimum of ninety (90) days and a maximum of twelve (12) months. The applicant shall complete a period of supervised clinical practice, for a fair and reasonable remuneration, under the on-site supervision of an Arizona licensed physical therapist in a facility approved by the Board. The applicant may take the examination required within the time limit requirement of the Board.

3. As almost all foreign-trained applicants fail to meet United States standards of training, the Board's careful screening of all foreign-trained applications provides a further protection for the public. The application illustration used by the Auditor General (Page 24, Paragraph 4 Report) cites the sole exception of one such from a foreign-trained applicant. Most foreign-trained applicants, as a general rule, must complete one and one half to two years university course work before issuance of a permit. The Board has allowed some course work to be done during the probationary permit period if the applicant felt capable of handling a job and course work.

At this time, there is no way to compare or evaluate a foreign-trained applicant's actual clinical skills and/or abilities other than the ninety (90) day to one (1) year probationary period. Schools accredited in the United States by the American Physical Therapy Association guarantee a certain degree of clinical skill. Unites States Trained Therapists undergo a four (4) month to a one (1) year period of clinical internships following their formal academic training prior to taking the exam and licensure, except that the United States trained therapists receive no pay or in some clinical facilities only a stipend or provision of room and board. The Board strongly feels the need for a minimum of ninety (90) days clinical practice to continue our job of protecting the using public.

4. The purpose of the probationary permit is to protect the public, not the applicant and to assist the foreign-trained applicant to enter the profession fully cognizant of the clinical standards to which each shall be held in the United States.

5. Test of English as a Foreign Language (TOFEL) assesses only an applicant's reading and written skills in English. Probationary clinical practice permits the Board to assess the vital oral communication skills of the applicant in addition to assessment of clinical skills. TOEFL appraises skill with the written English language but communication between patient and therapist, therapist and physican as well as basic clinical skills are not being appraised by any testing.

LICENSURE OF PHYSICAL THERAPIST ASSISTANTS The Board strongly endorses the continuation of licensure for physical therapist assistants for the following reasons:

1. Licensure of Physical Therapist Assistants does not hinder or prohibit entry into the field.

2. Licensure of Physical Therapist Assistants protects the public from untrained and unqualified persons holding themselves out to be Physical Therapist Assistants.

3. Licensure of Physical Therapist Assistants confers jurisdiction on the Board to screen, and supervise Physical Therapist Assistants. Further the Board may discipline a Physical Therapist Assistant without recourse to the court systems.

4. Licensure prevents the Physical Therapist Assistant from working unsupervised and perpetrating a fraud upon the public.

5. The profession of Physical Therapist Assistants evolved only in the last ten years. Arizona now has a school which will begin graduating Physical Therapy Assistants in 1984.

6. Several other states have independent Boards for licensure of Physical Therapist Assistants.

AUTONOMY OF PHYSICAL THERAPISTS In April, 1983, the Arizona State Legislative amended the Physical Therapy statute to allow practice without referral. Physical Therapists will continue to seek more autonomy in the future.

MALPRACTICE Malpractice insurance rates for Physical Therapists and Physical Therapist Assistants and malpractice for medical doctors (Page 15, Report) cannot be compared for the following reasons:

1. The scope of practice of Physical Therapists and Physical Therapist Assistants and medical doctors is totally different. Medical doctors prescribe and administer drugs, anesthesia, and perform surgery - none of which are done by Physical Therapists or Physical Therapist Assistants. For this reason medical doctors require more malpractice insurance protection and consequently pay higher rates.

2. Physical Therapists receive a group rate based on national membership.

3. Increased autonomy of Physical Therapists will, in all probability, increase malpractice rates.

The Board is in agreement that a mandatory reporting statute is needed. The Board will continue to explore ways to inform and educate licensees, consumers and providers of services to the Board's responsibilities. The Board is actively seeking improvements in enforcement effectiveness.

The Board appreciates the assistance and cooperation of the Auditor General's Office during this review process.

Respectfully submitted,

Charlotte L. Perotti, P.T.

Charlotte L. Perotti, P.T.
President