

Opinion No. 54-5981

June 23, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Miss Ruth A. Bauer Secretary Physical Therapists Licensing Board Montezuma, New Mexico

{*439} We are in receipt of your letter of June 9, 1954 in regard to the "grandfather clause" of the Physical Therapists Law which is Chapter 136 of the Laws of 1953, and specifically Section 12 thereof. You ask whether or not a person may become a licensed Physical Therapist after expiration of the ninety (90) days from the effective date of the Act. The Act was effective on March 20, 1953 as it carried the emergency clause. The Section in question reads as follows:

"Section 12. Persons now registered and licensed under existing law as physical therapists or persons who can show the board by satisfactory evidence that they were engaged in the practice of physical therapy as defined herein in this state prior to January 1st, 1953. may make application within ninety (90) days after the effective date of this act, and upon paying the required application fee of Twenty-five Dollars (\$ 25.00), and if the board shall find them to be qualified as required herein as to age, citizenship and moral character, shall be registered and shall have a license certificate issued to them for the current year."

It is obvious from the reading of this section that the person must have applied for a license prior to the expiration of ninety (90) days from the effective date of the Act. Of course, there is no obligation upon any person to advertise when such effective date was. It is incumbent upon all citizens to know and observe the effective time of all Acts. I realize that this is a fiction in the law and is not completely realistic but is followed by all Courts.

You also ask whether or not you can, under this Act, prosecute persons for its violation. You will note that Section 19 of the same Act provides for a fine not to exceed One Hundred Dollars (\$ 100.00), or a jail sentence not to exceed ninety (90) days. This Act was passed under the police powers of the State for the protection of the health, safety and welfare of its citizens. Of course, any person may be deprived of his right when a violation of any Act would be detrimental to the health, safety and welfare of the general public.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assist. Attorney General