



# Alaska Board of Physical Therapy and Occupational Therapy Board Meeting - February 27, 2026 - Day 2

Alaska Division of Corporations, Business and Professional Licensing

Zoom

2026-02-27 09:00 - 14:00 AKST

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### 1. Call to Order/Roll Call

#### A. Roll Call

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- Valerie Phelps, Chair
- Victoria "Tori" Daugherty, Secretary
- Jonathan Gates
- Michelle Scott-Weber
- Eliza Ellsworth
- Vacant - Public Member
- Vacant - OT/OTA

Staff members:

- Reid Bowman, Program Coordinator 2
- Shane Bannarbie, Program Coordinator I
- Sheri Ryan, Licensing Examiner 3

Alaska State Physical Therapy and Occupational Therapy Mission Statement

The mission of the Alaska State Physical and Occupational Therapy Board is to promote healthy, independent, productive Alaskans. The board strives to do this by:

1. Adopting regulations necessary for the safe and efficient practice of Physical Therapy and Occupational Therapy in the State of Alaska.
2. Reviewing and approving the qualification of applicants to ensure a competent and effective work force of therapists and assistants.
3. Issuing temporary permits and licenses to qualified persons.
4. Monitoring compliance with continuing education requirements.
5. Reviewing and acting on any report or documentation of any unsafe, unethical or unlawful actions of a licensee.

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## Alaska Board of Physical Therapy and Occupational Therapy Board Meeting - February 27, 2026 - Day 2

Alaska Division of Corporations, Business and Professional Licensing  
Friday, February 27, 2026 at 9:00 AM AKST to 1:45 PM AKST  
Zoom

**Meeting Details:** [https://us02web.zoom.us/meeting/register/S8qXA0wcRiqlrn\\_Kxf7Dxg](https://us02web.zoom.us/meeting/register/S8qXA0wcRiqlrn_Kxf7Dxg)

**Additional Meeting Details:** Registration Required

### Agenda

#### 1. Call to Order/Roll Call

##### A. Roll Call

9:00 AM

Board members:

- Valerie Phelps, Chair
- Victoria "Tori" Daugherty, Secretary
- Jonathan Gates
- Michelle Scott-Weber
- Eliza Ellsworth
- Vacant - Public Member
- Vacant - OT/OTA

Staff members:

- Reid Bowman, Program Coordinator 2
- Shane Bannarbie, Program Coordinator I
- Sheri Ryan, Licensing Examiner 3

#### Alaska State Physical Therapy and Occupational Therapy Mission Statement

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3. Issuing temporary permits and licenses to qualified persons.
4. Monitoring compliance with continuing education requirements.

5. Reviewing and acting on any report or documentation of any unsafe, unethical or unlawful actions of a licensee.

<b>B. Ethics Reporting</b>	<b>9:05 AM</b>
<b>C. Review/Approval Agenda</b>	<b>9:10 AM</b>
<a href="#">PHY Statutes and Regulations - March 2025</a>	
<a href="#">Principles of Practice - March 2015</a>	
<b>2. Committee Reports</b>	
<b>A. OT Scope Modernization Work Group</b>	<b>9:15 AM</b>
Presenter: Victoria Daugherty	
<b>B. Regulations Committee</b>	<b>9:45 AM</b>
Presenter: Valerie Phelps	
<b>3. Investigative Report</b>	<b>10:15 AM</b>
<b>4. Public Comment</b>	<b>10:30 AM</b>
<b>5. Committee Reports (continued)</b>	<b>10:45 AM</b>
<b>C. Legislative Committee</b>	<b>10:45 AM</b>
Presenter: Victoria Daugherty	
<b>D. Scope of Practices Committee</b>	<b>10:50 AM</b>
Presenter: Victoria Daugherty	
<b>E. Continuing Competency Committee</b>	<b>11:20 AM</b>
Presenter: Valerie Phelps	
<b>F. PT Scope Modernization Work Group</b>	<b>11:50 AM</b>
Presenter: Jonathan Gates	
<b>6. Board Correspondence</b>	<b>12:05 PM</b>
<b>7. Animal Physical Therapy</b>	<b>12:20 PM</b>
<b>8. AO360 - Next Steps</b>	<b>1:05 PM</b>
<b>9. Meeting Summary - Action Items</b>	<b>1:35 PM</b>
<b>10. Adjourn</b>	<b>1:45 PM</b>



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development

BOARD OF PHYSICAL THERAPY AND  
OCCUPATIONAL THERAPY

P.O. Box 110806  
Juneau, Alaska 99811-0806  
Main: 907.269.6425  
Fax: 907.465.2974

[DATE]

The Honorable Representative Zack Fields  
Co-Chair, House Labor & Commerce  
Alaska State Capitol, Room 24  
Juneau, Alaska 99801

RE: HB 347 - OCCUPATIONAL THERAPISTS & ASSISTANTS

Dear Representative Fields,

The Physical Therapy and Occupational Therapy Board expresses support for HB 347, related to modernizing the scope of practice for occupational therapy (OT) practitioners in Alaska. Occupational therapy has changed and evolved over decades. HB 347 is needed to update and modernize Alaska's OT scope of practice to reflect national standard of care and maximize patient outcomes in Alaska.

#### **Need for Change**

The need for OT scope of practice modernization became prominent in 2023 when the current OT scope of practice in Sec. 08.84.190 was unable to support up-to-date treatment interventions, some of which had not yet been medically developed at time of Sec. 08.84.190's passing.

Law opinions in 2023 identified that statute does not define OT as having a role to help a patient to recover or restore function. Opinions at that time emphasized that the role of OT is to help a patient to compensate for their existing limitations, rather than working to improve their function.

This is unfortunately below basic, national standard of care for patients, as improving, restoring, and recovering function is absolutely a fundamental component of OT services, and these limitations can negatively impact the rehabilitation outcomes of Alaskans. As a result of the resultant practice limitations, the Board received strong stakeholder feedback regarding a need for change via written correspondence, as well as concerns expressed during townhall sessions.

#### **Stakeholder Collaboration**

This bill represents a strong collaboration between stakeholders across Alaska during a several year span. While drafting language for this bill, the Physical Therapy and Occupational Therapy Board worked in tandem with

representatives from Alaska Occupational Therapy Association, American Occupational Therapy Association, and licensees during two series of workgroups in 2023 and 2025. These workgroups crafted draft language for today's bill. On August 7, 2025, the full Board unanimously voted to adopt this draft language. After language was adopted by the Board, Alaska Occupational Therapy Association took the lead to socialize the language with a variety of healthcare disciplines across Alaska and later seek sponsorship for this bill.

### **Impact on Alaskans**

OT is a unique profession in that these practitioners serve a large variety of patient diagnostic populations, such as visual, orthopedic, neurological, pediatric, behavioral, emotional, vestibular, etc limitations. OT has a large variety of specialty areas and unique roles in supporting the recovery of a patient across the healthcare continuum, such as acute care, inpatient rehabilitation, skilled nursing facilities, home health, outpatient, and hospice. Moreover, OT providers care for patients outside of the medical model, including supporting students to access education, mental health, forensic settings, community programs, etc. By updating OT scope of practice to reflect current national standards, HB 347 will support the rehabilitative recovery of Alaskans across the state, including both urban and geographically isolated communities.

Sincerely,

Valerie Phelps, PT, ScD  
Chair, Board of Physical Therapy and Occupational Therapy

**HOUSE BILL NO. 347**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 2/23/26

Referred: Labor and Commerce, Health and Social Services

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to occupational therapists and occupational therapy assistants; relating**  
2 **to the practice of physical therapy; and relating to the practice of occupational**  
3 **therapy."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 08.84 is amended by adding a new section to read:

6 **Sec. 08.84.095. Scope of practice for occupational therapists and**  
7 **occupational therapy assistants.** (a) An occupational therapist may provide  
8 occupational therapy to a person whose ability or opportunity to participate in  
9 activities of daily living, play, leisure, or an occupation is or may be limited or  
10 restricted because the person has or is at risk of having an injury, disorder,  
11 impairment, or disability that limits or restricts the person's ability to engage in an  
12 occupation or other goal-oriented task or activity. The therapist may evaluate, analyze,  
13 and diagnose the cause of the limitation or restriction and intervene with occupational  
14 therapy to decrease or eliminate the cause, help the person recover from or adjust to

1 the limitation or restriction, and restore the person's ability to engage in an occupation  
2 or other goal-oriented task or activity.

3 (b) An occupational therapist may initiate and provide occupational therapy,  
4 including therapy under (c) of this section, without a referral from another provider of  
5 health care services.

6 (c) The services an occupational therapist may provide to a person include

7 (1) treating a person's pain;

8 (2) habilitating, rehabilitating, and working with a person to adjust  
9 physical, neuromusculoskeletal, cognitive, psychosocial, sensory-perceptive, visual, or  
10 other aspects of performance in a variety of contexts to improve or maintain the  
11 person's ability to engage in an occupation or other goal-oriented task or activity,  
12 regardless of the person's ability-related needs;

13 (3) evaluating and treating a person to promote, enhance, or restore the  
14 person's ability to safely perform activities of daily living and instrumental activities  
15 of daily living and safely engage in sleep, rest, education, work, play, leisure, health  
16 management, and social participation;

17 (4) administering, evaluating, and interpreting tests and measurements  
18 of a person's bodily functions and structures;

19 (5) establishing, remediating, preventing, or compensating for a barrier  
20 to a person's performance skills; in this paragraph, a barrier to a person's performance  
21 skills may include the person's bodily structures and functions, habits, routines, roles,  
22 environmental and personal factors, and physical, neuromusculoskeletal, cognitive,  
23 psychosocial, sensory perception, communication, interaction, and pain management  
24 skills;

25 (6) managing a person's ability to eat, feed themselves, or swallow to  
26 improve or maintain eating and feeding performance;

27 (7) designing, fabricating, applying, or fitting assistive technology or  
28 an adaptive or orthotic device;

29 (8) training a person to

30 (A) use assistive technology or an adaptive, orthotic, or  
31 prosthetic device; and

- 1 (B) manage the person's seating and positioning;
- 2 (9) adapting environments and assessing, recommending, and training
- 3 a person on the techniques the person may use to enhance the person's functional and
- 4 community mobility;
- 5 (10) preventing pain and dysfunction, restoring function, or reversing
- 6 or arresting the progression of a pathology;
- 7 (11) applying an adjunctive intervention or therapeutic procedure to
- 8 prepare for or use with occupation-based activities; in this paragraph, "adjunctive
- 9 intervention or therapeutic procedure" includes a thermal, mechanical, electrophysical,
- 10 or instrument-assisted treatment modality, wound care, and manual therapy; and
- 11 (12) promoting a person's good physical and mental health and
- 12 wellness, regardless of the person's ability-related needs.
- 13 (d) An occupational therapist may allow an occupational therapy assistant to
- 14 assist with or administer occupational therapy that the occupational therapy assistant is
- 15 professionally competent to assist with or administer, including assessing a patient in
- 16 an evaluation delegated to the occupational therapist assistant and preparing reports on
- 17 the assessment for the occupational therapist. The occupational therapist shall
- 18 supervise the occupational therapist assistant when acting under this subsection.
- 19 (e) In this section, "health" means a person's physical or mental health.

20 \* **Sec. 2.** AS 08.84.190(3) is amended to read:

- 21 (3) "occupational therapy" means [, FOR COMPENSATION,] the use
- 22 of purposeful activity, evaluation, treatment, and consultation with persons [HUMAN
- 23 BEINGS] whose ability to cope with the tasks of daily living are threatened with [,] or
- 24 impaired by developmental deficits, learning disabilities, aging, poverty, cultural
- 25 differences, physical injury or illness, or psychological and social disabilities to
- 26 maximize independence, prevent disability, and maintain health; ["OCCUPATIONAL
- 27 THERAPY" INCLUDES
- 28 (A) DEVELOPING DAILY LIVING, PLAY, LEISURE,
- 29 SOCIAL, AND DEVELOPMENTAL SKILLS;
- 30 (B) FACILITATING PERCEPTUAL-MOTOR AND
- 31 SENSORY INTERGRATIVE FUNCTIONING;

1 (C) ENHANCING FUNCTIONAL PERFORMANCE,  
 2 PREVOCAIONAL SKILLS, AND WORK CAPABILITIES USING  
 3 SPECIFICALLY DESIGNED EXERCISES, THERAPEUTIC ACTIVITIES  
 4 AND MEASURES, MANUAL INTERVENTION, AND APPLIANCES;

5 (D) DESIGN, FABRICATION, AND APPLICATION OF  
 6 SPLINTS OR SELECTIVE ADAPTIVE EQUIPMENT;

7 (E) ADMINISTERING AND INTERPRETING  
 8 STANDARDIZED AND NONSTANDARDIZED ASSESSMENTS,  
 9 INCLUDING SENSORY, MANUAL MUSCLE, AND RANGE OF MOTION  
 10 ASSESSMENTS, NECESSARY FOR PLANNING EFFECTIVE  
 11 TREATMENT; AND

12 (F) ADAPTING ENVIRONMENTS FOR THE DISABLED;]

13 \* **Sec. 3.** AS 08.84.190(4) is amended to read:

14 (4) "occupational therapy assistant" means a person who, [ASSISTS  
 15 IN THE PRACTICE OF OCCUPATIONAL THERAPY] under the supervision of **a**  
 16 **licensed** [AN] occupational therapist, **administers or assists with administering**  
 17 **occupational therapy;**

18 \* **Sec. 4.** AS 08.84.190 is amended by adding a new paragraph to read:

19 (8) "test and measurement" includes imaging, electrodiagnostic and  
 20 electrophysiological methods or techniques, and other methods or techniques  
 21 generally accepted by the physical therapist or occupational therapist professions in  
 22 the state for use in obtaining information about a patient in order to administer  
 23 therapy.



THE STATE  
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GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development

BOARD OF PHYSICAL THERAPY AND  
OCCUPATIONAL THERAPY

P.O. Box 110806  
Juneau, Alaska 99811-0806  
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[DATE]

The Honorable Representative Carolyn Hall  
Co-Chair, House Labor & Commerce  
Alaska State Capitol, Room 434  
Juneau, Alaska 99801

RE: HB 347 - OCCUPATIONAL THERAPISTS & ASSISTANTS

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Sincerely,

Valerie Phelps, PT, ScD  
Chair, Board of Physical Therapy and Occupational Therapy

## February 25-26, 2026 PT OT Board Meeting

### **Regulations Committee Report**

Members: Valerie Phelps PT, chair; Eliza Elsworth PT ,Tori Dougherty, OT alternate

Meetings: met 3 (three) times since October 2025 board meeting  
December 19, January 9, January 23

### Accomplished

AO360 Reform Plan and Decision Document was completed, approved and submitted to the Governor as requested. PHY board recommended 126 regulation reductions in 2026 for 38% reduction in 2026 and an additional 22 regulation reductions in 2027 for a 7% reduction in 2027 for an overall cumulative reduction of 148 regulations and 44%. The Governor had tasked all boards with a cumulative reduction of 25%.

### Future

Previously discussed:

1. Clarifying supervision for assistants, techs, students
2. Added fee to 12 AAC 54.950, Late renewal and Reinstatement
3. License verification for PT's and OT's with prior experience as PTA's or OTA's
4. Follow Medical Board requirements for any PT/OT professional working for Alaska Tribal Health or Federal facility

Next meeting: March 13. Agenda for this meeting will likely be to regroup and create updated direction given the spirit of AO 360.

Planning to meet quarterly.

Prior discussion on Supervision (this is a repeat of October 2025 board report)

Greater clarification on supervision of OTAs and PTAs - 12 AAC 54.510 and 12 AAC 54.810

Goal: consistently answer questions from constituents about supervision

1. Specifics to documentation: Who's required and when to cosign notes
  - a. Evaluation?
  - b. Establish/change in plan of care?
  - c. Discharge vs discharge summary?
2. Number that can be supervised
3. Levels of supervision
  - a. Assistants, aides, techs?
  - b. Supervision in Telehealth
    - i. To include: Can an aide or assistant perform evaluations for a PT/OT on the other end of a telehealth visit. Can this be cross professional?
  - c. Supervision of advance practice,
    - i. Certifications, MLD
    - ii. LMT's
    - iii. ATC's
    - iv. Ex physiologist

Actions:

1. Reviewed state statutes and regulations/rules from the following states: Arizona, Colorado, Florida, Idaho, Louisiana, Massachusetts, Montana, Nevada, Ohio, Tennessee, Texas, Wyoming
2. Reviewed AOTA guidelines for supervision document
3. FSBPT webinar on supervision
4. Reviewed legal opinion on licensed personnel as aides or technicians

Discussion/Findings: wide-ranging and varied

1. Supervision has ranged from no more than 3 assistants/techs/students to no limit.
2. Some states are specific to the type of supervision, ranging from direct to general based on the experience of the assistant
3. OTA's can assist in evaluation/assessment while PTA's currently cannot, based on statutes. This is in alignment with the associations and other states
4. Some states allow OTA's to discharge/write the discharge summary.
5. Unique considerations to this state: remote areas that would benefit from services, insufficient numbers of professionals

Recommendation: no recommendations currently



**MEMORANDUM**

DATE: February 26, 2026  
 TO: Board of Physical Therapy & Occupational Therapy  
 THRU: Erika Prieksat, Chief Investigator *EP*  
 FROM: Jasmin Bautista, Investigator  
 RE: Investigative Report for the February 26, 2026 Meeting

The following information was compiled as an investigative report to the Board for the period of September 24, 2025 thru February 26, 2026; this report includes cases, complaints, and intake matters handled since the last report.

Matters opened by the Paralegals in Anchorage and Juneau, regarding continuing education audits and license action resulting from those matters are covered in this report.

**OPEN - 4**

<u>Case Number</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Status Date</u>
<b>PHYSICAL THERAPIST</b>			
2025-000572	Continuing education	Complaint	06/24/2025
<b>PHYSICAL THERAPY ASSISTANT</b>			
2025-001071	Violation of Profession Statute or Regulation	Complaint	12/11/2025
2025-001079	Violating professional ethics	Complaint	12/15/2025
2025-000538	Substance abuse	Investigation	01/09/2026

**Closed - 7**

<u>Case #</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Closed</u>	<u>Closure</u>
<b>OCCUPATIONAL THERAPIST</b>				

2025-001093	Unethical conduct	Closed-Intake	12/18/2025	Incomplete Complaint
<b>PHYSICAL THERAPIST</b>				
2025-000953	Unethical conduct	Closed-Intake	12/03/2025	Incomplete Complaint
2025-000356	License Application Review/Referral	Closed-Complaint	10/02/2025	No Action - No Violation
2025-000568	Continuing education	Closed-Complaint	10/21/2025	No Action - No Violation
2025-000646	Standard of care	Closed-Complaint	02/02/2026	Incomplete Complaint
2025-000321	License Application Review/Referral	Closed-Investigation	02/12/2026	Advisement Letter
2025-000440	License Application Review/Referral	Closed-Investigation	12/10/2025	Advisement Letter

***END OF REPORT***

**From:** [Board of Physical and Occupational Therapy \(CED sponsored\)](#)  
**To:** [Phil White](#)  
**Subject:** RE: Request to limit or exclude use of non-compete contracts as a stipulation for licensure in AK  
**Date:** Monday, December 1, 2025 3:21:40 PM  
**Attachments:** [image004.png](#)  
[image005.png](#)  
[image006.png](#)

---

Hello Dr. White and Dr. White,

Thank you for your letter expressing serious concerns regarding the use and enforcement of non-compete clauses in pediatric therapy employment contracts within our state, specifically concerning the practices of Playful Learning Pediatric Therapy LLC and the broader impact on the Alaskan healthcare landscape.

I appreciate you taking the time to provide such detailed information on the challenges faced by occupational therapists, physical therapists, and speech-language pathologists, and the resulting barriers to essential healthcare access for Alaska's children with disabilities. The data you provided regarding current waitlists and the critical shortage of providers is particularly impactful.

I understand the urgency of this matter. Restricting therapist mobility in a state already facing a healthcare workforce shortage appears counterproductive to the public interest and patient welfare. Your points regarding the nature of standardized pediatric therapy practices—which rely on professional training and client relationships rather than proprietary trade secrets—are well noted.

We recognize the negative outcomes you have described, including extended waitlists, increased burdens on families, and the mental health impacts on providers facing litigation threats.

The board will review your request and evaluate potential avenues for action, which may include exploring legislative remedies or policy changes within relevant regulatory bodies. Your suggestion of a collaborative approach, involving various stakeholders, is a sound strategy for developing balanced guidelines that protect patient access while maintaining ethical business standards. Because of the Alaska Open Meetings Act, this can only be done at a publicly noticed meeting. Their next meeting is scheduled for February 27-28, 2026. You are welcome to attend and give public comment. You can find connection information on [the PHY Board Business website](#).

In the meantime, I recommend you also contact your state associations. As this is an issue that will most likely involve multiple statutory initiatives as the Board of Physical

Therapy and Occupational Therapy does not govern business standards for therapists, the Alaska Occupational Therapy Association ([AKOTA](#)) and Alaska Physical Therapy Association ([APTA Alaska](#)) will be a valuable resources in accomplishing the goal. We welcome the opportunity for further dialogue on this issue.

Thank you again for bringing this critical issue to the board's attention and for your commitment to the health and well-being of Alaska's vulnerable populations and therapy workforce.

Best regards,



Sheri Ryan  
Licensing Examiner 3 Advanced  
Board of Physical Therapy and Occupational Therapy  
Board of Certified Direct-Entry Midwives  
Athletic Trainers Program  
Division of Corporations, Business and Professional Licensing

[sheri.ryan@alaska.gov](mailto:sheri.ryan@alaska.gov)

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[www.commerce.alaska.gov](http://www.commerce.alaska.gov)



*Are you subscribed to the PT/OT Board Listserv? Receive notifications of board meetings, important announcements/updates, and notices of proposed changes to regulations! Subscribe [NOW!](#)*

Effective May 1, 2025 – Physical Therapy Licensure Compact NOW OPERATIONAL

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**From:** Phil White

**Sent:** Monday, November 17, 2025 10:34 AM

**To:** Fowler, Jessica I (CED) <[jessica.fowler@alaska.gov](mailto:jessica.fowler@alaska.gov)>

**Subject:** Request to limit or exclude use of non-compete contracts as a stipulation for licensure in AK

**CAUTION:** This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Ms. Fowler,

My name is Phil White, I am an Occupational Therapist and the owner of Therapeutic Health and Home LLC. I am writing to you today to request a change to the statutes regarding the use of non-competes in healthcare practices, specifically in Occupational,

Speech, and Physical therapy offices. We have a fellow actor in our community who is using unreasonably broad and restrictive non-compete clauses, often coercing therapists to sign them under duress, to prevent therapist mobility and choice in their place of employment. Then unfortunate consequence is increased barriers to healthcare for children with disabilities, and an inhospitable work environment in Alaska for therapy providers. I request that you work with your colleagues to craft language in our statutes that would prevent the use of these restrictive clauses, specifically as a requirement of obtaining a business license for occupational, speech, and physical therapy. Please review the letter below, that I have also shared with our state Occupational and Physical therapy boards, and thank your for your time.

I am writing to express serious concerns regarding the use of non-compete clauses in pediatric therapy employment contracts within our state, specifically those being enforced by Playful Learning Pediatric Therapy LLC (PLPT). These restrictive covenants are creating significant barriers to healthcare access for Alaska's most vulnerable children and causing undue hardship for therapy professionals.

The current situation in Alaska's pediatric therapy landscape is alarming. Our communities face severe shortages of occupational therapists, physical therapists, and speech-language pathologists. Waitlists for essential pediatric therapy services range from two months to one full year. This deficit is particularly acute in the Mat-Su Borough, where approximately 3,200 children with chronic special needs are served by only 20-25 outpatient Occupational Therapists and a similar number of physical therapists. To properly serve this population, we would need approximately 80 providers working full-time in each discipline.

Despite this critical shortage, Tiffany Adkins, owner of PLPT, has been aggressively enforcing overly broad non-compete clauses that prohibit former employees from providing any therapy services anywhere in “the areas which [PLPT] operates or intends to operate” for one year after employment termination. These clauses are presented to employees without proper explanation, often with implicit threats of termination if not signed, and without appropriate compensation or consideration in return. Furthermore, Tiffany manages her workplace in a manner that fails to provide compensation increases, actively discourages employee engagement with management, and creates an environment of hostility and implied retaliation. I currently have multiple individuals on my staff and within my professional network who are prepared to provide statements about their experiences and the harmful effects of Tiffany's litigation threats.

The attempted enforcement of these restrictive covenants has resulted in multiple negative outcomes:

1. Reduced access to care for vulnerable children with disabilities and developmental delays
2. Extended waitlists at all area clinics, delaying critical early intervention services
3. Increased healthcare costs as conditions worsen during the wait period
4. Heightened burden on families already managing complex care needs

5. Mental health impacts on therapy providers who face litigation threats and professional limitations
6. Reduced likelihood of attracting and retaining qualified providers to our state

Non-compete clauses are traditionally designed to protect legitimate business interests such as trade secrets, confidential information, or specialized training investments. Pediatric therapy services involve standardized, evidence-based practices that do not constitute proprietary business information. The primary "asset" in therapy services is the professional's training, licensure, and personal therapeutic relationship with clients, none of which should be subject to restriction through non-compete agreements.

I respectfully request that the Alaska State Occupational Therapy Board support the development and implementation of policy changes that would prohibit or strictly limit the use of non-compete clauses in therapeutic healthcare settings, particularly those serving vulnerable populations such as pediatrics. Several states have already enacted similar protections, recognizing the public health implications of restricting healthcare provider mobility.

I would welcome the opportunity to engage with the Board, other therapy licensing bodies, healthcare organizations, legal experts, and patient advocacy groups to develop appropriate guidelines that protect both legitimate business interests and patient access to care. A collaborative approach could lead to reasonable solutions such as:

- Prohibiting non-compete clauses in healthcare settings serving vulnerable populations
- Implementing guidelines for reasonable non-solicitation agreements that protect client relationships without preventing provider practice
- Establishing standards for appropriate compensation if restrictive covenants are used
- Creating clear disclosure requirements and cooling-off periods for contract review

The health of Alaska's children and the sustainability of our therapy workforce are at stake. We have an opportunity to lead the nation in creating healthcare policies that prioritize patient access while still supporting ethical business practices.

I look forward to your response and to working together to address this important issue affecting our state's healthcare system.

Respectfully,

Philip White, OTRL, Owner

Jessica White, DPT, Owner

Therapeutic Health and Home LLC

Phil White, OTR/L, Owner

Therapeutic Health and Home LLC

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## Ethical Issues for Attorneys Related to Restrictive Covenants

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A Practice Note discussing key ethical issues for attorneys to consider before entering into non-competition, non-solicitation, or confidentiality arrangements and when handling trade secrets. Topics covered include the retirement benefits exception, sale of a practice exception, application of restrictive covenants to in-house counsel and non-legal services, and inevitable disclosure of trade secrets doctrine. This Note details the requirements for attorneys under the American Bar Association's Model Rules of Professional Conduct. This Note addresses ethical considerations for both in-house and law firm attorneys.

Companies across the US commonly use non-compete agreements and other restrictive covenants to protect the company's legitimate business interests. These agreements are used with employees at all levels but often focus on those with access to the company's trade secrets and confidential information. In-house attorneys, in particular, may take on non-legal, business roles that expose them to sensitive information that the company seeks to protect from competitors and public disclosure.

As attorneys switch firms or move in-house during their careers, they may be asked to sign non-competition, non-solicitation, and confidentiality agreements. Before entering into these agreements, attorneys should consider whether the agreements are permitted under their state's professional ethics rules. This Note discusses some of the key ethical issues for attorneys to consider in the context of restrictive covenants.

While there is no set of national ethics standards, all states (except California) and the District of Columbia base their ethics rules on the American Bar Association's (ABA) Model Rules of Professional Conduct (ABA Model Rules). This Note refers to both:

- The ABA Model Rules because they reflect the basic framework for the standards of professional conduct applied across the country.
- State rules of professional conduct (RPC), which are generally numbered to correspond to their ABA Model Rule corollaries. Many states have modified the ABA Model Rules, so attorneys should refer and adhere

to their local ethics rules when considering whether specific agreements may trigger an ethics violation.

For general information on restrictive covenants in employee agreements, see [Restrictive Covenants Toolkit](#) and [State Restrictive Covenants Toolkit](#).

### Non-Compete Agreements

Attorneys are generally prohibited from drafting or entering into non-compete agreements that restrict the attorney's ability to work post-employment. Under [ABA Model Rule 5.6](#):

- An attorney cannot participate in offering or making:
  - a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of an attorney to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
  - an agreement in which a restriction on the attorney's right to practice is part of the settlement of a client controversy.

The ABA adopted ABA Model Rule 5.6 to ensure that attorneys do not limit their professional autonomy, and clients have the freedom to select counsel of their choice. An agreement that restricts an attorney's ability to practice may be viewed as undermining this public policy.

ABA Model Rule 5.6 has been consistently applied in the context of law firms, with the vast majority of cases and



ethics opinions holding that non-compete agreements are unenforceable between attorneys. For example, partnership agreements generally may not include restrictive covenants that:

- Prohibit departing partners from practicing law after their withdrawal, even if the restriction is limited in scope.
- Require partners who leave the firm and engage in a competing practice of law to forfeit financial benefits that are otherwise payable to partners who withdraw from the firm and do not compete. The prohibition against attorney non-compete provisions is often interpreted to also prohibit agreements that impose financial penalties on competition (see Financial Disincentives).

For more information on ethical obligations of an attorney leaving a law firm to join another firm, see [Ethical Issues when Switching Law Firms Checklist](#).

For general information on employee non-compete agreements, see [Practice Note, Non-Compete Agreements with Employees](#) and [Standard Document, Employee Non-Compete Agreement](#).

### State Adoption of ABA Model Rule 5.6

All 50 states have adopted some version of ABA Model Rule 5.6. Several state courts and bar associations have issued opinions affirming the application of this rule. For example, state courts affirming that non-compete agreements are inconsistent with an attorney's professional practice, violate public policy, and are unenforceable include (see also Financial Disincentives):

- **Indiana.** The Indiana Supreme Court approved the disciplinary statement concerning the law firm's non-compete provision. The provision prohibited an associate from practicing Social Security disability law for two years after termination of employment, violating Indiana RPC Rule 5.6. (*In re Hanley*, 19 N.E.3d 756 (Ind. 2014).)
- **Kansas.** The Kansas Court of Appeals held that an agreement restricting a wife from employing a particular attorney to represent the wife in any action against the husband was void and unenforceable as against public policy. The agreement indirectly restricted the attorney's right to practice law and the party's freedom to choose an attorney. (*Jarvis v. Jarvis*, 758 P.2d 244 (Kan. Ct. App. 1988).)
- **New York.** The New York State Court of Appeals invalidated a law firm partnership agreement that conditioned payment of earned but uncollected partnership revenues on the withdrawing partner's

obligation to refrain from competing with the former firm. The agreement restricted the practice of law and therefore was unenforceable as against public policy. (*Cohen v. Lord, Day & Lord*, 550 N.E.2d 410 (N.Y. 1989).)

State bar associations issuing ethics opinions on the unenforceability of non-compete provisions in attorney agreements include:

- **Florida.** Florida Bar Ethics Opinion 93-4 (February 17, 1995) found that a law firm-associate employment agreement violated Florida RPC prohibiting agreements that restrict an attorney's right to practice after termination of the relationship. The agreement created a substantial financial disincentive that precludes the departing associate from accepting representation of firm clients and impermissibly restricts the right of association among attorneys.
- **Nebraska.** [Nebraska Ethics Advisory Opinion for Lawyers No. 06-09 \(1997\)](#) concluded that it is not ethical for a law firm to include a provision in an attorney's employment or other agreement which provides for liquidated damages if the attorney leaves the firm and then competes with the law firm.
- **Pennsylvania.** Pennsylvania Bar Association Legal Ethics Committee Opinion 86-17 concluded that an employment contract requiring a departing attorney to pay to the former firm 20% of the fees generated from previous clients of the firm was a restriction on the attorney's right to practice law after the termination of the relationship. The fees imposed a barrier to the creation of an attorney-client relationship which was inconsistent with the concept of the practice of law as a profession and which at least indirectly interfered with the client's choice of counsel.

For more information on state non-compete laws generally, see [Non-Compete Laws: State Q&A Tool](#).

### Retirement Benefits Exception

A limited exception to ABA Model Rule 5.6 for an "agreement concerning benefits upon retirement" allows attorneys to agree to restrictive covenants in exchange for the payment of retirement benefits. If the restrictive covenants apply only to the receipt of retirement benefits, law firms and employers can generally dictate the nature and scope of the restrictions on practice and the penalties for noncompliance. For example, the receipt of retirement benefits may be conditioned on the recipient attorney:

- Ceasing to practice law permanently.
- Limiting their practice of law for a certain period of time, geographically, or to certain types of practice.

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To be an agreement concerning retirement benefits within the meaning of ABA Model Rule 5.6, the ABA Standing Committee on Ethics and Professional Responsibility states that the covenants:

- Must affect benefits that are:
  - available only to an attorney intending to retire from the practice of law and terminating or winding down their legal career; and
  - payable only on the satisfaction of minimum age and years-of-service requirements that are consistent with the concept of retirement.
- Cannot impose a forfeiture of income already earned by the attorney.

(ABA Formal Op. 06-444.)

ABA Formal Opinion 06-444 lists other factors that support a finding that an agreement involves legitimate retirement benefits, such as:

- The presence of benefit calculation formulas.
- Benefits that increase as the years of service to a firm increase.
- Benefits that are payable during the lifetime of a retired partner.
- The existence of an interrelationship between the benefits and payments from other retirement funds, such as Social Security and defined contribution retirement plans (for example, the payments from the firm decrease as other sources of retirement income phase in).
- The existence of separate provisions in the agreement for withdrawal from the firm and for retirement.
- The establishment of an extended period of time for paying out retirement benefits beyond that required for payments due on withdrawal.

### State Application of the Exception

State courts and bar associations have debated the meaning and scope of the words **benefits** and **retirement**. Those that have interpreted the retirement benefits exception have, like the ABA, generally concluded that the exception extends only to:

- The kind of retirement that occurs at the end of a career, not just a withdrawal from a particular position within an occupation, such as simply withdrawing from a firm. However, the exception does not require the absolute cessation of practice.
- Benefits representing a future distribution of law firm profits that are collateral amounts post-dating the

partner's tenure, not income the partner has already earned, in which the partner has a vested interest.

State courts have interpreted the retirement benefits exception in, for example:

- **Connecticut.** The Connecticut Supreme Court held that:
  - the firm's non-compete provision in the partnership agreement, requiring partners to forfeit certain benefits if they retired before age 70 and competed with the firm within three years, was enforceable;
  - the payment from future income to partners leaving after 20 years, reaching the age of 60, or having become incapable of the practice of law, qualified as retirement benefits under [Connecticut RPC Rule 5.6](#); and
  - the complete cessation of the practice of law was not required as a condition of retirement under the retirement benefits exception of Rule 5.6.

(*Schoonmaker v. Cummings & Lockwood of Conn.*, 747 A.2d 1017 (Conn. 2000).)

- **Iowa.** The Iowa Supreme Court held that:
  - to qualify for the retirement benefits exception under Iowa Rules of Professional Conduct DR 2-108 (now [Iowa RPC Rule 5.6](#)), the retirement benefits under the agreement must be payments under a bona fide retirement plan;
  - a law firm's retirement plan, which conditioned benefits on either ten years of service and reaching the age of 60 or 25 years of service, qualified as a retirement plan under DR 2-108A; and
  - benefits under the plan may be conditioned on an attorney remaining out of the private practice of law in the state under the DR 2-108A exception for retirement benefits.

(*Donnelly v. Brown, Winick, Graves, Gross, Baskerville, Schoenebaum, & Walker, P.L.C.*, 599 N.W.2d 677 (Iowa 1999).)

- **Kansas.** The Kansas Supreme Court:
  - upheld a restriction on the right of an expelled partner to receive a retirement payment based on the partner's obligation not to practice law; and
  - found the payment qualified as a retirement benefit. The retirement payment was an amount equal to the partner's share of profits for either the first or second year preceding expulsion, whichever is greater. The partnership agreement generally made the payment available to those partners who withdrew for the purpose of retiring from the practice of law or were

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expelled for other than acts of moral turpitude and also satisfied either age or longevity requirements or were deemed permanently disabled.

(*Miller v. Foulston, Siefkin, Powers & Eberhardt*, 790 P.2d 404 (Kan. 1990).)

- **New Jersey.** The New Jersey Supreme Court found:
  - to qualify for the retirement benefit exception the agreement must contain sufficient indicia of a bona fide retirement arrangement and not offend the public policies underlying [New Jersey RPC Rule 5.6](#); and
  - the retirement agreement does not have to qualify as a retirement plan under Internal Revenue Service rules. Merely including all of the normal indicia expected to be in a legitimate retirement plan, such as minimum age requirements, a benefit calculation formula, and a defined term for payouts, is sufficient.

(*Borteck v. Riker, Danzig, Scherer, Hyland & Perretti LLP*, 844 A.2d 521 (N.J. 2004).)

- **New York.** The New York Supreme Court, Appellate Division, found that a partnership agreement:
  - did not constitute a retirement benefit because the withheld funds constituted an earned but uncollected sum owed to the partner during their tenure with the firm; and
  - conditioning the payment on the withdrawing partner's refraining from practicing law in competition with the former law firm was an unenforceable restraint on the practice of law in violation of [New York RPC Rule 5.6](#).

(*McDonough v. Bower & Gardner*, 226 A.D.2d 600 (N.Y. 1996).) New York draws a distinction between previously earned compensation and a future, anticipated distribution in contemplation of retirement.

State bar associations have also interpreted the retirement benefits exception in, for example:

- **Indiana.** [Indiana State Bar Association Legal Ethics Committee, Opinion 3 of 1994](#) concluded that a partnership agreement requiring a withdrawing partner to forfeit 25% of the buyout figure for the partner's interest in the firm if the partner continued to practice in the county where the firm was located, may violate Indiana RPC Rule 5.6 depending on the basis of the buyout figure. If the buyout figure is:
  - classified as a retirement benefit or based on a percentage of the future income of the firm, then the provision **does not violate** Rule 5.6; or

- derived from deferred income or interest from deferred income, then the provision **does violate** Rule 5.6.

- **South Carolina.** [South Carolina Bar Ethics Advisory Opinion 91-20 \(1991\)](#) opined that a partnership agreement should not violate [South Carolina RPC Rule 5.6\(a\)](#) if:
  - withdrawal benefits are clearly specified;
  - qualifications for retirement are specified and are similar to those found in other business settings;
  - retirement benefits are in addition to withdrawal benefits; and
  - expelled partners retiring from practice are entitled to retirement benefits.
- **Wisconsin.** [Wisconsin Memorandum Ethics Opinion EM-14-01: Retirement Benefits and Restrictions on the Right to Practice \(July 23, 2014\)](#) found that a shareholder agreement was permitted to condition payments on the attorney's refraining from competing with the firm because the payments were bona fide retirement benefits under [Wisconsin RPC Rule 5.6](#). The conclusion was based on the payments being made:
  - to a receiving attorney reaching a minimum age of 55;
  - based on the length of full-time employment with the firm;
  - from future revenues of the firm, as opposed to income generated during the course of employment; and
  - for a period of nine years which, while not a lifetime payout, was of sufficient length to be a retirement benefit.

### Sale of Practice Exception

Certain states, including Alaska, Arkansas, Hawaii, Idaho, New York, and Maine, permit attorney non-compete agreements related to the sale of a practice (see American Bar Association Center for Professional Responsibility Policy Implementation Committee, [Variations of the ABA Model Rules of Professional Conduct Rule 5.6: Restrictions On Right To Practice \(September 29, 2017\)](#)). In these states, reasonable restrictions on the practice of law are permitted under the broad terms of the state professional conduct rules. For example:

- **Maine Board of Overseers of the Bar, Advisory Note on Rule 5.6 (August 2015)** clarifies that:
  - restrictions on the practice of law are not prohibited when used related to the sale of a practice under [Maine RPC Rule 1.17](#); and

- agreements for the sale of a practice may require the use of non-compete covenants to protect the buyer's interest, which may not be broader than needed to protect the buyer's legitimate interest.
- Under [New York RPC](#):
  - [New York RPC Rule 5.6\(b\)](#) specifically states that Rule 5.6 does not prohibit restrictions that may be included in the terms of the sale of a law practice under [New York RPC Rule 1.17](#); and
  - Rule 1.17 allows the seller and the buyer to agree on reasonable restriction on the seller's private practice of law.
- Several state and local bar associations, including Connecticut, Minnesota, Nevada, New Hampshire, New Jersey, Ohio, Pennsylvania, South Carolina, Virginia, Washington, and District of Columbia, have also examined the issue with varying results. For example, the state and local bar associations of:
  - Minnesota, New Jersey, Ohio, Philadelphia, South Carolina, Virginia, and District of Columbia concluded that the prohibition on non-competes applies to in-house counsel;
  - Nevada found that even a restrictive covenant relating to in-house counsel's non-legal services violates [Nevada RPC Rule 5.6](#), unless those services are clearly distinguishable from legal services; and
  - Connecticut, Ohio, and Washington concluded that an attorney may enter into a non-compete agreement that has a savings clause stating the provision is to be interpreted to comply with applicable RPC or expressly citing ABA Model Rule 5.6 (or the state corollary).

### Application of the Ban on Non-Competes to In-House Counsel

The ABA has stated that ABA Model Rule 5.6:

- Applies to in-house counsel in much the same way as it does to attorneys in the law firm setting (see ABA Informal Op. 1301 (March 25, 1975)).
- Prohibits an employment agreement that bars corporate counsel from representing anyone against the corporation in the future. That restriction impermissibly:
  - restrains an attorney from engaging in their profession; and
  - restricts the public from access to attorneys who, by virtue of their background and experience, may be the best available attorneys to represent them.

(See ABA Formal Op. 94-381 (May 9, 1994).)

[ABA Model Rule 1.9](#) already prohibits attorneys from undertaking certain representations adverse to former clients and sufficiently addresses any concerns about the company's confidentiality interests. Any further restriction becomes an overbroad and impermissible restriction on the attorney's right to practice and the public's free choice of counsel (see ABA Formal Op. 94-381 (May 9, 1994)).

### State Application to In-House Counsel

Despite the guidance in ABA Formal Op. 94-381, there is limited authority on the extent to which restrictive covenants are enforceable against in-house attorneys. Several state courts and bar associations have weighed in on this issue with different interpretations:

- New York and Colorado state courts have considered the enforceability of a non-compete provision with an in-house attorney, reaching opposite results.

### Colorado

The Denver District Court in an unpublished, non-precedential decision, *DISH Network Corp. v. Shebar*:

- Found the non-compete agreement between the company and its in-house attorney to be enforceable within Colorado's policy of enforcing those agreements with executive and management personnel where their purpose is the protection of trade secrets.
- Held that the Colorado RPC, in particular [Colorado RPC Rule 5.6](#), govern the actions of attorneys but not those of non-attorneys.
- Granted a preliminary injunction against a former in-house attorney who, despite signing a non-compete agreement, left DISH Network to work for its competitor. The court reasoned that the Colorado RPC:
  - define ethical attorney conduct for the purposes of professional discipline, not as a basis for civil litigation; and
  - serve to protect clients from an attorney's unethical conduct and cannot be used as a basis to preclude a client from enforcing an otherwise binding agreement against an attorney.
- Reasoned that because Rule 5.6 only applied to agreements between attorneys:
  - Rule 5.6 did not apply because the employer was a non-attorney. DISH Network functioned as a business entity and not as a legal entity, such as a private law firm;

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- DISH Network was not subject to Colorado RPC, and
- the non-compete agreement between DISH Network and the in-house attorney was valid.
- Held that it was an ethical violation for the in-house attorney (but not the employer) to participate in those agreements and accept the non-compete provisions to receive stock options, while believing that they may be unenforceable.

(No. 2017-CV-31079 (Dist. Ct. Colo. May 9, 2017).)

### New York

The New York District Court in *Ipsos-Insight, LLC v. Gessel*:

- Held that a non-compete agreement between a company and an in-house attorney was per se unenforceable under New York law, reaching a conclusion that is the opposite of the result in *DISH Network*.
- Based its decision on two decisions issued by the state's highest court:
  - *Cohen v. Lord, Day & Lord*, 550 N.E.2d 410 (N.Y. 1989) (for a case summary, see State Adoption of ABA Model Rule 5.6); and
  - *Denburg v. Parker Chapin Flattau & Klimpl*, the New York Court of Appeals held that a law firm agreement that imposed a financial obligation on withdrawing partners continuing to practice law in the private sector was unenforceable because the clause deterred competition and infringed on clients' choice of counsel (624 N.E.2d 995 (N.Y. 1993)).

The *Ipsos-Insight* court found that both cases stand for the proposition that any restriction on an attorney's right to practice law is a violation of [New York RPC Rule 5.6](#), whether it be in the law firm or corporate setting.

- Stated that without these cases imposing a per se rule of unenforceability to the legal profession, the court applies a reasonableness inquiry to determine whether a non-compete clause:
  - violates New York's strong public policy encouraging client choice and attorney mobility; and
  - causes harm to the general public or an unreasonable burden on the employee.
- Found it was concerning that the attorney can "evade an agreement into which he entered voluntarily on the ground that, in doing so, he violated his own ethical obligations."

(2021 WL 2784634 (S.D.N.Y. July 2, 2021).)

### New Jersey

[New Jersey Advisory Committee on Professional Ethics, Opinion 708, Restrictive Covenants For In-House Counsel \(July 3, 2006\)](#), is often cited in ethics opinions addressing the enforceability of non-compete agreements with in-house counsel. Opinion 708 opined that:

- An employment agreement requiring in-house attorneys to not provide services to a competitor for one year after leaving the company was unethical and unenforceable.
- Non-compete clauses that restrict an attorney's right to perform legal services violate [New Jersey RPC Rule 5.6](#), regardless of whether they are in the law firm or corporate setting.
- The New Jersey Supreme Court has clarified that direct and indirect restrictions on the practice of law violate both the language and the spirit of Rule 5.6.
- The rules of professional conduct govern the practice of law based on ethical standards, not commercial desires. The commercial concerns of the firm and the departing attorney are secondary to the need to preserve client choice.

### Non-Compete Agreements Only Restricting Non-Legal Services

ABA Model Rule 5.6 only prohibits attorneys from participating in offering or making agreements that restrict the right of an attorney to practice law. While it may seem clear that an attorney can sign a non-compete agreement as long it does not affect an attorney's right to practice law, this analysis can become hazier when it comes to corporate non-compete agreements with in-house counsel.

In-house counsel often perform non-legal functions, so their day-to-day work may not be limited to legal issues. They may:

- Have non-legal, administrative duties, such as the supervision of staff, as part of their in-house role.
- Serve business functions (such as in human resources, compliance, or finance) in addition to legal ones.
- Play a purely managerial role (for example, the chief executive officer).

Non-compete agreements in an in-house setting may not intend to restrict the attorney's ability to practice law, but rather, the attorney's ability to engage in other business roles.

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For general information on ethical considerations for in-house counsel, see [Practice Note, Ethical Issues for In-House Counsel](#).

### State Application to Non-Legal Services

State bar associations have reached varying conclusions regarding whether restrictions on non-legal services are enforceable, such as in:

- **Connecticut.** Connecticut Bar Association Committee on Professional Ethics (CBA Committee), [Informal Opinion No. 02-05 \(February 26, 2002\) \(2002 WL 570602\)](#):
  - concluded that [Connecticut RPC Rule 5.6](#), while prohibiting restrictions affecting an individual's future practice of law, does not limit otherwise permissible restrictions on other activities; and
  - noted that the proposed covenant in question included a savings clause. The clause expressly limited the non-compete provision's effects only to the extent permissible under Rule 5.6(1), effectively limiting the agreement's restrictions as applicable only to matters beyond the practice of law.
- **Nevada.** [State Bar of Nevada Standing Committee on Ethics and Professional Responsibility, Formal Opinion No. 56 \(December 10, 2019\)](#), found that [Nevada RPC Rule 5.6](#) applies to in-house counsel, stating:
  - all attorneys admitted to practice in Nevada are subject to Nevada RPC (see [Nevada RPC Rule 8.5](#));
  - Rule 5.6 contains no language limiting its application to agreements among attorneys in law firm settings; and
  - Rule 5.6 is not implicated if a company prohibits in-house attorneys from accepting a non-legal position with a competitor.
- **Ohio.** [Ohio Board of Professional Conduct, Advisory Opinion No. 2020-01 \(February 7, 2020\)](#), held that:
  - [Ohio RPC Rule 5.6\(a\)](#) applies to attorneys engaged in the private practice of law and in-house counsel roles alike; and
  - Rule 5.6(a) solely applies to the practice of law. While in-house counsel may not enter into non-compete agreements that restrict their future legal practice, they may enter into non-compete agreements that restrict matters other than the practice of law, such as providing business advice.
- **Pennsylvania.** In contrast, [Philadelphia Bar Association, Ethics Opinion 2003-9 \(September 2003\)](#), took a stricter view of the use of non-competes for in-house counsel. It opined that:

- non-compete agreements are invalid where their restrictions on non-legal duties may still prevent an attorney from performing a job in a role that includes legal and non-legal duties, as commonly required of in-house counsel; and
  - because much of what the non-compete agreement designates as non-legal services are indistinguishable from legal services, the restriction on the attorney in a non-legal capacity is not permissible under the Pennsylvania RPC.
- **Washington.** [Washington State Bar Association, Informal Op. No. 2100 \(2005\)](#) opined that:
    - a non-compete provision that deals specifically with an attorney's post-employment activities that are not related to the practice of law does not violate [Washington RPC Rule 5.6](#);
    - Rule 5.6 only prohibits agreements that restrict an attorney's right to practice after the termination of the relationship; and
    - the non-compete provision explicitly states that as it relates to the practice of law, it is to be interpreted consistent with the Washington RPC, including Rule 5.6, and the employee is free to provide post-employment legal representation consistent with the Washington RPC.

Similarly in an earlier opinion, [Informal Op. No. 1193 \(2001\)](#), the Washington State Bar Association found a non-compete clause between an attorney who is also a certified public accountant (CPA) and a CPA firm violates Rule 5.6, unless it included language that the restrictive provisions in no way limit the employee's right to practice law.

### Advance Notice Agreements

Advance notice agreements require an attorney to provide their law firm with a certain amount of notice when they decide to depart for another firm. The ABA Standing Committee on Ethics and Professional Responsibility, [Formal Opinion 489, Obligations Related to Notice When Lawyers Change Firms \(Dec. 4, 2019\)](#), addressed the permissibility of these agreements. [Formal Opinion 489](#):

- Allows that a notification period may be required, but states that the requirement cannot:
  - be fixed or rigidly applied without regard to client direction;
  - be used to coerce or punish an attorney for electing to leave the firm; or

- serve to unreasonably delay the diligent representation of a client. Attorneys must be diligent and expeditious in their representation of clients (see [ABA Model Rules 1.3](#) and [3.2](#)).
- Notes that if the notification period affects a client's choice of counsel or serves as a financial disincentive to a competitive departure, it may violate ABA Model Rule 5.6.

### Financial Disincentives

Several state courts have found that any financial disincentives to a transition are unenforceable. Applying this logic, any advance notice agreement that implicates a severe financial burden on an attorney is unenforceable as well. Courts that have taken this position include:

- **New York.** See *Cohen v. Lord, Day & Lord*, 550 N.E.2d 410 (N.Y. 1989) (for a case summary, see State Adoption of ABA Model Rule 5.6).
- **Ohio.** The Ohio Court of Common Pleas, Hamilton County, found that the provision in the employment agreement requiring the defendant attorney to pay to the plaintiff attorney 95% of the attorney fees earned from contingent-fee personal injury cases was unenforceable because it violated Ohio public policy (*Hackett v. Moore*, 160 Ohio Misc.2d 107 (2010)).
- **Oregon.** The Oregon Court of Appeals found that a provision of the partnership agreement precluding the withdrawing partner from collecting certain partnership benefits if the partner were to resume the active practice of law within designated counties violated the disciplinary rule prohibiting the restriction of the right of an attorney to practice law after termination of a partnership relationship. This rendered the provision unenforceable. (*Gray v. Martin*, 663 P.2d 1285 (Or. Ct. App. 1983).)
- **District of Columbia.** The District of Columbia Court of Appeals held that the imposition of a substantial financial penalty for representing clients previously represented by the firm constitutes a partial restriction on the practice of law and is invalid under [District of Columbia RPC Rule 5.6\(a\)](#) (*Jacobson Holman, PLLC v. Gentner*, 244 A.3d 690 (D.C. 2021)).

However, not all states have deemed all financial penalties to violate ABA Model Rule 5.6 (or the state corollary), such as:

- **Arizona.** The Arizona Supreme Court:
  - held that a shareholder agreement requiring the former partner to relinquish the partner's stock for no compensation should the partner compete with the firm was not an unlawful restriction on the partner's right to practice law;

- required evaluation under the reasonableness standard like any other non-compete covenant; and
- declined to read [Arizona RPC Rule 5.6](#) expansively, stating that its language should not be stretched to condemn categorically all agreements imposing any disincentive on attorneys from leaving law firm employment.

(*Fearnow v. Ridenour, Swenson, Cleere & Evans, P.C.*, 213 Ariz. 24 (2006).)

- **California.** The California Supreme Court held that:
  - a partnership agreement requiring partners to forgo certain benefits to compensate the firm for losses that may be caused by the withdrawing partner's competition with the firm is permitted; and
  - although an absolute ban on competition with the partnership is per se unreasonable and inconsistent with the legitimate concerns of assuring client choice of counsel and assuring attorneys of the right to practice their profession, to the extent the agreement merely assesses a toll on competition within a specified geographical area, comparable to a liquidated damages clause, it may be reasonable.

(*Howard v. Babcock*, 863 P.2d 150 (Cal. 1993).)

- **Michigan.** The Michigan Court of Appeals:
  - upheld a non-compete provision that merely attached financial consequences on the attorney's departure in the form of requiring the attorney to pay costs and a percentage of fees generated;
  - found that the financial disincentive was not so overreaching that they amount to an actual restriction on the attorney's right to practice law; and
  - noted that [Michigan RPC Rule 5.6](#) prohibits only an agreement that restricts the right of an attorney to practice law after termination of employment with a firm.

(*McCroskey, Feldman, Cochrane & Brock, PC v. Waters*, 494 N.W.2d 826 (Mich. Ct. App. 1992).)

### Non-Solicitation Clauses

#### Non-Solicitation of Clients

Client non-solicitation clauses prohibit former employees from soliciting customers or clients of the company or firm. Client non-solicitation clauses generally fall within ABA Model Rule 5.6's ban on non-compete agreements for attorneys.

State courts and bar associations have generally found these clauses to be restrictions on the attorney's right to practice law and on the public's right to employ counsel of their choosing, such as in:

- **Illinois.** The Illinois Supreme Court held that an agreement in which an attorney was prohibited for two years following separation from soliciting any of the law firm's clients without prior written consent of the firm violated [Illinois RPC Rule 5.6](#) and was unenforceable (*Dowd & Dowd, Ltd. v. Gleason*, 693 N.E.2d 358 (Ill. 1998)).

[Illinois State Bar Association \(ISBA\) Advisory Opinion on Professional Conduct No. 91-12 \(November 22, 1991, affirmed May 2010\)](#), stated that an attorney's agreement with the attorney's former employer barring the attorney from soliciting the firm's clients violated Rule 5.6(a) and was void as contrary to public policy to the extent that the agreement deprived clients of the right to be represented by counsel of their choice.

- **Pennsylvania.** [Philadelphia Bar Association, Ethics Opinion 2003-9 \(September 2003\)](#):
  - concluded that the clause in the agreement that prohibits the solicitation of customers is largely impermissible under [Pennsylvania RPC Rule 5.6](#).
  - found that the non-solicitation of customers clause, which provides that the attorney cannot communicate with, do business with, or engage or purchase services or products from customers of the corporation with whom the attorney dealt during the attorney's tenure at the corporation, restricts the attorney's right to practice; and
  - noted that customers of the attorney's prior employer can become customers of the attorney's new employer due to no actions of that attorney. Rule 5.6 prohibits any restrictions on the attorney's ability to do the attorney's job related to those customers.
- **Rhode Island.** [Rhode Island Supreme Court Ethics Advisory Panel, Opinion No. 2003-07 Request No. 862 \(November 18, 2003\)](#) found that a provision in a post-employment severance agreement that restricts the associate from soliciting the law firm's clients violates [Rhode Island RPC Rule 5.6](#).

However, at least one court has found that non-solicitation agreements may be permissible. The New York Supreme Court, Appellate Division:

- Reinforced the well-established rule in New York against attorney non-compete agreements, holding that the non-compete provision at issue was void and unenforceable.

- Refused to dismiss the law firm's claims for violation of the non-solicitation agreement, finding that the former associate failed to establish that the non-solicitation clause was unenforceable as an undue restriction on the associate's ability to practice law.

(*Feiner & Lavy, P.C. v Zohar*, 195 A.D.3d 411 (N.Y. App. Div. 2021).)

For general information on non-solicitation clauses, see [Practice Note, Non-Solicitation and No-Poach Agreements and Standard Clause, Non-Solicitation Clause](#).

### Non-Solicitation of Employees

An employee non-solicitation clause prohibits individuals from recruiting their former coworkers for a certain period of time after the termination of their employment. State courts and bar associations have diverged in determining whether employee non-solicitation clauses violate ABA Model Rule 5.6 (or the state corollary).

Several state courts and bar associations have found that employee non-solicitation clauses in agreements with attorneys are unenforceable, such as in:

- **New Jersey.** The New Jersey Supreme Court held that employee non-solicitation provisions violate [New Jersey RPC Rule 5.6](#) and are unenforceable. The court:
  - invalidated the non-solicitation provision in a law firm agreement, stating that discouraging withdrawing partners from contacting the firm's professional and paraprofessional staff violated public policy;
  - found the non-solicitation provision unduly constricts the right to practice of those attorneys wishing to have accompanied a departing partner, but those attorneys were not informed of that partner's interest due to an agreement creating a disincentive against their being contacted; and
  - noted that the effect of the provision is all the more objectionable when the affected associate was not a party to the agreement establishing the restriction.

(*Jacob v. Norris, McLaughlin & Marcus*, 128 N.J. 10 (1991).)

- **New York.** The Supreme Court of Monroe County found that provisions in a non-disclosure agreement which prevented law firms in merger talks from soliciting one another's attorneys violated [New York RPC Rule 5.6](#) and were unenforceable (*Nixon Peabody LLP v. de Senilhes, Valsamdidis, Amsallem, Jonath, Flaicher Associes*, 20 Misc. 3d 1145(A) (Sup. Ct., Monroe Cnty. 2008)).
- **Pennsylvania.** [Philadelphia Bar Association, Ethics Opinion 96-5 \(May 1996\)](#) found that the provision in the

employment agreement that provides that an employee may not directly or indirectly solicit or retain current or former employees violates [Pennsylvania RPC Rule 5.6](#) to the extent that it applies to attorneys employed by the firm. By restricting the right of association, this provision restricts the right of an attorney to practice.

Other state courts and bar associations have found that employee non-solicitation clauses do not implicate the same concerns as non-compete provisions and are not a restriction on the right to practice law, such as in:

- **North Carolina.** [North Carolina State Bar, 2017 Formal Ethics Opinion No. 5 \(October 27, 2017\)](#) analyzed the issue of whether two law firms can enter into a non-solicitation agreement regarding each other's employees as part of their merger talks. The North Carolina State Bar:
  - found that the non-solicitation provision did not violate [North Carolina RPC Rule 5.6\(a\)](#) because it imposes a de minimis restriction on the mobility of the attorneys in the firms, does not impair client choice, and is reasonable under the circumstances; and
  - emphasized other circumstances in which some restrictions on attorney mobility were deemed permissible, such as in the sale of a law practice, where certain geographical and other restrictions have been found to be valid, and financial disincentive provisions for departing partners, when they had a legitimate business purpose.
- **Rhode Island.** [Rhode Island Supreme Court Ethics Advisory Panel, Opinion No. 2003-07 Request No. 862 \(November 18, 2003\)](#), found that a provision in a post-employment severance agreement that restricts the associate from soliciting the law firm's employees is beyond the scope of [Rhode Island RPC Rule 5.6](#) and is permissible. In contrast, the court found a client non-solicitation provision in the same agreement violates [Rule 5.6](#) (see [Non-Solicitation of Clients](#)).

For general information on non-solicitation clauses, see [Practice Note, Non-Solicitation and No-Poach Agreements](#) and [Standard Clause, Non-Solicitation Clause](#).

### Confidentiality Agreements

[ABA Model Rule 1.6](#) imposes a duty of confidentiality under which attorneys may not reveal information relating to the representation of a client. In 2012, the ABA added paragraph (c) to the rule, requiring attorneys to make reasonable efforts to prevent the inadvertent or unauthorized disclosure of or unauthorized access to

information relating to the representation of a client (see [Practice Note, Attorneys' Duties to Protect Client Data: Duty of Confidentiality](#)). Most states have adopted a similar rule.

Even though ABA Model Rule 1.6 already imposes a duty of confidentiality on attorneys, the ABA Model Rules do not prohibit an attorney from entering into and complying with a separate confidentiality agreement if the terms of the confidentiality agreement:

- Do not restrict the practice of law.
- Are not broader than the obligations imposed in ABA Model Rule 1.6.

State courts and bar associations have affirmed this application of ABA Model Rule 1.6 (or state corollary) to confidentiality agreements, such as in:

- **Connecticut.** [Connecticut Bar Association Standing Committee on Professional Ethics Informal Opinion 19-02 \(December 18, 2019\)](#) found that confidentiality agreements that merely restrict the disclosure of information by the clients' attorneys do nothing more than ratify confidentiality obligations attorneys already have to their respective clients and former clients under [Connecticut RPC Rules 1.6 and 1.9](#). These agreements generally do not impermissibly restrict the attorney's right to practice under [Connecticut RPC Rule 5.6\(2\)](#) because they do not impinge on the attorney's freedom to represent other clients.
- **Nevada.** [Nevada State Bar Standing Committee on Ethics and Professional Responsibility Formal Opinion No. 56 \(December 10, 2019\)](#):
  - found that the confidentiality provision of an agreement between an in-house attorney and the company is too broad and violates [Nevada RPC Rule 5.6](#);
  - noted that an attorney's duty of confidentiality is already broad under [Nevada RPC Rule 1.6\(a\)](#) and restricts the attorney from using confidential information of a former client to that client's disadvantage under [Nevada RPC Rule 1.9](#);
  - concluded that the agreement, which requires the attorney to keep confidential all information resulting from any task assigned to the attorney, unduly expands the scope of Rules 1.6 and 1.9 and violates [Rule 5.6](#) because it restricts the attorney from using their legal knowledge and skills to practice; and
  - suggests that attorneys can avoid ethical violations under [Rule 5.6](#) by adding a savings clause to restrictive covenants that reference relevant

professional conduct rules and provide that restrictive covenants be interpreted consistent with these rules.

- **New York.** *New York Committee on Professional Ethics Opinion 858 (March 17, 2011)* found that a general counsel may ethically require staff attorneys to sign a confidentiality agreement to protect information not otherwise protected under the New York RPC, if the agreement makes plain that the confidentiality obligations do not:
  - restrict the attorney’s right to practice after termination; and
  - expand the scope of the attorney’s duty of confidentiality under the rules.

For general information on confidentiality agreements, see [Confidentiality and Nondisclosure Agreements Toolkit](#).

### Misappropriation of Trade Secrets

State and federal laws barring misappropriation of trade secrets apply equally to attorneys as they do to non-attorneys. For example, in *Sandberg v. STMicroelectronics, Inc.*, 600 S.W.3d 511 (Tex. App. 2020), *review denied* (June 11, 2021), the Court of Appeals of Texas upheld a trial court order permanently enjoining the appellant, a tax attorney, from using or disclosing the attorney’s former employer’s confidential information.

Other courts have also deemed permanent injunction to be an appropriate means of protecting confidential information held by an attorney. For example, in *American Motors Corp. v. Huffstutler*, the court enjoined a former employee-attorney from disclosing trade secrets, confidential information, or matters of attorney-client privilege or attorney-client work product of the former employer (575 N.E.2d 116 (Ohio 1991)).

Attorneys are not immune from claims grounded in state and federal laws protecting trade secrets, copyright, and other intellectual property or confidential and proprietary information. However, those claims must be adequately presented to survive a motion to dismiss. For example, in *Whiteslate, LLP v. Dahlin*, the in-house attorney faced state and federal claims of misappropriation of trade secrets after leaving the employer to take an in-house counsel role with one of the former employer’s clients. The former employer failed to sufficiently plead that the in-house attorney had misappropriated any bona fide trade secrets, as required to prove violation of both the Defend Trade Secrets Act of 2016 (DTSA) and the California Uniform Trade Secrets Act (CUTSA). (2021 WL 2826088 (S.D. Cal. July 7, 2021) and see [State Q&A, Trade Secret Laws: California, Question 2.](#))

For more information on protecting trade secrets, see:

- [Practice Note, Protection of Employers’ Trade Secrets and Confidential Information.](#)
- [Practice Note, Trade Secrets Litigation.](#)
- [Standard Document, Employee Confidentiality and Proprietary Rights Agreement.](#)
- [Trade Secrets and Confidential Information Best Practices at Hiring Checklist.](#)
- [Trade Secrets and Confidential Information at End of Employment Checklist.](#)
- [Trade Secret Laws, State Q&A Tool.](#)

### Inevitable Disclosure Doctrine

The doctrine of inevitable disclosure of trade secrets is used by employers to seek protection against the disclosure of trade secrets and proprietary information when a former employee goes to work for a competitor. While not all states recognize the inevitable disclosure doctrine, some employers have successfully invoked the doctrine in different courts. For example:

- In *PepsiCo, Inc. v. Redmond*, the US Court of Appeals for the Seventh Circuit:
  - affirmed an injunction prohibiting a senior executive from taking a similar position at a direct competitor. In that case, the plaintiff, PepsiCo, argued that because the senior executive possessed intimate knowledge of PepsiCo’s pricing architecture, marketing plans, and other trade secret information relating to Pepsi’s sports drink, All Sport, the use and disclosure of PepsiCo’s trade secrets in the senior executive’s new position at its competitor was not merely threatened but inevitable; and
  - noted the district court’s finding that the senior executive’s conduct in leaving PepsiCo suggested that the executive “could not be trusted to act with the necessary sensitivity and good faith” required to protect PepsiCo’s trade secrets.(54 F.3d 1262 (7th Cir. 1995).)
- In *Vendavo, Inc. v. Long*, the Northern District of Illinois described a three-factor analysis used in light of PepsiCo to help determine when a trade secret disclosure may be inevitable, assessing:
  - the level of competition between the former employer and the new employer;
  - whether the employee’s position with the new employer is comparable to the position the employee held with the former employer; and

## Ethical Issues for Attorneys Related to Restrictive Covenants

- the actions the new employer has taken to prevent the former employee from using or disclosing trade secrets of the former employer.

(397 F. Supp. 3d 1115 (N.D. Ill. 2019).)

Given that attorneys are not exempt from federal or state trade secret laws and absent any prohibition in ABA Model Rule 5.6, the inevitable disclosure doctrine appears to apply to attorneys in states that recognize the doctrine. However, there is limited authority on this issue, with only a South Carolina ethics opinion referencing the application of the doctrine to attorneys.

[South Carolina Bar Ethics Advisory Opinion 00-11 \(2000\)](#) opines that:

- While [South Carolina RPC Rule 5.6](#) bars in-house counsel from entering into a non-compete agreement that prohibits them from working for a similar corporation for a period of years, there are various other legal mechanisms to protect a company from the disclosure and misappropriation of their trade secrets.
- One of those mechanisms protecting a company's trade secrets is the doctrine of inevitable disclosure.
- Under the law of trade secrets and consistent with the provisions of [South Carolina RPC Rules 1.6, 1.7, and 1.9](#), in some circumstances, accepting employment with one employer may preclude certain other later employment. Rule 5.6 is not so broad that it changes that result.

Not all states recognize the inevitable disclosure doctrine. Some courts are reluctant to recognize inevitable disclosure claims because the claims may effectively prevent an employee from accepting a new job, even where the employee is not violating any contractual or other obligation. For example:

- California courts consistently reject the inevitable disclosure doctrine. The California Court of Appeal:
  - rejected the former employer's suggestion that it apply the inevitable disclosure doctrine, which permits a trade secret owner to prevent a former employee from working for a competitor, despite the owner's failure to prove the employee has taken or threatens to use trade secrets, by demonstrating that the employee's new job duties inevitably causes the employee to rely on knowledge of the former employer's trade secrets;
  - held that the inevitable disclosure doctrine is contrary to California law and policy because it creates an after-the-fact covenant not to compete that restricts employees' mobility (see also *Bayer Corp. v. Roche Molecular Sys., Inc.*, 72 F. Supp. 2d 1111, 1120 (N.D. Cal. 1999)); and

- opined that at trial, an employer must produce evidence of an actual or threatened misappropriation to obtain an injunction against a former employee.

(*Whyte v. Schlage Lock Co.*, 101 Cal. App. 4th 1443 (2002).)

- The Georgia State Court found that that the inevitable disclosure doctrine is not an independent claim under which a trial court may enjoin an employee from working for an employer or disclosing trade secrets (*Holton v. Physician Oncology Servs., LP*, 292 Ga. 864 (2013)).

For more information on the inevitable disclosure doctrine, see Practice Notes:

- [Employment Litigation: D TSA Claims: Inevitable Disclosure Doctrine.](#)
- [Trade Secrets Litigation: Inevitable Disclosure of Trade Secrets.](#)
- [Non-Compete Agreements with Employees: Protection in the Absence of Non-Competes: Inevitable Disclosure.](#)

For information on the jurisdictions that recognize inevitable disclosure, see Trade Secret Laws: State Q&A Tool: Question 17.

## Practical Tips

Before signing any non-competition, non-solicitation, or confidentiality agreements, both in-house and law firm attorneys should consider not only whether the agreements are enforceable, but also whether they may be subjecting themselves to professional sanctions. The enforceability of restrictive covenants against attorneys is an evolving issue that depends on the specific language of the agreement and the jurisdiction in which enforcement is sought.

Both in-house and law firm attorneys should consider:

- For in-house counsel frequently assuming dual roles as both legal and business advisors, the decision in Colorado's *DISH Network* (for a case summary, see Colorado). The court found the non-compete agreement between the employer and the in-house attorney to be valid. While an outlier decision, Dish Network suggests that in-house counsel should not assume, without further analysis, that they are not subject to non-compete provisions.
- In addition, while certain restrictive covenants may not be enforceable against in-house counsel, they are still bound by ABA Model Rules 1.6 and 1.9 to preserve the former employer's confidentiality and not act adversely towards it.

## Ethical Issues for Attorneys Related to Restrictive Covenants

- For law firm attorneys in partnership roles, even if employee non-solicitation clauses are deemed unenforceable, they must be mindful of their fiduciary obligations to the partnership to refrain from competing with the partnership in the conduct of its business before its dissolution.
  - If requested to enter into restrictive covenant agreements, attorneys should raise the ethical concerns with their employer.
- Companies considering whether to implement and enforce restrictive covenants against in-house counsel should be aware that:
- These agreements may be unenforceable.
  - Requesting in-house counsel to sign these agreements may place in-house counsel in tenuous positions where counsel risks committing an ethical violation by signing the agreement.
  - Non-compete agreements may be enforceable against in-house counsel for non-legal work, but the distinction between legal and non-legal work is often blurred.
  - Any restrictive covenants should include a savings clause that explicitly references the relevant professional conduct rules and provides that the restrictive covenants be interpreted consistent with these rules.

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## Legislative Committee Report

Prepared by: Tori Daugherty

Prepared for: 2/26/26-2/27/26 full board meeting

Date prepared: 2/19/26

Committee has previously met during the legislative session to review active bills and determine if letters of support or opposition are merited.

Due to vacant board positions, the Board had decided to cancel meetings during the 2/27/25-2/28/25 full board meeting.

During 10/2/25-10/3/25, the Board decided to continue with suspension of Legislative Committee meetings at this time due to vacant board positions.

The full board plans to address legislation concerns as needed during emergency meetings.

Committee meeting dates (since 10/2/25-10/3/25 full board meeting): None

Board members on committee:

- Tori Daugherty
- Vacant
- Vacant

Work product: None.

**From:** [Alec Kay](#)  
**To:** [Dr. Valerie Phelps](#); [Board of Physical and Occupational Therapy \(CED sponsored\)](#); [Leah Einhorn](#)  
**Subject:** Re: FW: 2025 Executive Administrator Language Draft - approved 02/28/2025  
**Date:** Friday, February 27, 2026 6:23:07 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
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[image002.png](#)

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Chairperson Phelps,

I hope all is well.

I'd like to get up to speed and aligned on goals and expectations for this bill moving forward.

Leah communicated the draft is ready for submission and will be sponsored by Sen. Kawasaki of Fairbanks. Per our discussion last year, the APTA Alaska Board had agreed to write a letter of support and that can be produced now.

Beyond that, please share what other tasks you were expecting from APTA Alaska. It is an expense for us to engage our lobbyist in a bill to actively lobby. I'm not sure if this is needed, maybe just monitoring as it is presented in committees so we can testify if appropriate?

Thanks for clarifying expectations and asks from us.

**Alec Kay, PT, DMT, ATC, MOMT, FAAOMPT**

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-Program Director, Ola Grimsby Institute Fellowship in Orthopedic Manual Physical Therapy

On Thu, Oct 2, 2025 at 2:10 PM Dr. Valerie Phelps <[vphelps@aptak.com](mailto:vphelps@aptak.com)> wrote:

Here you go!

# Valerie A. Phelps, PT, ScD

Board Certified Orthopedic Clinical Specialist

Fellow of the American Academy of Orthopedic Manual Physical Therapists

Founder of the International Academy of Orthopedic Medicine-US

Founder of Advanced Physical Therapy in Alaska

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**From:** Ryan, Sheri J (CED) <[sheri.ryan@alaska.gov](mailto:sheri.ryan@alaska.gov)>

**Sent:** Tuesday, March 4, 2025 10:13 AM

**To:** Dr. Valerie Phelps <[vphelps@aptak.com](mailto:vphelps@aptak.com)>; Tori Daugherty <[daugherty.tori@gmail.com](mailto:daugherty.tori@gmail.com)>; Rebecca Dean <[rsdean@att.net](mailto:rsdean@att.net)>; Johnathan Gates <[jegates23@gmail.com](mailto:jegates23@gmail.com)>; Tina McLean <[tinamclean65@gmail.com](mailto:tinamclean65@gmail.com)>

**Cc:** Bannarbie, Shane R (CED) <[shane.bannarbie@alaska.gov](mailto:shane.bannarbie@alaska.gov)>

**Subject:** 2025 Executive Administrator Language Draft - approved 02/28/2025

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## Scope of Practice Committee Report

Prepared by: Tori Daugherty

Prepared for: 2/26/26-2/27/26 full board meeting

Date prepared: 2/19/26

Committee met to review correspondence received by the Board, draft responses based on statutes and regulations, and recommend responses for vote by full Board via OnBoard.

Board members on committee:

- Tori Daugherty
- Jonathan Gates
- Vacant

Committee meeting dates (since 10/2-10/3 board meeting):

- November 6: Daugherty, Gates
- February 12: Daugherty, Gates

Correspondence topics:

- Dry needling for OTs
- Dry needling for PTAs
- Vision therapy
- Coursework Tool 6
- UltraMIST (ie MIST Therapy) for wound care
- CAQH Attestation disclosures
- Therapy provisions for IEPs

Physical Therapy Scope of Practice Modernization Workgroup:

Workgroup summary document submitted to full board for review

Workgroup Objectives

1. Develop a collaborative plan to address modernization of our scope of practice between all stakeholders (including the state licensing board, APTA-AK, national organizations, and licensees) to create statutory change.
2. Identify needs for change/improvement in the current scope of practice language - AS 08.84.190(7)
3. Develop draft language to address any needs that the workgroup identifies.
4. Address the role of PTAs in scope of practice language
5. Develop an updated draft of scope of practice language with future action steps for recommendation to the PHY Board.
6. Coordinate with other boards/organizations which may have input and/or concerns (i. e. chiropractic and physician boards)

Work Group participants:

- Jonathan Gates - PHY Board Member
- Leslie Adrian, FSBPT
- Rebecca Byerley - APTA-AK
- Alec Kay - APTA-AK
- Molly Self - APTA-AK
- Kristen Neville - AOTA
- Tina McLean - Sterling
- Jason Fagel - Juneau
- Jessica Hoffman, Utqiagvik
- Mark Cunningham - Soldotna Cortland Reger

Workgroup meeting dates (since 10/2-10/3 board meeting):

- November 12
- November 19
- November 26
- January 14
- January 21
- January 28

Discussion topic for full board meeting 2/26-2/27:

- Correspondence regarding UltraMIST by PTA: Requesting a full board discussion regarding whether it can be within PTA's skillset to perform MIST therapy, including a potential draft related to MIST therapy by PTA
- Update from Gates regarding PT Scope of Practice Modernization Workgroup
- Provide update regarding AKOTA Taskforce meetings, and review new bill for OT scope of practice modernization
- Review, modify, and vote related to letter of support for OT SOP bill
- Consider a motion to delegate board members to testify on behalf of OT SOP bill
- Consider a motion to delegate board members to testify on behalf of HB 173/SB172 (OT Compact Licensure)

## **Continuing Competence Committee Chair Report**

February 25/26, 2026

Committee members: Valerie Phelps PT (alternate/prior chair), Michel Scott-Weber OT, Jonathan Gates PT

Meetings: Met 1 (one) time: January 22

### Worked on:

Competency requirements/regulations updates for greater versatility. Refer to document: **WORKING DOCUMENT FOR ALASKA PT OT CEU REQUIREMENTS**

### Still to be addressed:

- Disciplinary Matrix: - waiting for Next steps: Investigations supervisor Billy Homestead suggests PHY board start a disciplinary matrix review subcommittee to include Board members and Investigations to work together to draft and finalize the matrix to then present to the full Board at a future meeting.
- Informed consent – reviewing FSBPT task force results and identifying needs related to Alaska

## WORKING DOCUMENT FOR ALASKA PT OT CEU REQUIREMENTS

### Considerations

**Basic Life Support** (*max 4*) – allowed (*not mandatory*)

**Special topics** (*max 4*) - allowed (*not mandatory*)

- ethics and boundaries, informed consent, cultural, sexual misconduct/trafficking, understanding addiction

**Professional competency activities and courses** (*unlimited*)

- Live course
- On-line
- Study group/in-service (*2 hours attendance = 1 contact hour; presenting for 1 hour = 1 contact hour*)

**Professional contribution** (*max 8*) - allowed

- Clinical instructor (*1 contact hour for 40 CI hours*)
- Participation or attendance at an Alaska Physical Therapy/Occupational Therapy board meetings (*1 contact hour for 4 hours of attendance*)
- Publications – journal article book chapter writing, review for a peer review journal
- Teaching
- Mentoring/supervision for supervised service delivery, fellowship, or residency

**Professional advancement** (*no limit*) – granted upon completion - allowed

- Residency - (1+ year) - [ABPTRFE](#) or AOTA accredited programs(?) – courses didactic are awarded along the way; self-study given along the way; practical examinations – hours worked could be used upon completion of residency (16 units/year max for residency).
- Board certification – 16 units max for awarded certification; didactic courses awarded along the way.
  - APTA Specialist Certification – per [ABPTS](#) (example OCS)
  - AOTA Certified Practitioners by [AOTA](#)
  - Specialty Certified Practitioners by [AOTA](#)
  - Hand Therapy Certification (CHT) by [Hand Therapy Certification Commission](#)

- Fellowship - (2-3 years) - [ABPTRFE](#) or [AAOMPT](#) or [AOTA](#) accredited programs - courses didactic are awarded along the way; self-study given along the way; practical examinations – hours worked could be used upon completion of residency (16 units/year max for fellowship).
- PhD, ScD – advanced degree obtained – 16 units upon graduation max (credit awarded for completion of dissertation) – didactic courses awarded along the way.

**Professional Administration** (*max 6*) - *allowed*

- Documentation and coding
- Risk/practice/financial management

**Professional Workplace Wellness** (*max 6*) - *allowed*

- Stress management
- Avoiding burnout
- Practice culture
- Patient culture
- Effective communication and difficult conversations

**Approving Entities: (the suggestion below has been written into regulations project for AO360 Reform Plan)**

- Any state or national professional healthcare association or state licensing entity
- Accredited hospital or related healthcare institution
- Accredited college or university health care programs
- local/state educational entity (example: elementary or secondary school environment provides educational opportunity within the school setting for autistic children on managing emotional regulation).

**To be determined:**

Increase from 24 contact hours to 32 contact hours per concluding licensing period.

# PT Scope Modernization Workgroup Summary Document

## Jonathan Gates

The PT Scope Modernization Workgroup met thirteen times from March 2025 to January 2026 (three additional meetings scheduled for March of 2026) with the goal to review the current PT scope of practice language and discuss and develop changes to modernize and allow for future growth of the profession.

The Board reached out to stakeholders to gauge interest in participation in this workgroup through the Board's Listserv. The first meeting gathered feedback from all stakeholders present to develop an agenda of concerns to address during workgroup meetings, as well as to determine if stakeholders present would be interested in participating in the workgroup. The subsequent meetings were coordinated to facilitate active participation from workgroup members in developing a language draft to be presented to the Board.

### Workgroup Objectives

1. Develop a collaborative plan to address modernization of our scope of practice between all stakeholders (including the state licensing board, APTA-AK, national organizations, and licensees) to create statutory change.
2. Identify needs for change/improvement in the current scope of practice language - AS 08.84.190(7)
3. Develop draft language to address any needs that the workgroup identifies.
4. Address the role of PTAs in scope of practice language.
5. Develop an updated draft of scope of practice language with future action steps for recommendation to the PHY Board.

The work group identified the following topics of concern to be addressed as draft language was developed:

- Avoid a long list of permitted interventions. Ensure broad language that can be defined more in regulation.
- *Supervision of PTAs, and types of supervision.* (The workgroup found no issue with existing language).
- Term Protection - Changed to Title Protection (only for physiotherapist)
- Direct Access (PTs as primary care for conditions w/in PT SOP)
- Rural Access (PTs as primary care for conditions w/in PT SOP)
- Avoiding language inferring PTs practicing outside of SOP, to avoid negative perception
- No changes to be made to Article 4 (PT Compact)
- Finalized proposed changes and language for submission to the PT/OT Board in October of 2025. PT board recommended continuing the workgroup to gather additional stakeholder input, in part due to negative feedback from some stakeholders.

Major Changes suggested by the workgroup:

1. Adopt portions of the FSBPT Model Practice Act (MPA) - as this is the gold standard, per FSBPT, for state practice acts; and has been developed and refined several times by FSBPT. Originally printed in 1997, the most recent revision was in 2022. Review of all state practice acts found that many states have made a similar change to this model, or a portion thereof.
2. Classify Physical Therapists as Primary Care Providers for conditions within the PT SOP, as stated in this document. This is currently the model of the US Army, and has been adopted, or is in process of legislative proposal, in Montana, Oregon, and Utah - setting a precedent as a growing national trend in the field of PT.

Recommendation For Next Steps:

1. It is recommended that the Board create a task force to work in collaboration with stakeholders (APTA-AK, FSBPT, and licensees), to aid in the legislative process for this bill.
  - a. There are concerns from the stakeholders, as well as licensees, that the board is going to push these changes through without seeking further public input.
  - b. We were told that, while the national APTA is in agreement with FSBPT's MPA, the AK-APTA will oppose these changes.
    - i. Currently trying to schedule educational opportunities with new leadership of APTA-AK to promote collaboration.
      1. Jonathan Gates to meet with the APTA-AK board on 03/04/2026 @ 5:30 to provide education and rationale for proposed language, and to gather additional stakeholder input.
2. Create a regulations project involving omitting the wording in **12 AAC 54.530(a)** that limits telerehabilitation to “geographic constraints or health and safety constraints.” See **Centralized Statute 08.02.130**

(a) The purpose of this section is to establish standards for the practice of ~~telerehabilitation~~ **telehealth** by means of [an interactive telecommunication system] by a physical therapist licensed under AS 08.84 and this chapter in order to provide physical therapy to patients who are located in this state. ~~and do not have access to a physical therapist in-person due to geographic constraints or health and safety constraints.~~

  - a. Telehealth is considered the same as any other practice setting by FSBPT. This language is overly restrictive and antiquated.



CHAPTER 84.  
PHYSICAL THERAPISTS AND OCCUPATIONAL THERAPISTS

Article

1. State Physical Therapy and Occupational Therapy Board (§§ 08.84.010, 08.84.020)
2. Licensing (§§ 08.84.030 – 08.84.120)
3. Unlawful Acts (§§ 08.84.130 – 08.84.180)

ARTICLE 1.  
STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD

**Section**

**01. Legislative Intent**

10. Creation and membership of board
20. Applicability of Administrative Procedure Act

**Sec. 08.84.001. Legislative Intent**

**This act is enacted for the purpose of protecting the public health, safety, and welfare, and provides for jurisdiction administrative control, supervision, licensure, and regulation of the practice of physical therapy and occupational therapy. It is the legislature’s intent that only individuals who meet and maintain prescribed standards of competence and conduct may engage in the practice of physical therapy and occupational therapy as authorized by this act. This act shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.**

**Sec. 08.84.120. Refusal, revocation, and suspension of license; discipline.** (a) The board may refuse to license an applicant, may refuse to renew the license of a person, may discipline a person, and may suspend or revoke the license of a person who

- (1) has obtained or attempted to obtain a license by fraud or material misrepresentation;
- (2) uses drugs or alcohol in any manner that affects the person’s ability to practice physical therapy or occupational therapy competently and safely;
- (3) has been convicted of a state or federal felony or other crime that effects the person’s ability to practice competently and safely;
- (4) is guilty, in the judgement of the board, of gross negligence or malpractice or has engaged in conduct contrary to the recognized standards of ethics of the physical therapy profession or the occupational therapy profession;

- (5) has continued to practice physical therapy or occupational therapy after becoming unfit because of physical or mental disability;
- (6) has failed to refer a patient to another qualified professional when the patient's condition is beyond the training or ability of the person;
- (7) as a physical therapist assistant, has attempted to practice physical therapy that has not been initiated, supervised, and terminated by a licensed physical therapist;
- (8) as an occupational therapy assistant, has attempted to practice occupational therapy that has not been supervised by a licensed occupational therapist; or
- (9) has failed to comply with this chapter, a regulation adopted under this chapter, or an order of the board.

**(10) Practicing or offering to practice beyond the scope of the practice of physical therapy.**

**(11) Acting in a manner inconsistent with generally accepted standards of physical therapy practice, regardless of whether actual injury to the patient is established.**

- (b) The refusal or suspension of a license may be modified or rescinded if the person has been rehabilitated to the satisfaction of the board.
- (c) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the licensee

- (1) or another licensed health care provider is available to provide follow-up care;
- (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) meets the requirements established by the board in regulation.

- (d) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (c) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

**AS 08.84.130 False claim of license prohibited.** (a) A person not licensed as a physical therapist, or whose license is suspended or revoked, or has lapsed, who uses in connection with the person's name the words or letters ~~“P.T.”~~ **“D.P.T.”**, **“Doctor of Physical Therapy”**, “P.T.,” “Physical Therapist,” “L.P.T.” “Licensed Physical Therapist,” **“Physiotherapist,”** or other letters, words, or insignia indicating or implying that the

person is a licensed physical therapist, or who, in any way, orally or in writing, directly or by implication, holds out as a licensed physical therapist, is guilty of a class B misdemeanor.

 **Nothing in this section shall be construed to prohibit a person licensed under AS 08.20 from practicing within the scope of practice authorized by that chapter, including the use of physiological therapeutics as an ancillary methodology, provided the person does not use the titles or insignia specified in subsection (a) of this section indicating or implying licensure as a physical therapist.**

## ARTICLE 5. GENERAL PROVISIONS

### Section

#### 190. Definitions

#### 200. Short title

Sec. 08.84.190. Definitions. In this chapter, unless the context otherwise requires,

(1) “board” means the State Physical Therapy and Occupational Therapy Board;

(2) “occupational therapist” means a person who practices occupational therapy;

(3) “occupational therapy” means, for compensation, the use of purposeful activity, evaluation, treatment, and consultation with human beings whose ability to cope with the tasks of daily living are threatened with, or impaired by developmental deficits, learning disabilities, aging, poverty, cultural differences, physical injury or illness, or psychological and social disabilities to maximize independence, prevent disability, and maintain health; “occupational therapy” includes

(A) developing daily living, play, leisure, social, and developmental skills;

(B) facilitating perceptual-motor and sensory-integrative functioning;

(C) enhancing functional performance, prevocational skills, and work capabilities using specifically designed exercises, therapeutic activities and measure, manual intervention, and appliances;

(D) design, fabrication, and application of splints or selective adaptive equipment;

(E) administering and interpreting standardized and nonstandardized assessments, including sensory, manual muscle, and range of motion

 assessments, necessary for planning effective treatment; and

(F) adapting environments for the disabled;

(4) “occupational therapy assistant” means a person who assists in the practice of occupational therapy under the supervision of an occupational therapist;

(5) “physical therapist” means a person who practices physical therapy;

~~(6) “physical therapist assistant” means a person who assists in the practice of physical therapy or an aspect of physical therapy as initiated, supervised, and terminated by a licensed physical therapist; the responsibilities of a physical therapist assistant do not include evaluation;~~

~~(7) “physical therapy” means the examination, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction, pain from injury, disease and other bodily or mental conditions and includes the administration, interpretation 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 preventive and therapeutic purposes; the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain; “physical therapy” does not include the use of roentgen rays and radioactive materials for diagnosis and therapeutic purposes, the use of electricity for surgical purposes, and the diagnosis of disease.~~

**(2) “Competence” is the application of knowledge, skills, and behaviors required to function effectively, safely, ethically and legally within the context of the patient/client’s role and environment.**

**(3) ~~“Consultation” means a physical therapist seeking assistance from, or rendering professional or expert opinion or advice to, another physical therapist or professional healthcare provider via electronic communications, telehealth, or in-person.~~ “Consultation” means a therapist seeking assistance from, or rendering professional or expert opinion or advice to, another professional healthcare provider or individual involved in the plan of care via electronic communications, telehealth, or in-person.**

**(4) “Continuing competence” is the lifelong process of maintaining and documenting competence through ongoing self-assessment, development, and implementation of a personal learning plan, and subsequent reassessment.**

**(5) ~~“Electronic Communications” means the science and technology of communication (the process of exchanging information) over any distance by electronic transmission of impulses including activities that involve using electronic communications to store, organize, send, retrieve, and/or convey information.~~**

**(6) “Nexus to practice” means the criminal act of the applicant or licensee posing a risk to the public’s welfare and safety relative to the practice of physical therapy.**

**(7) ~~“Patient/client” means any individual receiving physical therapy from a licensee, permit, or compact privilege holder under this Act.~~**

(8) Physical therapist assistant means a person who assists in the practice of physical therapy or an aspect of physical therapy as initiated, supervised, and terminated by a licensed physical therapist; the responsibilities of a physical therapist assistant do not include evaluation.

(9) Physical therapist means a person who is a licensed healthcare practitioner pursuant to this act to practice physical therapy. The terms ~~“physiotherapist” or “physio” shall be synonymous with “physical therapist” pursuant to this act.~~ A Physical Therapist may evaluate, initiate and provide physical therapy treatment for a client as the first point of contact without a referral from other health service providers.

(10) Physical therapy means the care and services provided in-person or via telehealth by or under the direction and supervision of a physical therapist who is licensed pursuant to this act. The term “physiotherapy” shall be synonymous with “physical therapy” pursuant to this act.

(11) Practice of physical therapy means:

a. Examining, evaluating, and testing patients/clients with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement-related conditions in order to determine a diagnosis, prognosis and plan of treatment intervention, and to assess the ongoing effects of intervention.

b. Alleviating impairments, pain, functional limitations and disabilities; promoting health; and preventing disease by designing, implementing and modifying treatment interventions that may include, but not limited to: therapeutic exercise; needle insertion; patient-related instruction; therapeutic massage; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; manual therapy including soft tissue and joint mobilization/manipulation; functional training related to movement and mobility in self-care and in home, community or work integration or reintegration; as well as prescription application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment.

c. Reducing the risk of injury, impairment, functional limitation, and disability, including performance of participation-focused physical examinations and the promotion and maintenance of fitness, health, and wellness in populations of all ages.

~~d. Serving as primary providers for patients and clients experiencing physical therapy healthcare concerns. Serving as primary care physical therapy providers.~~

 **Referring a patient/client to healthcare providers and facilities for services and testing to inform the physical therapist plan of care.**

**f. Engaging in administration, consultation, education, and research.**

(12) **“Telehealth” is the use of electronic communications to provide and deliver a host of health-related information and healthcare services, including, but not limited to physical therapy related information and services, over large and small distances. Telehealth encompasses a variety of healthcare and health promotion activities, including, but not limited to, education, advice, reminders, interventions, and monitoring of interventions.**

(13) **“Testing” means standard methods and techniques used to gather data about the patient/client, including but not limited to imaging, electrodiagnostic and electrophysiologic tests and measures.**

*(Will need to incorporate new occupational therapy definitions in alphabetical order under AS 08.84.190)*

DRAFT

Work Group Recommendations for associated Regulations Project:

**\*Telehealth:**

Omit phrase from 12 AAC 54.530(a).

Change Telerehabilitation to Telehealth - 12 AAC 54.530. (regulation project) and omit wording limiting to “geographic constraints or health and safety constraints.” See Centralized Statute 08.02.130

(a) The purpose of this section is to establish standards for the practice of ~~telerehabilitation~~ **telehealth** by means of [an interactive telecommunication system] by a physical therapist licensed under AS 08.84 and this chapter in order to provide physical therapy to patients who are located in this state. ~~and do not have access to a physical therapist in person due to geographic constraints or health and safety constraints.~~

DRAFT



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development

BOARD OF PHYSICAL THERAPY AND  
OCCUPATIONAL THERAPY

P.O. Box 110806  
Juneau, Alaska 99811-0806  
Main: 907.269.6425  
Fax: 907.465.2974

February 27, 2026

Phil White – [email address]

Hello Phil,

On February 27, 2026, the Physical Therapy and Occupational Therapy Board approved the following response to your request from December 1, 2025, for support from the Alaska Physical Therapy and Occupational Therapy Board in the development and implementation of policy changes (i.e. regulatory or statutory) that would prohibit or strictly limit the use of non-compete clauses in therapeutic healthcare settings.

The Board does not have jurisdiction to create regulations surrounding non-compete clauses. The Board adopts regulations to carry out laws governing the practice of physical therapy and occupational therapy in Alaska, and those regulations in 12 AAC must be based on the statutes in AS 08.84. AS 08.84 does not have a statutory foundation to justify regulating non-compete agreements.

The Board recognizes that your concerns are valid, as non-compete clauses may negatively impact a patient's ability to access PT/OT services in small communities. Patients may also experience similar hurdles when seeking out care from other healthcare disciplines. Your idea to address non-competes may be of interest to a variety of healthcare disciplines.

Consider taking action to explore if statutory change needs to occur to address this topic of noncompete clauses among healthcare providers in Alaska. You may consider reaching out to legal counsel and your state association for guidance in a statutory project like this. The Board may be able to vocalize support if a bill were to be introduced.

Please let the board know if you have additional questions.

Sincerely,

Sheri Ryan  
Licensing Examiner 3

## **ANIMAL PHYSICAL THERAPY**

**NAC 638.750 “Animal physical therapy” defined. (NRS 638.070)** As used in [NAC 638.750](#) to [638.790](#), inclusive, “animal physical therapy” means the rehabilitation of injuries in a nonhuman animal through the use of the following techniques, but does not include animal chiropractic:

1. Stretching;
2. Massage therapy;
3. Rehabilitative exercise;
4. Hydrotherapy;
5. Application of heat or cold; and
6. Stimulation by the use of:
  - (a) Low-level lasers;
  - (b) Electrical sources;
  - (c) Magnetic fields; or
  - (d) Noninvasive therapeutic ultrasound.

(Added to NAC by Bd. of Veterinary Med. Exam’rs by R009-04, eff. 4-26-2004; A by R091-06, 11-13-2006)

**NAC 638.760 Requirements to practice; application for certificate of registration; fee. (NRS 638.070)**

1. A person shall not practice animal physical therapy in this State unless he or she is:
  - (a) A veterinarian;
  - (b) A licensed veterinary technician who complies with the provisions of [NAC 638.053](#);or
  - (c) A physical therapist who has obtained a certificate of registration pursuant to this section and complies with the provisions of [NAC 638.780](#).
2. A physical therapist who desires to secure a certificate of registration to practice animal physical therapy in this State must make written application to the Board.
3. The application must be on a form provided by the Board, include any information required by the Board and be accompanied by satisfactory proof that the applicant:

- (a) Is of good moral character;
- (b) Has been an active licensed physical therapist in any state for at least 1 year;
- (c) Is licensed by and in good standing with the Nevada Physical Therapy Board;
- (d) Has successfully completed at least 100 hours of instruction or course work, or a combination of both, in the area of animal physical therapy, which must include, without limitation, assessment and planning of treatment, behavior, biomechanics, common orthopedic and neurological conditions, comparative anatomy, neurology, and therapeutic modalities and exercises; and
- (e) Has completed at least 125 hours of supervised clinical experience in animal physical therapy with a licensed veterinarian.

4. The application must be signed by the applicant and notarized.

5. Except as otherwise provided in [NAC 638.790](#), upon receipt of the application and information required by subsection 3 and payment of the fee required pursuant to [NAC 638.035](#), the Board will issue to the physical therapist a certificate of registration.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004; A by R075-06, 11-13-2006; R072-09, 4-20-2010; R073-16, 2-27-2018)

**NAC 638.770 Expiration and renewal of certificate; fee. ([NRS 638.070](#))**

1. Each certificate of registration issued pursuant to [NAC 638.760](#) or renewed pursuant to this section expires on January 1 of each year.

2. Each application for renewal of a certificate of registration must be:

- (a) Submitted in the form established by the Board;
- (b) Signed by the physical therapist;
- (c) Accompanied by proof that the physical therapist completed, during the 12-month period immediately preceding the beginning of the new registration year, at least 5 hours of continuing education in animal physical therapy approved by the Board; and
- (d) Accompanied by proof that his or her license as a physical therapist in this State is active and that he or she is in good standing with the State Board of Physical Therapy Examiners.

3. A physical therapist who fails to renew his or her certificate of registration before it expires forfeits the certificate of registration.

4. Except as otherwise provided in [NAC 638.790](#), upon receipt of the application for renewal and the information required by subsection 2 and payment of the renewal fee required pursuant to [NAC 638.035](#), the Board will renew the certificate of registration of the physical therapist.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004; A by R072-09, 4-20-2010)

**NAC 638.780 Standards of practice for physical therapist holding certificate; maintenance of records. ([NRS 638.070](#))**

1. A physical therapist who has been issued a certificate of registration pursuant to [NAC 638.760](#) may practice animal physical therapy only:

(a) Under the direction of a veterinarian licensed in this State who has established a valid veterinarian-client-patient relationship concerning the animal receiving the animal physical therapy before the animal physical therapy is performed; and

(b) If the physical therapist assumes individual liability for the quality of the animal physical therapy performed.

2. The veterinarian under whose direction the physical therapist performs the animal physical therapy:

(a) Is not required to supervise the physical therapist during the animal physical therapy.

(b) Is not liable for the acts or omissions of the physical therapist who performs the animal physical therapy.

3. Each physical therapist who has been issued a certificate of registration shall:

(a) Maintain in this State for at least 4 years a separate written medical record of each animal receiving animal physical therapy from the physical therapist.

(b) Within 48 hours after the initial visit with the animal, mail or transmit electronically a complete copy of the medical record to the veterinarian under whose direction the physical therapist performs the animal physical therapy.

(c) Within 48 hours after each subsequent visit with the animal, mail or transmit electronically a progress report to the veterinarian under whose direction the physical therapist performs the animal physical therapy.

4. Any medical record made pursuant to subsection 3 must be available for inspection by the Board or its representative.

5. The veterinarian shall include the copy of the medical record received pursuant to subsection 3 in the medical record required pursuant to [NAC 638.0475](#). The written medical record must include, without limitation:

- (a) The name, address and telephone number of the owner of the animal;
- (b) The name or identifying number, or both, of the animal;
- (c) The age, sex and breed of the animal;
- (d) The dates of care, custody or treatment of the animal;
- (e) The results of a basic rehabilitation examination related to physical therapy;
- (f) The diagnosis and treatment plan related to physical therapy recommended by the physical therapist for the animal; and
- (g) The progress and disposition of the case.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004; A by R063-13, 6-23-2014)

**NAC 638.790 Disciplinary action. ([NRS 638.070](#))**

1. A violation of a provision of [chapter 638](#) or [640](#) of NRS or a regulation adopted by the State Board of Physical Therapy Examiners or the Nevada State Board of Veterinary Medical Examiners is a ground for disciplinary action.

2. If the Nevada State Board of Veterinary Medical Examiners determines that an applicant for a certificate of registration pursuant to [NAC 638.760](#) or a physical therapist who has been issued a certificate of registration pursuant to [NAC 638.760](#) has committed any act which is a ground for disciplinary action, the Board may:

- (a) Refuse to issue a certificate of registration;
- (b) Refuse to renew a certificate of registration;
- (c) Revoke a certificate of registration;
- (d) Suspend a certificate of registration for a definite period or until further order of the Board;
- (e) Impose a fine in an amount not to exceed \$10,000 for each act that constitutes a ground for disciplinary action;
- (f) Place a physical therapist who has been issued a certificate of registration on probation subject to any reasonable conditions imposed by the Board, including, without

limitation, requiring courses in continuing education or a periodic or continuous review of his or her animal physical therapy practice;

(g) Administer a public reprimand;

(h) Require the physical therapist who has been issued a certificate of registration to take a competency examination or a mental or physical examination; and

(i) Require the physical therapist who has been issued a certificate of registration to pay all costs, including, without limitation, attorney's fees, incurred by the Board in taking disciplinary action against him or her.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004)

**Sec. 08.98.250 Definitions.**

(6) “practice of veterinary medicine”

(A) means for compensation to

(i) diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental condition, including the prescription or administration of a drug, biologic apparatus, anesthetic, or other therapeutic or diagnostic substance;

(ii) use a manual or mechanical procedure for testing for pregnancy or correcting sterility or infertility; or

(iii) render advice or recommendation with regard to any matter listed in (i) or (ii) of this subparagraph;

(B) means to represent, directly or indirectly, publicly or privately, an ability or willingness to do any act in (A) of this paragraph for compensation;

(C) means to use a description title, abbreviation, or letters in a manner or under circumstances tending to induce the belief that the person using it or them is qualified or licensed to do any act in (A) of this paragraph whether or not for compensation;

(D) does not include, whether or not for compensation,

(i) practices related to artificial insemination and the use of a title, abbreviation, or letters in a manner which induces the belief that the person using them is qualified to perform artificial insemination;

(ii) the practices of a farrier done in the performance of the farrier’s profession;

(iii) standard practices commonly performed on farm or domestic animals in the course of routine farming or animal husbandry, when performed by an owner or the owner’s employee unless ownership of the animal is transferred for the purpose of avoiding application of this chapter or the primary purpose of hiring the employee is to avoid application of this chapter;

**Sec. 08.98.120. License required; prohibitions; penalty.** (a) A person may not practice veterinary medicine, surgery, or dentistry unless the person is licensed as a veterinarian under this chapter or has a temporary permit issued under AS 08.98.186, except that a person may perform functions authorized by

(1) regulation of the board if the person is licensed as a veterinary technician; or

(2) a permit issued under AS 08.02.050 if the person is employed by an agency that has a permit issued under AS 08.02.050.

(b) A person may not

(1) present or attempt to use a license or permit that was issued under this chapter to another person, either directly or by impersonation;

(2) secure or attempt to secure a license or permit under this chapter through deceit, fraud, or intentional misrepresentation;

(3) use or attempt to use an expired or revoked license or permit knowing of the license's or permit's status; or

(4) falsely claim to be licensed or to hold a permit under this chapter. (c) Violation of this section is a misdemeanor punishable by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both.

**Discretionary Requirements (including regulations and materials incorporated)**

Division/Corporate Agency	Baseline Number Submitted
CBPL	333

**Guidance Documents (if using to achieve reduction)**

Division/Corporate Agency	Baseline Number Submitted
CBPL	

ated by reference)

New Baseline (if new regs have become effective)	Requirements Reduced in 2026	Number After 2026 Reduction	Percentage After 2026 Reduction
0	126	207	38%

New Baseline (if new regs have become effective)	Requirements Reduced in 2026	Number After 2026 Reduction	Percentage After 2026 Reduction

<b>Total 2026 Percentage Reduction</b>	<b>Requirements Reduced in 2027</b>	<b>Number After 2027 Reduction</b>	<b>Percentage After 2027 Reduction</b>	<b>Total 2027 Percentage Reduction</b>	<b>Total Cumulative Reduction</b>
38%	22	185	7%	7%	148

<b>Total 2026 Percentage Reduction</b>	<b>Requirements Reduced in 2027</b>	<b>Number After 2027 Reduction</b>	<b>Percentage After 2027 Reduction</b>	<b>Total 2027 Percentage Reduction</b>	<b>Total Cumulative Reduction</b>

<b>Total Cumulative Reduction Percentage</b>
44%
<b>Total Cumulative Reduction Percentage</b>

<b>Division or Corporate Agency</b>	<b>Type of Stakeholder Solicitation</b>	<b>Date of OPNS Publication</b>	<b>Length of Notice Period</b>
<i>Name of division or corporate agency</i>	<i>Public at large, specific, etc.</i>	<i>Date of publication in OPNS and additional locations, if any</i>	<i>Time between notice and deadline</i>

*Details regarding specific comments received*

Corporations, Business and Professional Licensing	Public		
Corporations, Business and Professional Licensing	Public		
Corporations, Business and Professional Licensing	Public		

Type of Feedback Solicited	Relevant Regulation(s)	Date Received
<i>Oral hearing, teleconference, written, etc?</i>	<i>Cite the regulations that are relevant to the request, even if the commenter did not specifically state them.</i>	<i>Date comment received</i>

oral comment

None Specified

10/29/2025

written comment

None Specified

11/12/2025

written comment

None Specified

11/21/2025

**Name and Organization of Commenter**

*Name and organization of the commenter, if known.*

Kristen Neville, State Affairs Manager, American Occupational Therapy Association

Jessica Pyatt

Mitchell St. Clair

Summary of Public Comment	Resulting in Changes? (Yes/No)
<p><i>Include as many details about the comment as needed to capture the essence of the request and any specifics about the changes requested, pain points, rationales, etc.</i></p>	<p><i>"Yes" if adopting any changes, and "No" if not.</i></p>

Procedural question - curious what happens with feedback from meetings? Who reviews the regulations? Director Robb responded, providing the procedure in full. Have not decided whether or not they will submit anything in writing or not.

No

Does not agree with decreasing regulations. Lives in rural community with a lot of travelers of all disciplines. As a patient, needs to trust the processes and regulations ensure licensure requirements are met and providers have the skills to provide the care. Regulations are in place to protect the public and maintain quality health care

No

suggesting modification to AS 08.84.190(7) to remove "the use of roentgen rays and radioactive materials for diagnosis and therapeutic purposes"

No

## Agency Response

*Summarize the changes the agency proposes to adopt as a result of the comment. Specific language is not required.*

Ms. Neville was ongoingly engaged in Regulation committee meetings regarding AO360 reform plan changes. Sylvan Robb provided responses to questions on how input will be handled after the meetings - boards will be reviewing input.

The needs of the rural communities were kept in mind with every possible regulatory reduction. supportive listening provided.

Dr. St. Clair referred to PHY Scope of Practices committee and PT Scope Modernization Work Group to provide input on possible statutory changes. Statutory change required, not regulatory.

**Additional Notes**

Division or Corporate Agency	Project Priority Number	Drafting Assistance Required?
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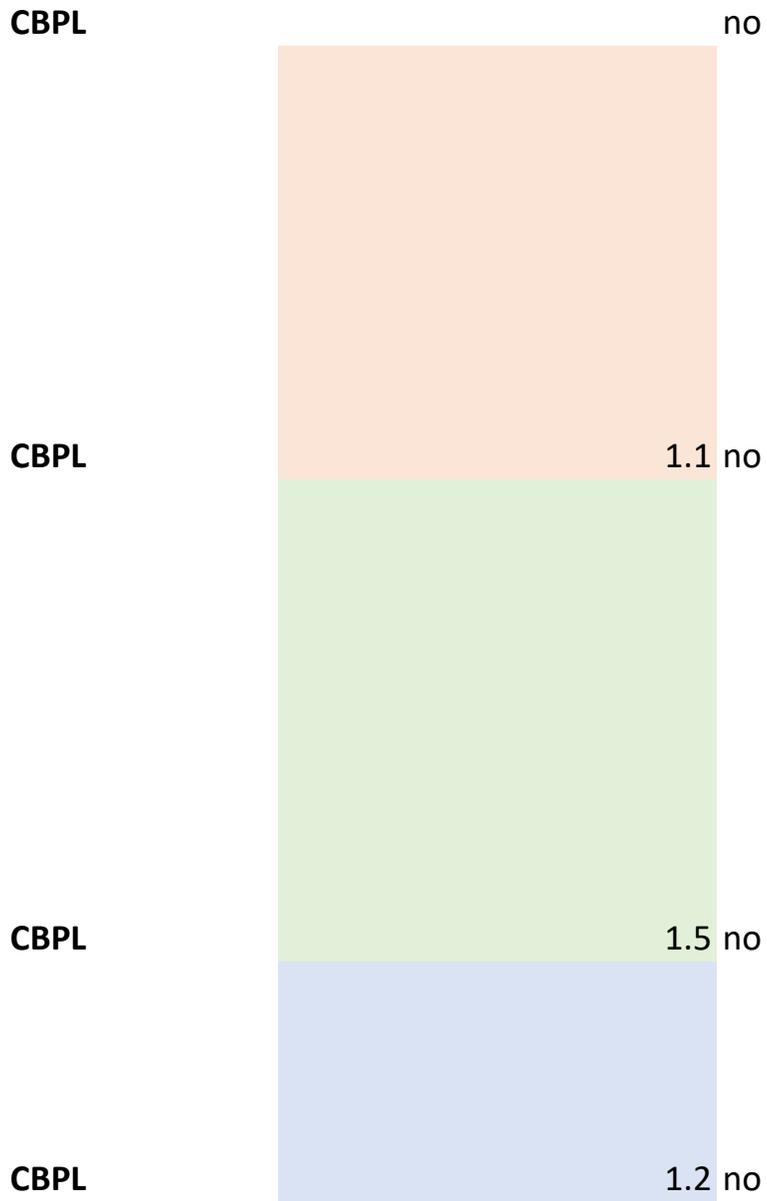
*1 is the highest priority for the division, and 5 is the lowest. Projects are grouped by number according to the division or agency that will be submitting to LAW for preliminary review.*

*Indicate whether your staff is requesting drafting assistance from the Department of Law.*



CBPL	1.2	no
CBPL	1.4	no

CBPL no



**CBPL**

1.4 no

**CBPL**

1.5 no

**CBPL**

1.1 no

**CBPL**

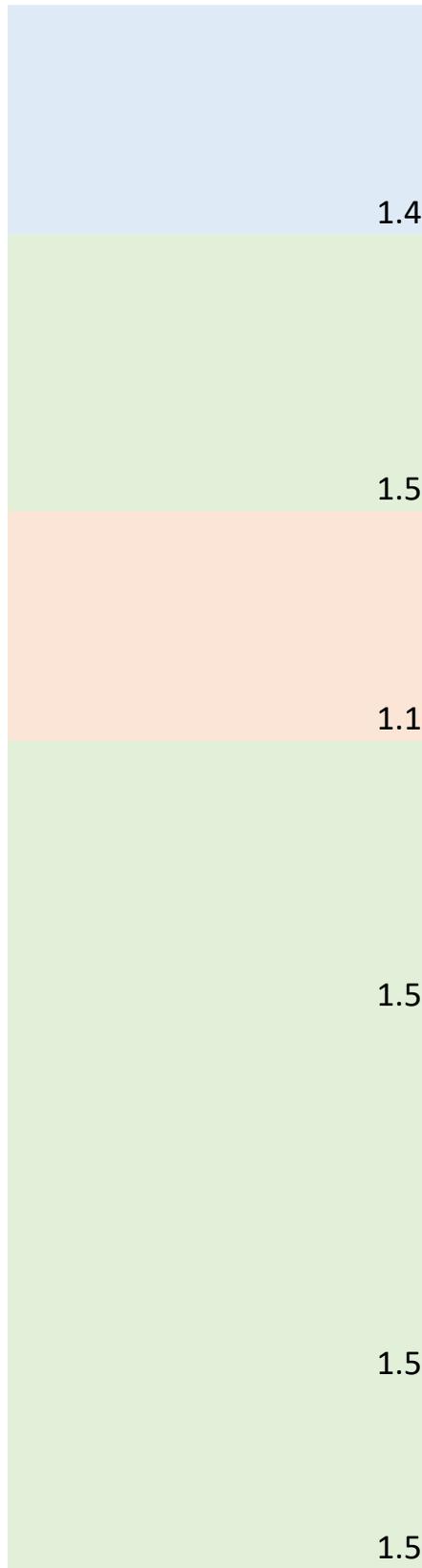
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**CBPL**

1.5 no

**CBPL**

1.5 no



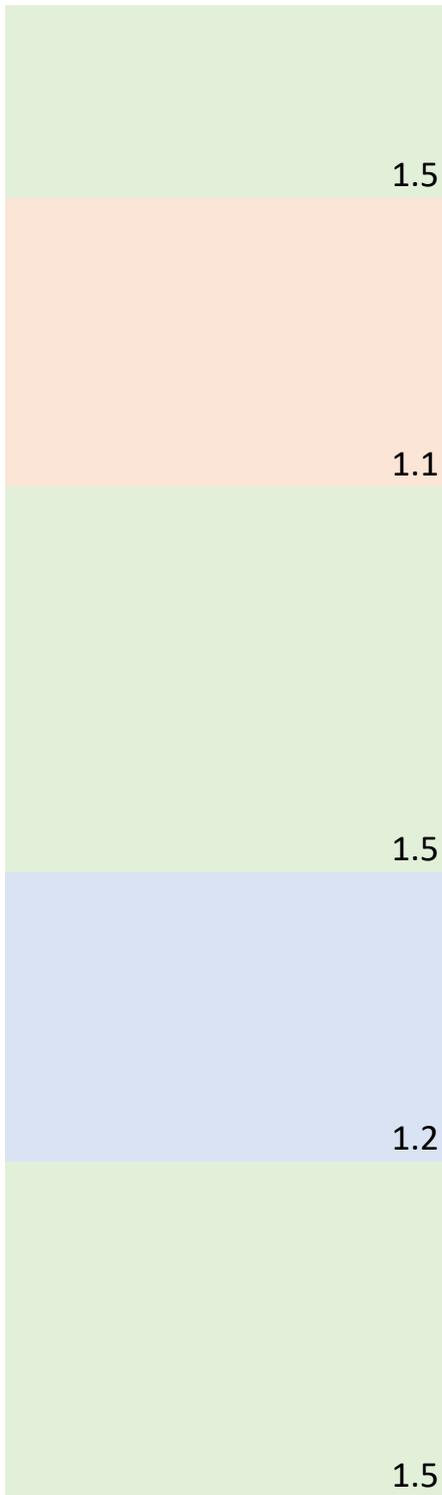
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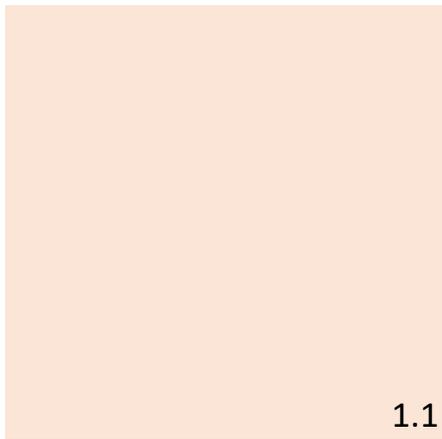
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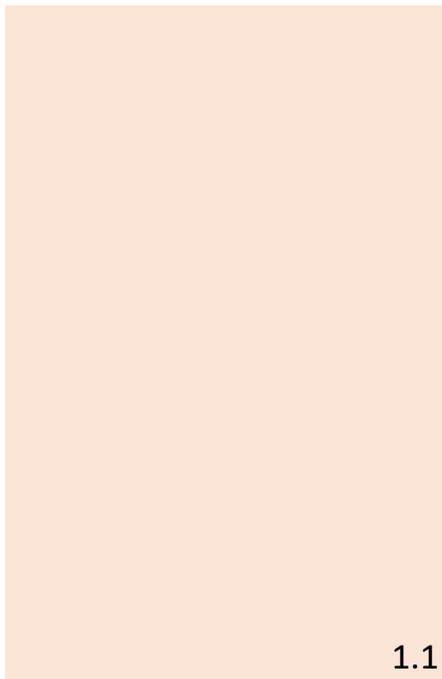


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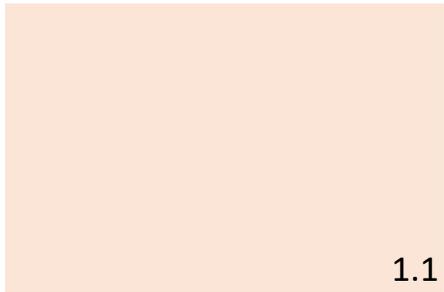


**no**

**CBPL**

**1.1 no**

**CBPL** no



**CBPL** 1.1 no

**CBPL** no



**CBPL** 1.3 no

**CBPL** no



**CBPL** 1.6 no

**CBPL** 1.1 no

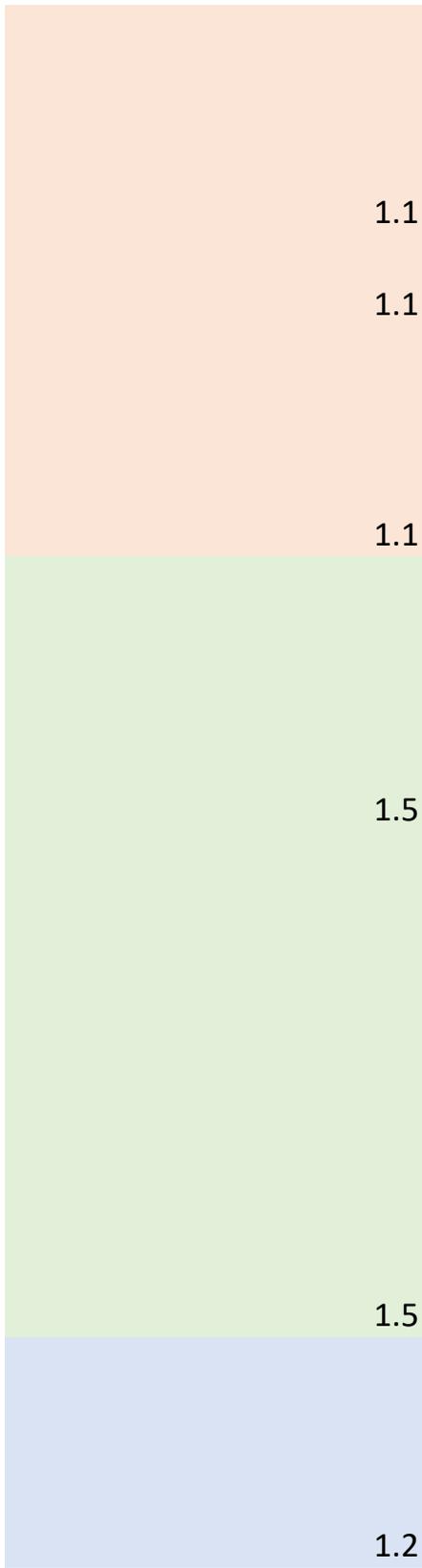
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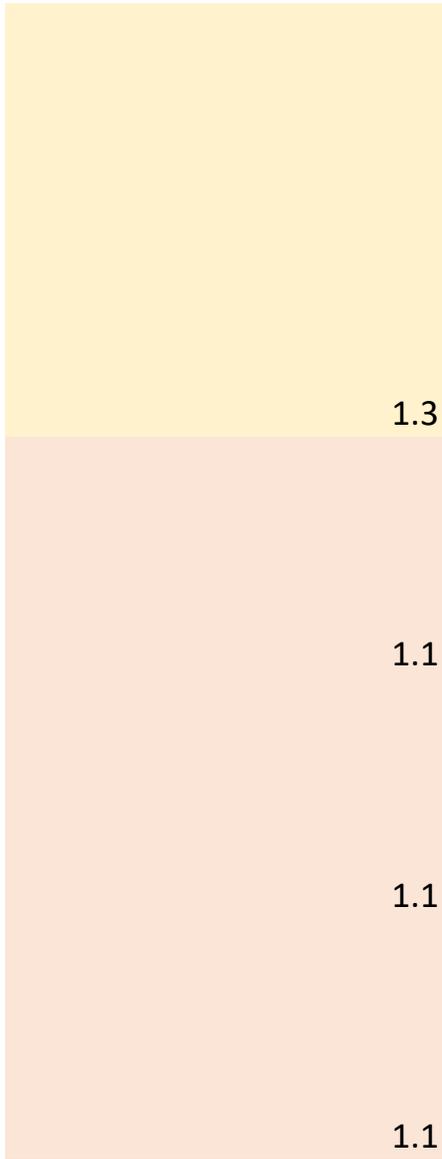


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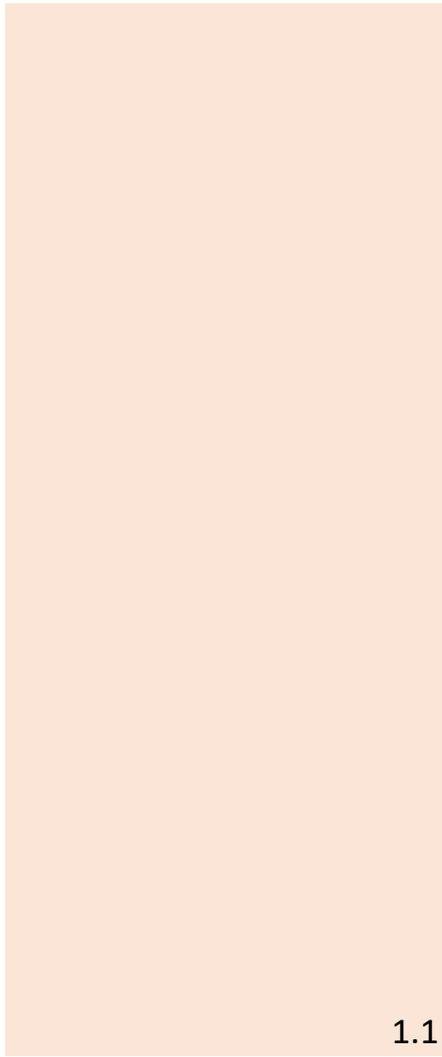
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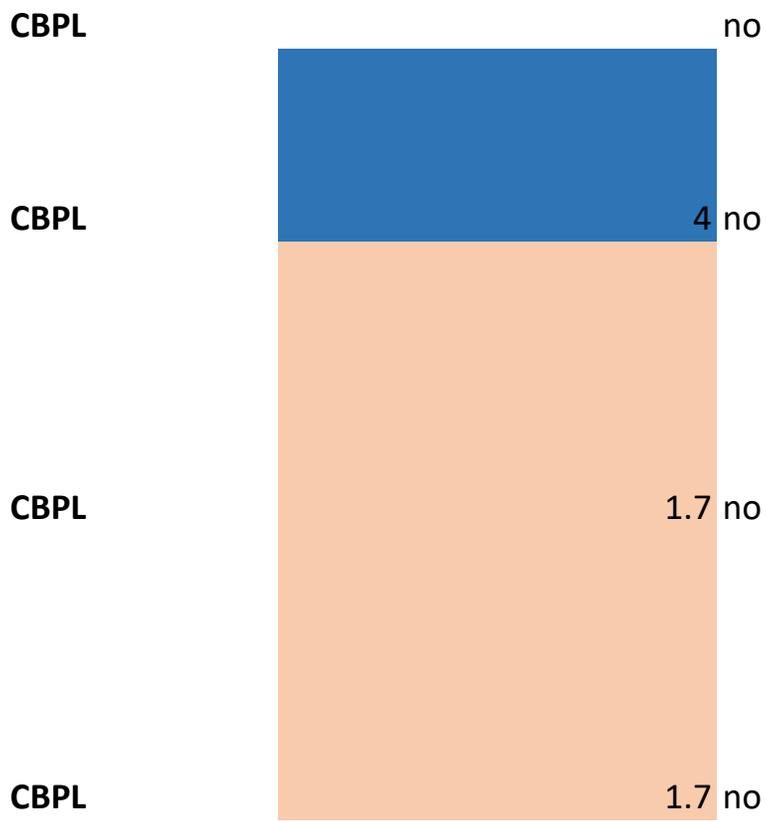
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**CBPL**



1.1 no



**CBPL**

1.7 no

**CBPL**

1.7 no

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1.7 no

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**CBPL**

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**CBPL**

no

**CBPL**

no

**CBPL**

no



**CBPL**

2 no

**CBPL**

no

CBPL no

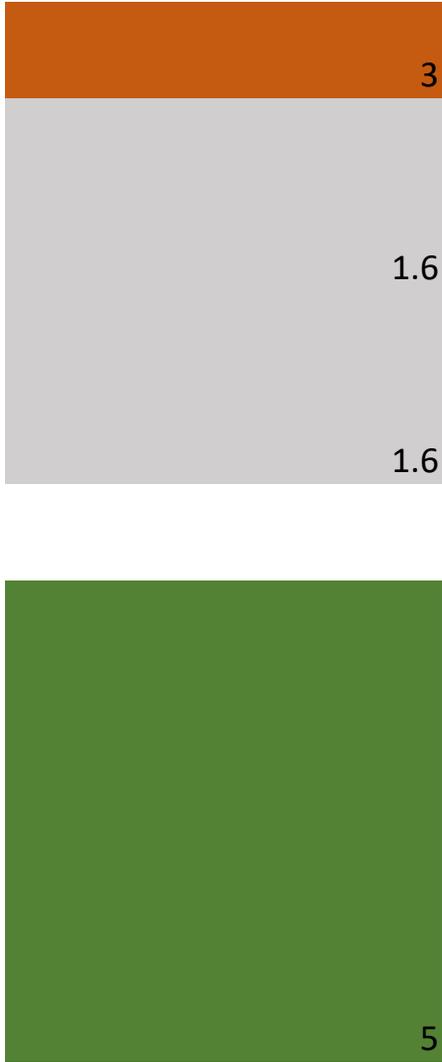
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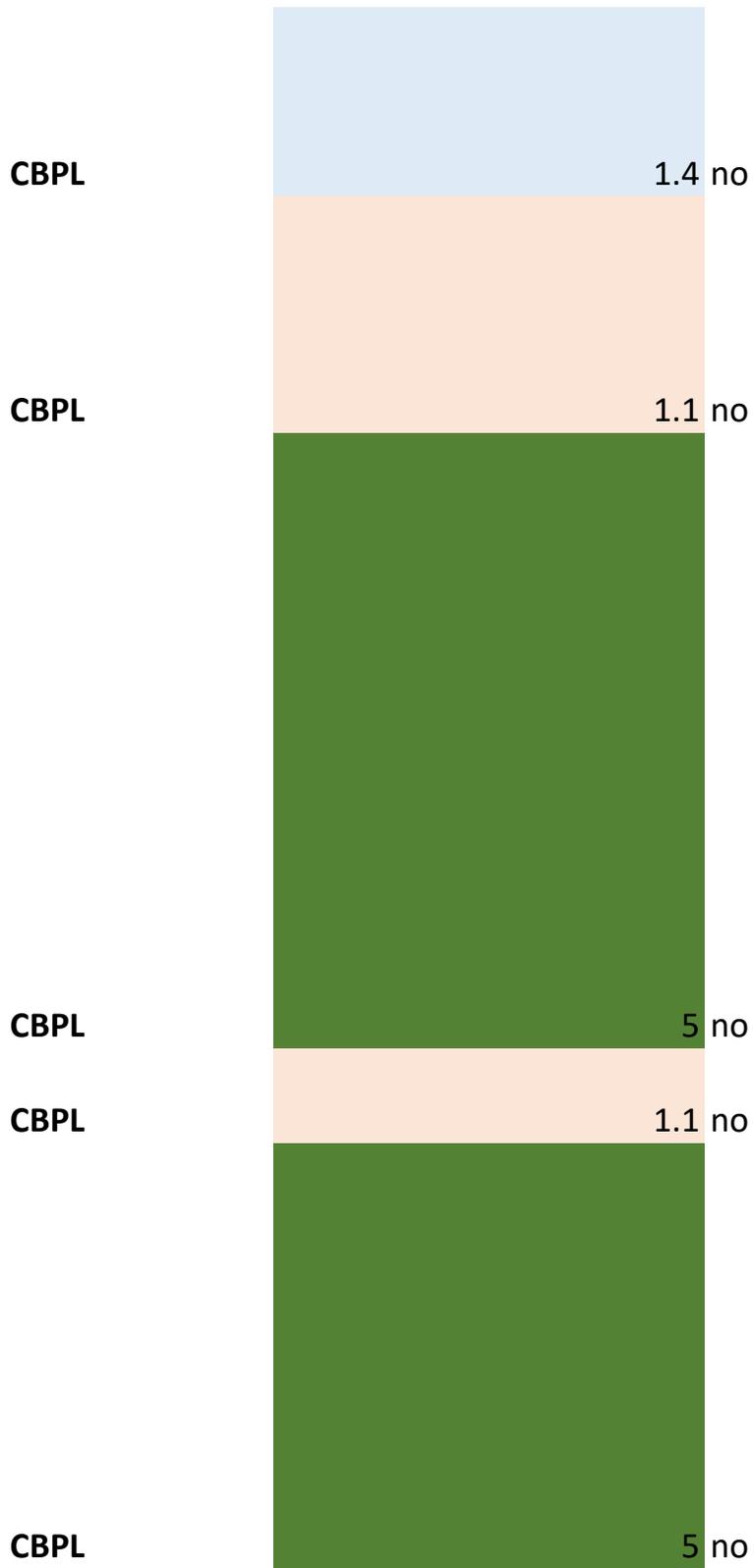
CBPL 1.6 no

CBPL no

CBPL 5 no







**CBPL**

5 no

**CBPL**

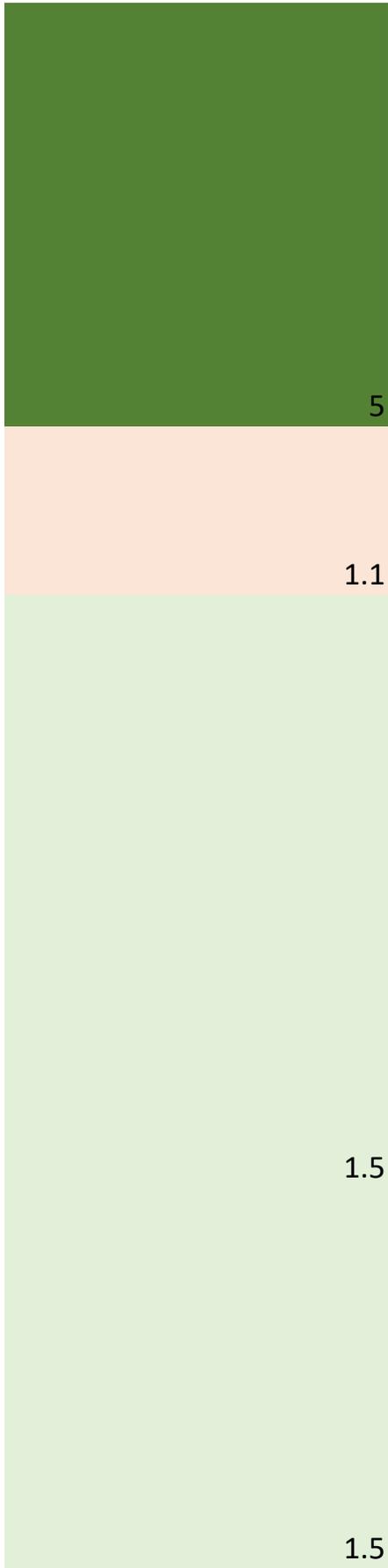
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**CBPL**

1.5 no

**CBPL**

1.5 no



**CBPL**

1.2 no

**CBPL**

1.5 no

**CBPL**

1.3 no

**CBPL**

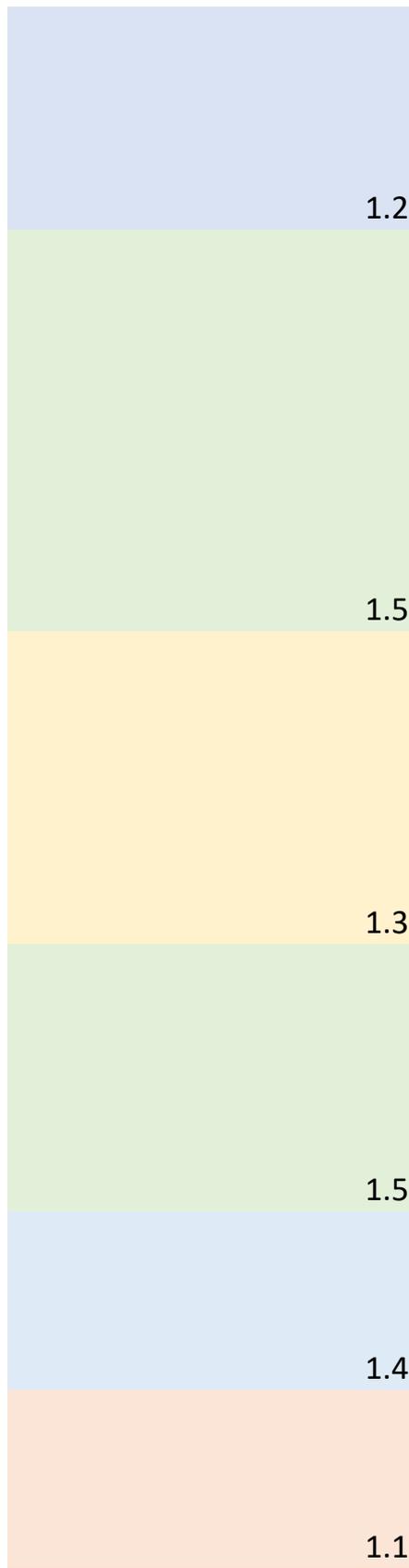
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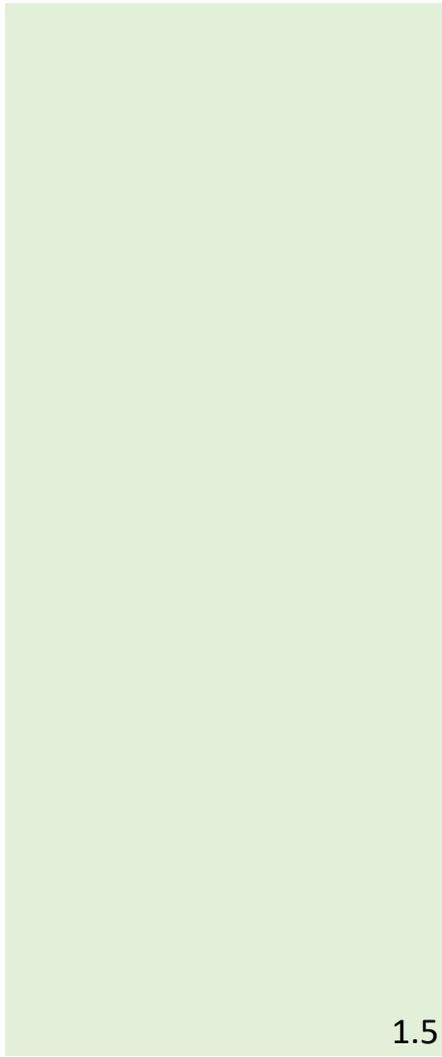
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1.1 no



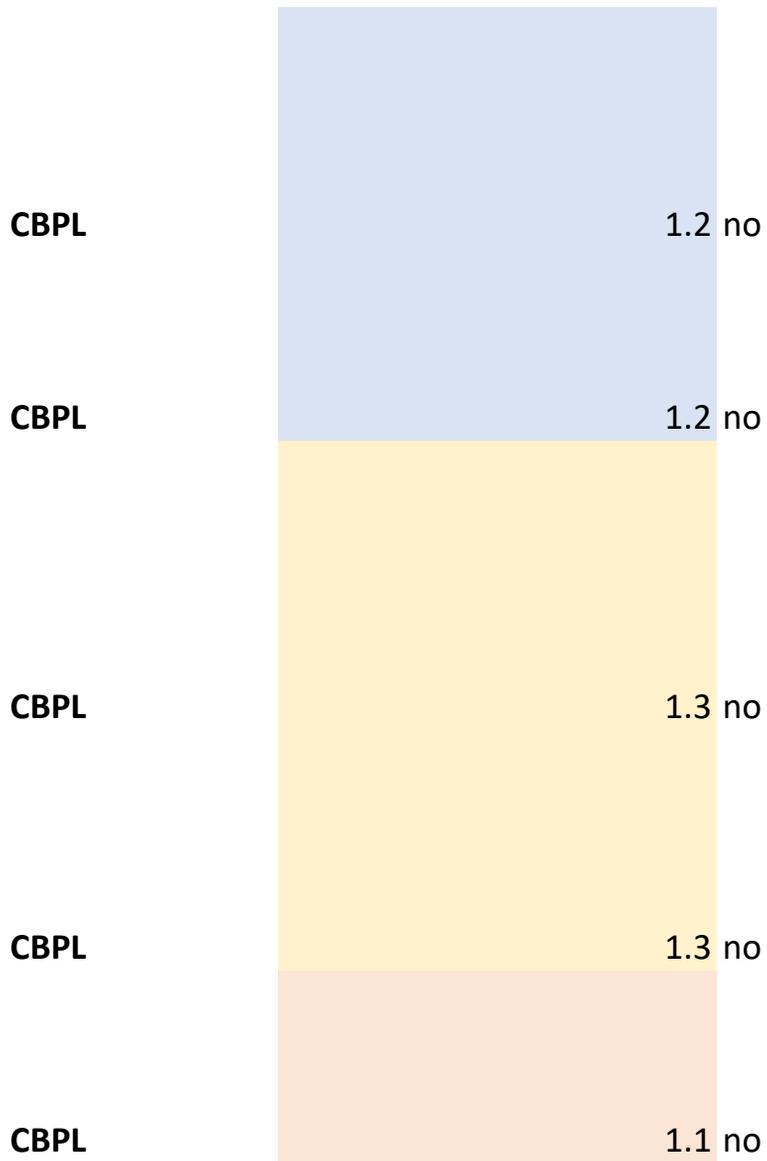
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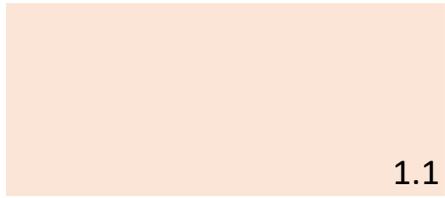
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no



CBPL no

**CBPL**



1.1 no

**CBPL**



no

**CBPL**

1.4 no

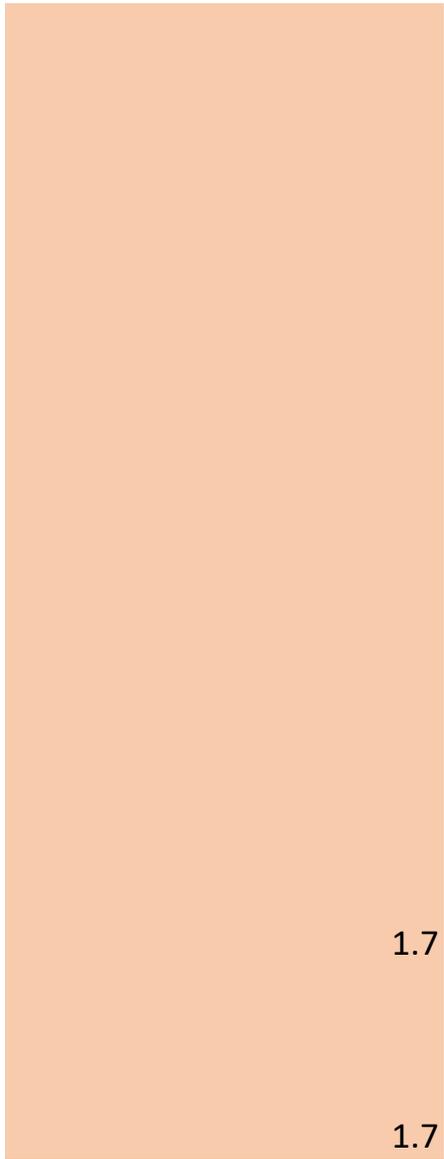
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4 no

**CBPL**

1.7 no



**CBPL**

**1.7 no**

**CBPL**

**1.7 no**

**CBPL**

**no**

**CBPL**

no

**CBPL**

no

**CBPL**

3 no

**CBPL**

1.6 no

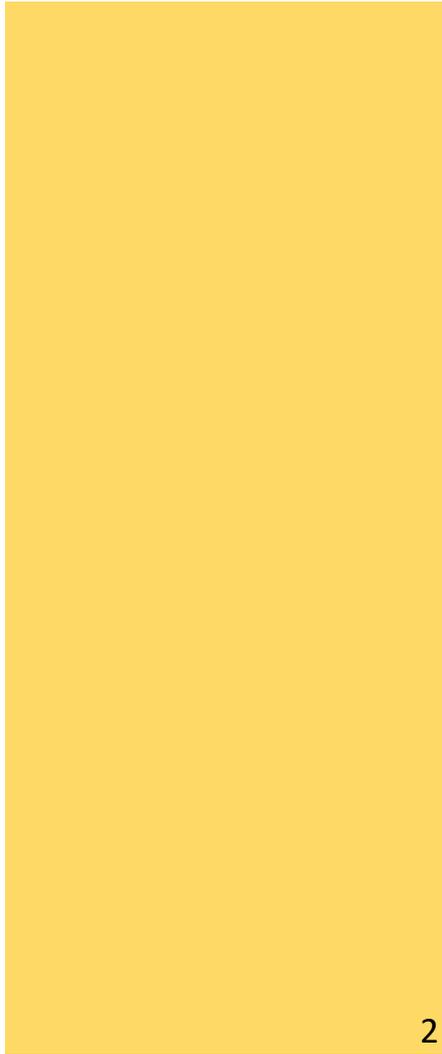


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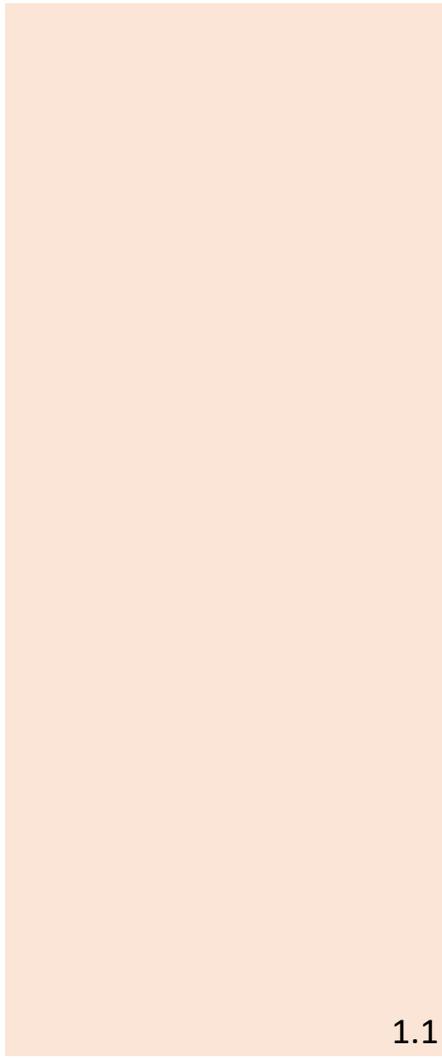
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no

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2 no



**CBPL**

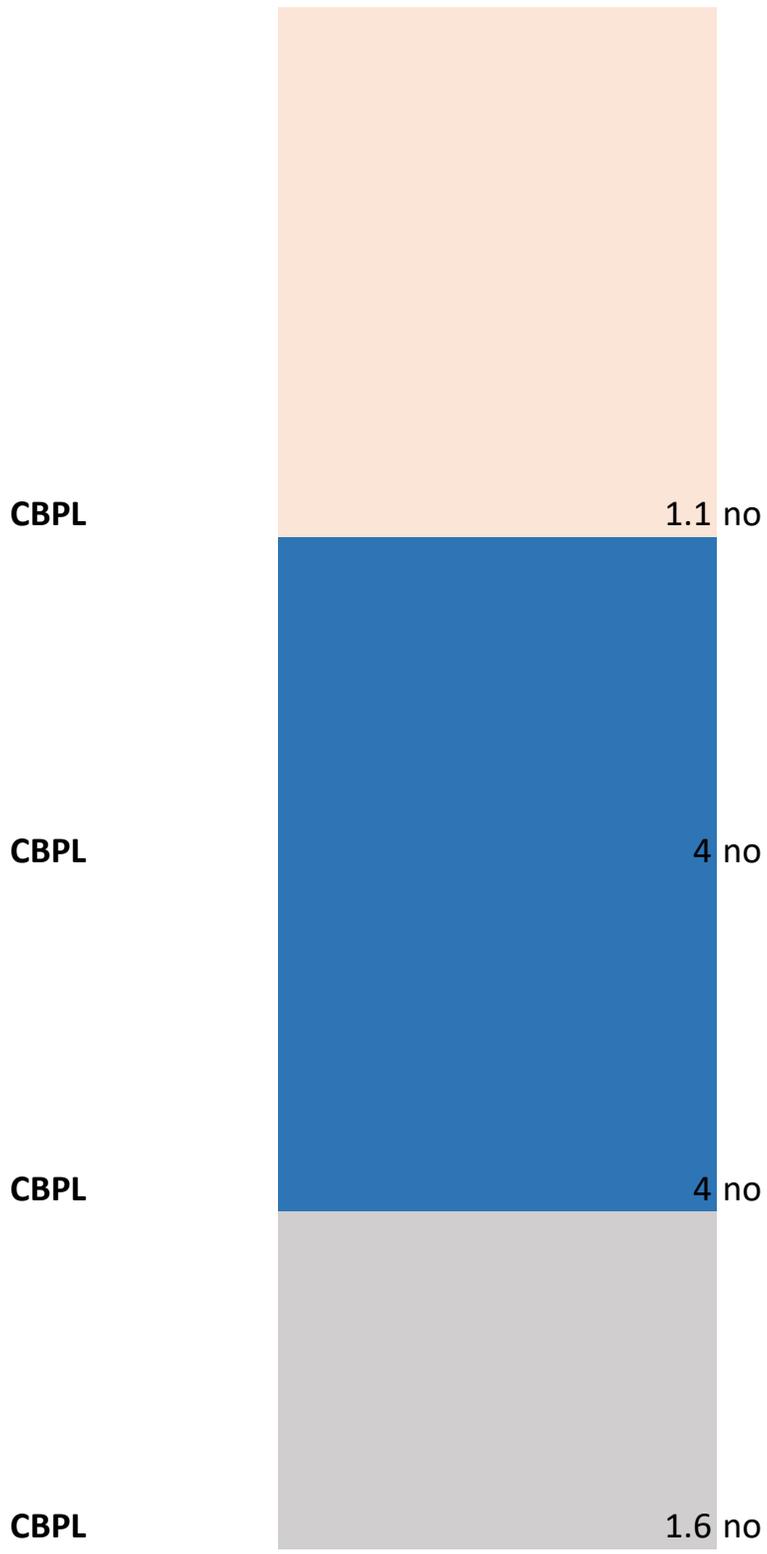
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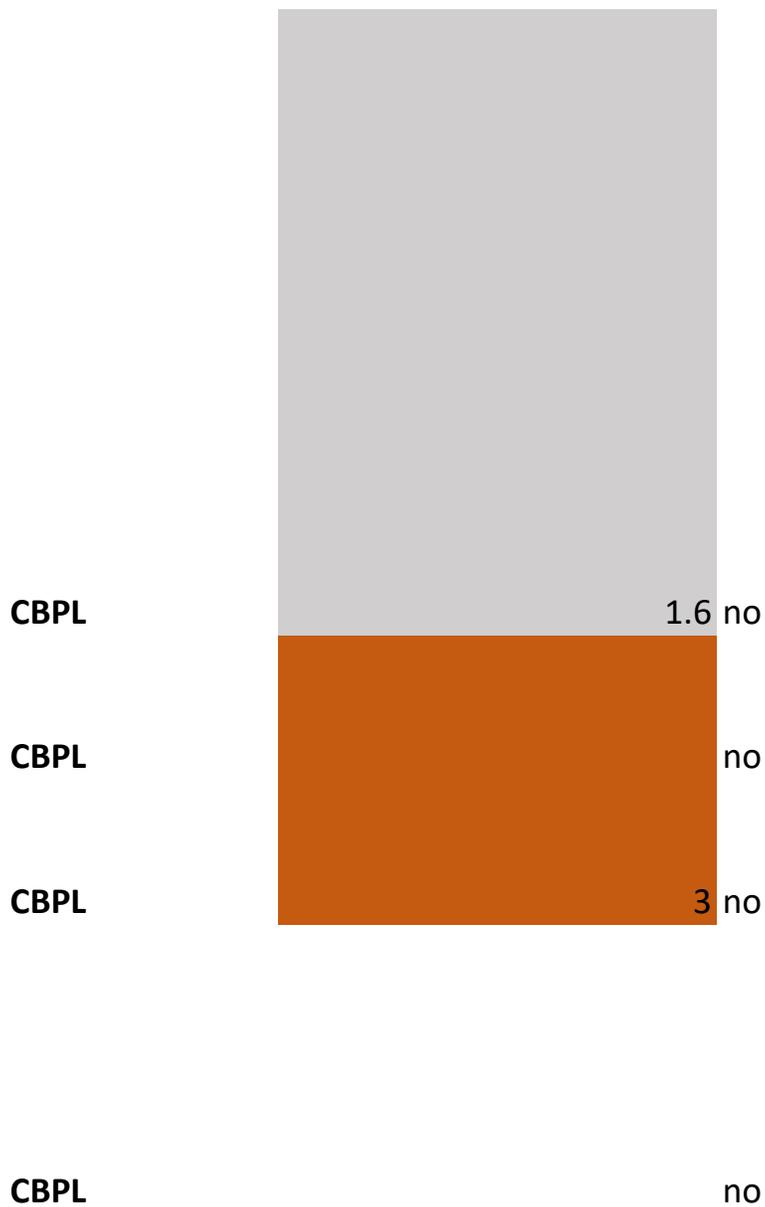
**CBPL**

no

**CBPL**

no





**Priorities:**

1.1 = Statutorily required

1.2 = Professional Reference

1.3 = Verification of Work Experience

1.4 = Jurisprudence Questionnaire

1.5 = Foreign Educated 6-month post graduate internship

1.6 = 150-hour internship elimination

1.7 = CE clarification

2 = Dry needling



**Tmeline for Submission****Regulation Citation**

*To the best of your ability, estimate the timeline for submitting the draft revised regulations to LRLR for review. Cite the regulation you intend to change. Can also be a section of related regulations.*

**2026** 12 AAC 54.030(a)(3)

**2026** 12 AAC 54.030(a)(4)

**2026** 12 AAC 54.030(a)(5)

**2026** 12 AAC 54.030(a)(6)

**2026** 12 AAC 54.030(a)(7)

**2026** 12 AAC 54.040(a)(1)

**2026** 12 AAC 54.040(b)(3)

**2026** 12 AAC 54.040(b)(4)

**2026** 12 AAC 54.040(b)(5)(A)

**2026** 12 AAC 54.040(b)(6)

**2026** 12 AAC 54.040(c) - (h)

**2026** 12 AAC 54.040(i)

**2026** 12 AAC 54.040(j)

**2026** 12 AAC 54.040(l)

**2026** 12 AAC 54.050(b)(3)

**2026** 12 AAC 54.050(c)(2)(B)

**2026** 12 AAC 54.050(c)(3)

**2026** 12 AAC 54.050(c)(6)

**2026** 12 AAC 54.050(d)(3)

**2026** 12 AAC 54.050(e)

**2026** 12 AAC 54.070

**2027** 12 AAC 54.080

**2026** 12 AAC 54.100(1)

**2026** 12 AAC 54.100(2)

**2026** 12 AAC 54.100(5)(A)

**2026** 12 AAC 54.100(5)(B)

**2026** 12 AAC 54.100(5)(C)

**2026** 12 AAC 54.100(6)

**2026** 12 AAC 54.100(7)

**2026** 12 AAC 54.100(8)

**2026** 12 AAC 54.110(4)(A) + (B)

**2026** 12 AAC 54.110(5)

**2026** 12 AAC 54.110(7)

**2026** 12 AAC 54.110(8)(A)-(B)

**2026** 12 AAC 54.110(9)

**2026** 12 AAC 54.130(b)(2)

**2026** 12 AAC 54.130(b)(7)

**2026 12 AAC 54.150**

**2026 12 AAC 54.1XX(1) - (2)**

**2026 12 AAC 54.405**

**2026 12 AAC 54.410(a)**

**2026 12 AAC 54.410(a)(1)**

**2026 12 AAC 54.410(b)**

**2026 12 AAC 54.410(d)**

**2026 12 AAC 54.420(1) - (3)**

**2026 12 AAC 54.420(c)**

**2026 12 AAC 54.435(e)(1)**

**2026 12 AAC 54.500(b)**

**2026 12 AAC 54.500(c)**

**2026 12 AAC 54.500(d)**

**2026 12 AAC 54.505**

**2026 12 AAC 54.510(e)**

**2026** 12 AAC 54.510(f)

**2026** 12 AAC 54.530

**2026** 12 AAC 54.535

**2026** 12 AAC 54.590(a)(2)

**2026** 12 AAC 54.590(a)(6)(B)

**2026** 12 AAC 54.600

**2026 12 AAC 54.600(3)**

**2026 12 AAC 54.600(4)**

**2026 12 AAC 54.600(5)**

**2026 12 AAC 54.600(6)(A)-(C)**

**2026 12 AAC 54.600(7)**

**2026 12 AAC 54.600(8)**

**2026 12 AAC 54.605**

**2026 12 AAC 54.605(1)**

**2026 12 AAC 54.605(2)**

**2026 12 AAC 54.605(3)**

**2026 12 AAC 54.605(4)**

**2026 12 AAC 54.610(a)**

**2026 12 AAC 54.610(a)(3)**

**2026 12 AAC 54.610(a)(4)**

**2026 12 AAC 54.610(a)(6)**

**2026 12 AAC 54.610(a)(6)(A)**

**2026 12 AAC 54.610(a)(6)(B)**

**2026 12 AAC 54.610(a)(7)**

**2026 12 AAC 54.610(a)(8)**

**2026 12 AAC 54.610(d)**

**2026 12 AAC 54.620**

**2026 12 AAC 54.640(a)(2)**

**2026 12 AAC 54.640(b)(1)**

**2026 12 AAC 54.640(b)(4)**

**2026 12 AAC 54.640(b)(4)(A) - (B)**

**2026 12 AAC 54.660(b)(2)**

**2026 12 AAC 54.660(b)(4)**

**2026 12 AAC 54.660(b)(7)**

**2026 12 AAC 54.670**

**2026 12 AAC 54.700(4)**

**2026 12 AAC 54.705**

**2026** 12 AAC 54.710(a)

**2026** 12 AAC 54.710(a)(1)

**2026** 12 AAC 54.710(c)

**2026** 12 AAC 54.710(d)(5)

**2026** 12 AAC 54.710(e)

**2026 12 AAC 54.710(h)**

**2026 12 AAC 54.715(a)(1) - (2)**

**2026 12 AAC 54.715(c)**

**2026 12 AAC 54.725(e)(1)**

**2026 12 AAC 54.800(a)**

**2026 12 AAC 54.805**

**2026 12 AAC 54.810(a)(1)**

**2026 12 AAC 54.825**

**2026 12 AAC 54.830**

**2026 12 AAC 54.890(a)(2)**

**2026 12 AAC 54.890(a)(6)(B)**

**2026 12 AAC 54.8XX**

**2026** 12 AAC 54.905

**2026** 12 AAC 54.920(b)

**2026** 12 AAC 54.920(d)

**2026 12 AAC 54.940**

**2026 12 AAC 54.950(b)(2)**

**2026 12 AAC 54.950(c)(3)**

**2026 12 AAC 54.950(e)**

**2026** 12 AAC 54.950(e)

**2026** 12 AAC 54.990(6)

**2026** 12 AAC 54.990(7)

**2026** document adopted by reference

elimination + FE OT application process

t

## Relevant Board/Program

## Nature of the Regulation

*List the board/program the regulation relates to, if relevant.*

*Briefly describe what the regulation or section currently does.*

Physical Therapy and Occupational Therapy

requires submission of a professional reference for physical therapy applicants by examination

Physical Therapy and Occupational Therapy

requires submitting a jurisprudence questionnaire for physical therapy applicants by examination

Physical Therapy and Occupational Therapy

requires documentation of passing national PT examination (NPTE) for physical therapy applicants by examination

Physical Therapy and Occupational  
Therapy

ADDED REGULATION

ADDED REGULATION - requires  
fingerprint information and  
background reports as set  
under 12 AAC 54.905 required  
under AS 08.030(a)(4) per SB74  
- statutory requirement for  
physical therapy applicants by  
examination

Physical Therapy and Occupational  
Therapy

Physical Therapy and Occupational  
Therapy

establishes equivalency for  
foreign-educated physical  
therapy educational programs  
requires submission of a  
professional reference for  
foreign educated physical  
therapy applicants by  
examination

Physical Therapy and Occupational  
Therapy

Physical Therapy and Occupational Therapy

requires submitting a jurisprudence questionnaire for foreign educated physical therapy applicants by examination

Physical Therapy and Occupational Therapy

requires verification of completion of 6 month post graduate internship by foreign education physical therapy applicants by examination

Physical Therapy and Occupational Therapy

ADDED REGULATION - requires fingerprint information and background reports required under AS 08.84.032(a)(8)

Physical Therapy and Occupational Therapy

establishes criteria for 6 month post graduate internship for foreign educated physical therapy applicants by examination to complete

Physical Therapy and Occupational Therapy

establishes criteria for ability to receive a temporary permit for foreign educated physical therapy applicants

Physical Therapy and Occupational Therapy

clarifies criteria for foreign educated post graduate internship credit related to national examination

Physical Therapy and Occupational Therapy

establishes definition for preceptor related to foreign education post graduate internship

Physical Therapy and Occupational Therapy

establishes criteria for issuance of a temporary permit to physical therapy applicants by credentials

Physical Therapy and Occupational Therapy

allows foreign educated physical therapy applicants by examination to submit transcript instead of credentials evaluation for temporary permit

Physical Therapy and Occupational Therapy

requires submission of a professional reference for foreign educated physical therapy applicants by examination for temporary permit

Physical Therapy and Occupational Therapy

requires verification from preceptor of completion of internship for issuance of temporary permit for foreign educated physical therapy applicants by examination

Physical Therapy and Occupational  
Therapy

requires submission of all items  
required under 12 AAC 54.110  
for issuance of temporary  
permit for foreign educated  
physical therapy applicants by  
credentials

Physical Therapy and Occupational  
Therapy

requires review of physical  
therapy temp permit per 12  
AAC 54.915 (checklists) which  
was repealed 3/27/2025

Physical Therapy and Occupational  
Therapy

provides definition of  
supervised field work related to  
physical therapy educational  
programs

Physical Therapy and Occupational Therapy

sets minimum passing score requirement of 600 for national physical therapy examination

Physical Therapy and Occupational Therapy

requires all items under 12 AAC 54.030(a) = fees; transcript; PR; JP; NPTE passing scores for physical therapy applicants by credentials

Physical Therapy and Occupational Therapy

requires primary source verification of NPTE scores

Physical Therapy and Occupational Therapy

Requires verification of working experience for physical therapy applicants by credentials  
requires verification of passing national exam within 24 months of application date for physical therapy applicants by credentials

Physical Therapy and Occupational Therapy

requires verification of completion of 150-hour internship for physical therapy applicants by credentials

Physical Therapy and Occupational  
Therapy  
Physical Therapy and Occupational  
Therapy

NEW REGULATION - requires  
fingerprint information and  
background reports required  
under AS 08.84.030(a)(4)  
NEW REGULATION - payment of  
fingerprint fees

Physical Therapy and Occupational  
Therapy

NEW REGULATION - require  
primary source verification of  
education to meet AS  
08.84.030(a)(1)

Physical Therapy and Occupational  
Therapy

requires completion of post  
graduate internship for foreign  
educated physical therapy  
applicants by credentials

Physical Therapy and Occupational  
Therapy

establishes equivalency for  
foreign-educated physical  
therapy educational programs  
requires submission of a  
professional reference for  
foreign educated physical  
therapy applicants by  
credentials

Physical Therapy and Occupational  
Therapy

Physical Therapy and Occupational Therapy

requires 60 hours of physical therapy working experience in past 24 months from date of application or passage of national examination for foreign educated physical therapy applicants by credentials

Physical Therapy and Occupational Therapy

NEW REGULATION - requires fingerprint information and background reports required under AS 08.84.032(a)(8)

Physical Therapy and Occupational Therapy

payment of fees for temporary military courtesy license for physical therapy applicants

Physical Therapy and Occupational Therapy

NEW REGULATION - requires fingerprint information and background reports required under AS 08.84.032(a)(4)

Physical Therapy and Occupational  
Therapy

NEW REGULATION - define  
scope of practice for compact  
privilege applicants

Physical Therapy and Occupational  
Therapy

NEW REGULATION - Limited  
permits for physical therapy  
applicants

Physical Therapy and Occupational  
Therapy

defines professional practice  
requirements and alternatives  
for renewal of physical therapy  
licensure

Physical Therapy and Occupational  
Therapy

sets minimum CE standards for  
renewal for physical  
therapists/PTAs who have had  
their license for more than 12  
months

Physical Therapy and Occupational  
Therapy

sets minimum CE standards for  
renewal for physical  
therapists/PTAs who have had  
their license for less than 12  
months

Physical Therapy and Occupational  
Therapy

requires for half of the contact  
hours of CE for renewal to be  
approved by an entity in 12 AAC  
54.420

Physical Therapy and Occupational  
Therapy

establishes requirements for  
maintaining CE records for a  
physical therapy license

Physical Therapy and Occupational  
Therapy

lists approving entities for  
physical therapy continuing  
education courses and activities  
for renewal

Physical Therapy and Occupational  
Therapy

requires any CE course or  
activity be directly related to  
patient care

Physical Therapy and Occupational  
Therapy

provides for exemption from CE  
for active duty military  
personnel for physical therapy  
renewal

Physical Therapy and Occupational  
Therapy

provides for posting of license  
or permit for a physical therapy  
license

Physical Therapy and Occupational  
Therapy

requires adherence to Principles  
of practice by physical  
therapists

Physical Therapy and Occupational  
Therapy

requires adherence to Principles  
of practice by physical therapist  
assistants

Physical Therapy and Occupational  
Therapy

ADDED REGULATION - set  
standards of practice for dry  
needling for physical therapists

Physical Therapy and Occupational  
Therapy

sets minimum monthly  
requirement for periodic  
supervision of PTA  
implementing a treatment plan  
by the supervising PT

Physical Therapy and Occupational  
Therapy  
Physical Therapy and Occupational  
Therapy

clarifies supervision of PTA does  
not apply to public health  
service or military personnel  
practicing physical therapy in  
federal agencies  
sets standards for practice of PT  
Telerehabilitation

Physical Therapy and Occupational  
Therapy

establishes standards for  
physical therapy internship

Physical Therapy and Occupational  
Therapy  
Physical Therapy and Occupational  
Therapy

definition internship related to  
physical therapy  
defines supervision  
requirements

Physical Therapy and Occupational  
Therapy

establishes requirements for  
occupational therapy licensure

Physical Therapy and Occupational Therapy

requires verification of licensure status from other jurisdictions for occupational therapy applicants one of which must be in good standing - does not work for applicants applying by examination

Physical Therapy and Occupational Therapy

requires submission of a professional reference for occupational therapy applicants

Physical Therapy and Occupational Therapy

requires verification of initial certification with national occupational therapy examination

Physical Therapy and Occupational Therapy

requires 60 hours of occupational therapy work experience, passing national exam, or completion of 150 hour internship with 24 months of application for OT applicants by examination

Physical Therapy and Occupational Therapy

requires submitting a jurisprudence questionnaire for occupational therapy applicants

Physical Therapy and Occupational Therapy

NEW REGULATION - requires fingerprint information and background reports required under AS 08.84.030(b)(4)

Physical Therapy and Occupational Therapy

NEW REGULATION - establishes criteria for issuing occupational therapy licenses by credentials

Physical Therapy and Occupational Therapy

NEW REGULATION - payment of fees

Physical Therapy and Occupational Therapy

NEW REGULATION - establishes verification method to meet educational and certification requirements for occupational therapists and occupational therapy assistants applying by credentials

Physical Therapy and Occupational Therapy

NEW REGULATION - establishes criteria for obtaining license verifications

Physical Therapy and Occupational Therapy

NEW REGULATION - payment of fingerprint fees

Physical Therapy and Occupational Therapy

sets standards for foreign educated applicants applying by both examination and credentials

Physical Therapy and Occupational Therapy

requires submission of license verifications in other jurisdictions for foreign educated occupational therapy applicants

Physical Therapy and Occupational Therapy

requires submission of a professional reference for foreign educated occupational therapy applicants

Physical Therapy and Occupational Therapy

provides for options for meeting qualifications of work experience (credentials) or passing NBCOT initial certification (examination)

Physical Therapy and Occupational Therapy

requires 60 hours of working experience and passing NBCOT in past 24 months from date of application for foreign educated occupational therapy applicants

Physical Therapy and Occupational Therapy

requires passing national examination within 24 months of application date for foreign educated occupational therapy applicants by examination  
requires submitting a

Physical Therapy and Occupational Therapy

jurisprudence questionnaire for foreign educated physical therapy applicants

Physical Therapy and Occupational Therapy

NEW REGULATION - requires fingerprint and background reports required under AS 08.84.032(b)(8)

Physical Therapy and Occupational  
Therapy

NEW REGULATION - sets criteria  
for foreign educated  
occupational therapy applicants  
applying by credentials

Physical Therapy and Occupational  
Therapy

provides definition of  
supervised field work related to  
occupational therapy  
educational programs

Physical Therapy and Occupational Therapy

requires submission of a professional reference for occupational therapy applicants by examination for temporary permit

Physical Therapy and Occupational Therapy

establishes requirements for occupational therapy applicants by credentials for temporary permits

Physical Therapy and Occupational Therapy

provides for options for meeting qualifications of work experience or passing NBCOT initial certification within 24 months prior to application date

Physical Therapy and Occupational Therapy

requires submission of work experience for occupational therapy applicants by credentials for temporary permit

Physical Therapy and Occupational Therapy

payment of fees

Physical Therapy and Occupational Therapy

requirement of verification of licensure in any jurisdiction held

Physical Therapy and Occupational  
Therapy

NEW REGULATION - requires  
fingerprint and background  
reports required under AS  
08.84.030(b)(4)

Physical Therapy and Occupational  
Therapy

NEW REGULATION - establishes  
criteria for issuing limited  
permits for occupational  
therapy applicants  
requires completion of the  
Jurisprudence questionnaire for  
renewal of a occupational  
therapy license

Physical Therapy and Occupational  
Therapy

defines professional practice  
requirements and alternatives  
for renewal of occupational  
therapy licensure

Physical Therapy and Occupational  
Therapy

Physical Therapy and Occupational Therapy

sets minimum CE standards for renewal for occupational therapists/OTAs who have had their license for more than 12 months

Physical Therapy and Occupational Therapy

sets minimum CE standards for renewal for occupational therapists/OTAs who have had their license for less than 12 months

Physical Therapy and Occupational Therapy

requires for half of the contact hours of CE for renewal to be approved by an entity in 12 AAC 54.715(a)

Physical Therapy and Occupational Therapy

NEW Regulation - add conversion for Professional Development units (PDUs)

Physical Therapy and Occupational Therapy

establishes requirements for maintaining CE records for an occupational therapy license

Physical Therapy and Occupational  
Therapy

allows for submission of NBCOT  
OTR/COTA certificate in lieu of  
certificates of attendance and  
establishes criteria for  
submission on renewal of an  
occupational therapy license

Physical Therapy and Occupational  
Therapy

lists approving entities for  
occupational therapy continuing  
education courses and activities  
for renewal

Physical Therapy and Occupational  
Therapy

requires any CE course or  
activity be directly related to  
patient care  
provides for exemption from CE  
for active duty military  
personnel for occupational  
therapy renewal

Physical Therapy and Occupational  
Therapy

requires adherence to Principles  
of Practice by occupational  
therapists and occupational  
therapy assistants

Physical Therapy and Occupational  
Therapy

Physical Therapy and Occupational  
Therapy

provides for posting of license  
or permit for an occupational  
therapy license

Physical Therapy and Occupational  
Therapy  
Physical Therapy and Occupational  
Therapy

sets minimum monthly  
requirement for periodic  
supervision of OTA  
implementing a treatment plan  
by the supervising OT  
sets standards for practice of OT  
Telerehabilitation

Physical Therapy and Occupational  
Therapy

establishes standards for  
occupational therapy internship

Physical Therapy and Occupational  
Therapy  
Physical Therapy and Occupational  
Therapy

definition internship related to  
occupational therapy  
defines supervision  
requirements

Physical Therapy and Occupational  
Therapy

ADDED REGULATION - set  
standards of practice for dry  
needling for occupational  
therapists

Physical Therapy and Occupational  
Therapy

NEW REGULATION - requires  
fingerprint information and  
background reports for all  
license types as required by  
SB74 passage (PT Compact)

Physical Therapy and Occupational  
Therapy

requires licensees to submit  
notarized copy of legal  
document verifying change of  
name

Physical Therapy and Occupational  
Therapy

outlines how licensee gets a  
new license certificate

Physical Therapy and Occupational Therapy

NEW REGULATION - provides for review of periodic review of interstate licensure compacts requires lapsed applicants (less than 2 years) who wish to reinstate to provide documentation of continuing competency and continuing education requirements of 12 AAC 54

Physical Therapy and Occupational Therapy

requires applicants (more than 2 years) who wish to reinstate to provide documentation of continuing competency and continuing education requirements of 12 AAC 54

Physical Therapy and Occupational Therapy

requires license lapsed for five years or more reapplying by examination complete a 150-hour internship approved by the board

Physical Therapy and Occupational Therapy

Physical Therapy and Occupational Therapy

requires licensees whose license has lapsed for five or more years and have not actively been practicing in another state to complete a 150 hour internship approved by the board - PROBLEM - no exemption from licensure exists in AS 08.84.150 or ability to issue temporary permit in AS 08.84.065 to perform internship

Physical Therapy and Occupational Therapy

defines interactive telecommunication systems

Physical Therapy and Occupational Therapy

defines telerehabilitation

Physical Therapy and Occupational Therapy

Principles of Practice - March 2015



## Summary of the Intended Changes

*Briefly describe what you plan to change.*

repeal requirement of professional reference

repeal requirement for jurisprudence  
questionnaire

amend to read:

(5) proof of passing examination scores sent directly to the department from the Federation of State Boards of Physical Therapy (FSBPT) as evidence of having met the requirements of AS 08.84.030(a) during the 24 months immediately before the date the application is received by the department; [.]

add (6) verification of the applicant's licensure status, sent directly to the department from each jurisdiction where, if applicable, the applicant holds, or has ever held, a license to practice physical therapy; each verification must include an explanation of any disciplinary actions taken against the licensee; and

Add: (7) the applicant's fingerprint information, as set out under 12 AAC 54.905, required under AS 08.030(a)(4).

amend to (1) substantially equivalent to a professional physical therapy education program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) that includes supervised field work, as defined under 12 AAC 54.070, documented completion of which demonstrates complete compliance with the requirements of AS 08.84.032(a)(2);

repeal requirement of professional reference

repeal requirement for jurisprudence  
questionnaire

repeal

ADD: (6) the applicant's fingerprint  
information, as set out under 12 AAC 54.905,  
required under AS 08.84.032(a)(8).

repeal language as removing requirement for  
6 month post graduate internship for foreign  
educated applicants

Amend language to: (i) An applicant [AFTER  
A] who meets the requirements of this  
section [HAS SATISFACTORILY COMPLETED  
AN INTERNSHIP] and has been scheduled for  
the national physical therapy examination,  
[THE APPLICANT] may apply for a temporary  
permit under AS 08.84.065 and 12 AAC  
54.050.

repeal language as removing requirement for  
post graduate internship for foreign  
educated applicants

repeal language as removing requirement for post graduate internship for foreign educated applicants

Need to correct language as 12 AAC 54.100 will include fingerprinting and background checks which are not required for temporary permits per AS 08.84.065. Ensure (1) PR + JP; (5) VWE are also no longer required.

repeal

repeal requirement of professional reference

repeal

Need to correct language as 12 AAC 54.110 will include fingerprinting and background checks which are not required for temporary permits per AS 08.84.065. Ensure (7) PR; (4) 6 months supervised work experience and (8) 60 hours of work experience and JP found in 12 AAC 54.110 are also no longer required.

repeal

amend to read:

12 AAC 54.070. Supervised field work. [AS USED IN AS 08.84.030(a)(1),] "Supervised field work" means the clinical education experience portion of a CAPTE-accredited educational program to be completed in a setting that ordinarily provides physical therapy under the continuous direction and supervision of a licensed physical therapist or a physical therapist practicing under a valid compact privilege issued in accordance with AS 08.84.188.

12 AAC 54.080 add a new subsection to read:  
(d) In cases where an applicant's score report does not state "pass" or "fail", the board will deem an applicant to have passed the examination if the applicant's raw scaled score is not less than one point five standard deviations below the national average for that examination offering.

repeal  
amend to (2) proof of passing examination scores sent directly to the department from the Federation of State Boards of Physical Therapy (FSBPT)

repeal active practice requirement

repeal

repeal language

ADD: (6) the applicant's fingerprint information, as set out under 12 AAC 54.905, required under AS 08.84.030(a)(4);

ADD: (7) payment of the fees established in 12 AAC 02.320;

ADD: (8) requirement of certified transcript sent directly to the department from a physical therapy school meeting the requirements of AS 08.84.030(a)(1)

repeal language

Amend to read:

(5) other evidence determined necessary by the board to determine if the applicant's out-of-state license is substantially equal to the license requirements of this state that includes supervised field work, as defined under 12 AAC 54.070, documented completion of which demonstrates complete compliance with the requirements of AS 08.84.032(a)(2);

repeal requirement of professional reference

repeal active practice requirement

ADD: (9) the applicant's fingerprint information as set out under 12 AAC 54.905 and required under AS 08.84.032(a)(8).

amend to: (2) must pay the temporary license application fee, [AND] fee for a temporary license, and fingerprint processing fee set out under 12 AAC 02.105;

ADD: (7) must submit the applicant's fingerprint information as set out under 12 AAC 54.905 required under AS 08.84.030(a)(4).

ADD: 12 AAC 54.150. Compact privilege applicants and scope of practice . (a) A physical therapist or physical therapist assistant licensed in another member state under the Interstate Physical Therapy Licensure Compact must meet the requirements of AS 08.84.188 Section (4)(a) to obtain a compact privilege in this state.

(b) A compact privilege in this state is valid until the expiration of the license issued in the physical therapist's or physical therapist assistant's home state.

(c) A physical therapist or physical therapist assistant practicing in this state under an active compact privilege shall

- (1) consent to the personal and subject matter jurisdiction and disciplinary authority of the board;
- (2) comply with AS 08.84 and this chapter;
- (3) be bound by the rules of the Interstate Physical Therapy Licensure Compact as enacted under AS 08.84.188; and

Add NEW section 12 AAC 54.1XX (list after 54.130) Limited Permit Applicants. (a) An application for a limited permit as a visiting, non-resident physical therapist or physical therapist assistant must be submitted to the department on a form provided by the board and

(1) payment of the application fee and license fee specified in 12 AAC 02.320; and  
(2) verification of the applicant's licensure status sent directly to the department from a jurisdiction where the applicant holds a license to practice physical therapy in good standing; verification from jurisdiction must include an explanation of any disciplinary actions taken against the licensee.

Authority 08.84.075

repeal

change "during that period" to "prior to application" or "at the time of application."

change "during that period" to "prior to application" or "at the time of application."

repeal

Amend to read:

(d) An applicant for renewal is responsible for maintaining adequate and detailed records of all continuing education contact hours claimed and shall make the records available to the board upon request under 12 AAC 54.430. Records must be retained for four [THREE] years from the date the contact hours were obtained.

Replace physical therapy specific list with broader healthcare professional organization list of:

Any state or national professional healthcare association or state licensing entity;

Accredited hospital or related healthcare institution;

Accredited college or university health care programs; or

local/state educational entity (example: elementary or secondary school environment provides educational opportunity within the school setting for autistic children on managing emotional regulation).

intent of board to broaden categories of CE courses and activities to include professional contribution (clinical instructor, attending board meetings, publications, teaching, mentoring/supervision); Professional advancement (residency, board certification, fellowship, PhD, ScD), Professional Administration (documentation/coding, risk/practice/financial management); Professional Workplace Wellness (stress management, avoiding burnout, practice culture, patient culture, effective communication and difficult conversations); and special topics (ethics and boundaries, informed consent, cultural, sexual misconduct/trafficking, understanding addiction).

amend to read:

(1) active duty personnel in the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard; and

Change to read: [A LICENSE OR PERMIT ISSUED BY THE BOARD, OR A COPY OF A LICENSE OR PERMIT, MUST BE POSTED IN A CONSPICUOUS LOCATION IN THE LICENSEE'S PLACE OF BUSINESS, FOR PUBLIC INSPECTION. PENDING RECEIPT OF THE CURRENT LICENSE CERTIFICATE FROM THE DEPARTMENT, THE LICENSE SHALL DISPLAY THE DEPARTMENT'S INTERNET WEBSITE POSTING CONFIRMING LICENSURE.] For a licensee providing services, the license or permit must be available for public inspection upon request within a reasonable timeframe.

repeal

repeal

ADD a new section to Article 4 to read:  
12 AAC 54.505 Standards of practice for dry needling for physical therapists. (a) To perform dry needling, a licensed physical therapist shall

(1) be able to demonstrate to the board that the physical therapist has completed graduate or post graduate training in dry needling that must meet either the American Physical Therapy Association (APTA) Guidelines, the Federation of State Boards of Physical Therapy (FSBPT) Standards or other state physical therapy board guidelines and must include

(A) didactic instructions and courses in indications, contraindications, emergency preparedness and response, potential risks, proper hygiene, proper use and disposal of needles, and appropriate selection of patients;

(B) a written examination; and

(C) supervised, face-to-face, hands-on

Change to read: A supervising physical therapist shall provide periodic supervision to a physical therapist assistant. Supervision shall be conducted on site or by video or teleconference when in-person supervision is not reasonably practicable. A supervising physical therapist shall be available for consultation with the physical therapist assistant by video, telephone, verbally, or in writing.

repeal language

repeal language

repeal language

repeal definition

replace "before dismissal" with "at discharge evaluation"

change to read: 12 AAC 54.600.

Requirements for Occupational Therapy

Licensure by Examination [LICENSE

REQUIREMENTS]. An applicant for an

occupational therapist license or

occupational therapy assistant license by

examination, other than an applicant who is

a graduate of a school of occupational

therapy that is located outside the United

States, shall submit

change to read: (3) verification of the applicant's licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice occupational therapy, if applicable [ONE OF WHICH MUST INDICATE A CURRENT LICENSE IN GOOD STANDING]; each verification [FROM EACH JURISDICTION WHERE THE APPLICANT HOLDS OR HAS EVER HELD A LICENSE] must include an explanation of any disciplinary actions taken against the licensee;

repeal requirement of professional reference

change to read: (5) proof of initial certification sent directly to the department from the National Board for Certification in Occupational Therapy (NBCOT) as evidence of having met the requirements of AS 08.84.030(b) during the 24 months immediately before the date the application is received by the department; and

repeal active practice requirement; repeal 150 hour internship option - since active practice requirement no longer required, passing NBCOT initial certification exemption no longer required

repeal requirement for jurisprudence  
questionnaire

ADD: (8) the applicant's fingerprint  
information as set out under 12 AAC 54.905  
required under AS 08.84.030(b)(4).

ADD: 12 AAC 54. is amended by adding a new  
section to Article 5 to read:

12 AAC 54.605. Application for occupational  
therapy licensure by credentials. An applicant  
for an occupational therapist license or  
occupational therapy assistant license, other  
than an applicant who is a graduate of a  
school of occupational therapy that is located  
outside the United States, must submit a  
completed application on a form prescribed  
by the board and

ADD: (1) payment fees established in 12 AAC  
02.320;

ADD: (2) proof of initial certification sent  
directly to the department from the National  
Board for Certification in Occupational  
Therapy (NBCOT) as evidence of having met  
the requirements of AS 08.84.030(b);

ADD: (3) verification of the applicant's licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice occupational therapy; one of which must indicate a current license in good standing; each verification must include an explanation of any disciplinary actions taken against the license; and

ADD: (4) the applicant's fingerprint information as set out under 12 AAC 54.905 required under AS 08.84.030(b)(4).

change to read: (a) A foreign educated occupational therapist or occupational therapy assistant applicant must have graduated from a resident course of study and professional instruction substantially equivalent to a professional occupational therapy education program that is accredited by the Accreditation Council for Occupational Therapy Education (ACOTE). A foreign-educated occupational therapist or occupational therapy assistant applicant **applying by examination** shall submit

change to read: (3) verification of the applicant's licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice occupational therapy, if applicable; each verification must include an explanation of any disciplinary actions taken against the licensee;

repeal requirement of professional reference

change to read: (6) proof of initial certification sent directly to the department from the National Board of Certification in Occupational Therapy (NBCOT) as evidence of having met the requirements of AS 08.84.032(b) during the 24 months immediately before the date the application is received by the department; and

repeal active practice requirement

repeal

repeal requirement for jurisprudence questionnaire

ADD: (8) the applicant's fingerprint information as set out under 12 AAC 54.905 required under AS 08.84.032(b)(8).

ADD: (d) A foreign-educated occupational therapist or occupational therapy assistant applicant applying by credentials shall submit

- (1) a completed application on the form prescribed by the board;
- (2) the fees established in 12 AAC 02.320;
- (3) verification of licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice occupational therapy; one of which must indicate a current license in good standing; each verification must include an explanation of any disciplinary actions taken against the licensee;
- (4) evidence of meeting each of the requirements of AS 08.84.032(b);
- (5) proof of initial certification sent directly to the department from the National Board of Certification in Occupational Therapy (NBCOT) as evidence of having met the requirements of AS 08.84.032(b); and
- (6) the applicant's fingerprint information as

amend to: [AS USED IN AS 08.84.030(b)(1), 08.84.032(b)(2), and 08.84.150(b)(1),]

"Supervised field work" means the portion of an ACOTE-accredited professional occupational therapy education program to be completed by an applicant in a setting that ordinarily provides occupational therapy under the continuous direction and immediate supervision of a licensed occupational therapist.

repeal requirement of professional reference

repeal requirement of professional reference  
- amend to read: meeting the requirements of (a)(1), (5), (6), and (7) of this section;  
change to read: provide proof of initial certification sent directly to the department from the National Board of Certification in Occupational Therapy (NBCOT) as evidence of having met the requirements of AS 08.84.032(b).

repeal active practice requirement  
ADD: (2) must pay the temporary license application fee, [AND] temporary license fee, and fingerprint processing fee set out under 12 AAC 02.105;

amend to read: (4) must submit documentation sent directly to the department from the jurisdiction showing the applicant is currently licensed and in good standing in another licensing jurisdiction and the applicant's license in the other jurisdiction is not suspended, revoked, or otherwise restricted except for failure to apply for renewal or failure to obtain the required continuing education requirements;

ADD: (7) the applicant's fingerprint information as set out under 12 AAC 54.905 required under AS 08.84.030(b)(4).

ADD: NEW 12 AAC 54.670 Limited Permit Applicants. (a) An application for a limited permit as a visiting, non-resident occupational therapist or occupational therapy assistant must be submitted to the department on a form provided by the board and

(1) payment of the application fee and license fee specified in 12 AAC 02.320; and  
(2) verification of the applicant's licensure status sent directly to the department from a jurisdiction where the applicant holds a license to practice physical therapy in good standing; verification from jurisdiction must include an explanation of any disciplinary actions taken against the licensee.

repeal requirement for jurisprudence questionnaire

Repeal

change "during that period" to "prior to application" or "at the time of application."

change "during that period" to "prior to application" or "at the time of application."

repeal

ADD: (5) 1.25 professional development unit (PDU) equals 1 contact hour.

amend to read: (e) An applicant for renewal is responsible for maintaining adequate and detailed records of all continuing education contact hours claimed and shall make the records available to the board upon request under 12 AAC 54.720. Records must be retained for four [THREE] years from the date the contact hours were obtained.

amend to read: (h) To document current certification with the NBCOT, the applicant shall submit verification [a photocopy of the front and back] of the applicant's current NBCOT OTR or COTA status [certificate]

Replace physical therapy specific list with broader healthcare professional organization list of:

Any state or national professional healthcare association or state licensing entity;

Accredited hospital or related healthcare institution;

Accredited college or university health care programs; or

local/state educational entity (example: elementary or secondary school environment provides educational opportunity within the school setting for autistic children on managing emotional regulation).

intent of board to broaden categories of CE courses and activities to include professional contribution (clinical instructor, attending board meetings, publications, teaching, mentoring/supervision); Professional advancement (residency, board certification, fellowship, PhD, ScD), Professional Administration (documentation/coding, risk/practice/financial management); Professional Workplace Wellness (stress management, avoiding burnout, practice culture, patient culture, effective communication and difficult conversations); and special topics (ethics and boundaries, informed consent, cultural, sexual misconduct/trafficking, understanding addiction).

amend to read: (1) active duty personnel in the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard; and

repeal

Change to read: 12 AAC 54.805. Posting of license or permit. [A LICENSE OR PERMIT ISSUED UNDER THIS CHAPTER, OR A COPY OF A LICENSE OR PERMIT, MUST BE POSTED IN A CONSPICUOUS LOCATION IN THE LICENSEE'S PRIMARY PLACE OF BUSINESS FOR PUBLIC INSPECTION. PENDING RECEIPT OF THE CURRENT LICENSE CERTIFICATE FROM THE DEPARTMENT, THE LICENSE SHALL DISPLAY THE DEAPRTMENT'S INTERNET WEBSITE POSTING CONFIRMING LICENSURE.] For a licensee providing services, the license or permit must be available for public inspection upon request within a reasonable timeframe.

Change to read: A supervising occupational therapist shall provide periodic supervision to an occupational therapy assistant. Supervision shall be conducted on site or by video or teleconference when in-person supervision is not reasonably practicable. A supervising occupational therapist shall be available for consultation with the occupational therapy assistant by video, telephone, verbally, or in writing.

repeal language

repeal language

repeal definition

replace "before dismissal" with "at discharge evaluation"

12 AAC 54.805 Scope of practice relating to dry needling for occupational therapists. (a)

To perform dry needling, a licensed occupational therapist shall

(1) have obtained a graduate or post graduate didactic education specializing in dry needling that must include

(A) training courses approved by the American Occupational Therapy Association (AOTA) and designated as AOTA approved provider programs, or the American Physical Therapy Association (APTA) guidelines, or the Federation of State Boards of Physical Therapists (FSBPT) Standards, or other state physical therapy boards or state physical therapy association guidelines, or occupational therapy state boards or state occupational therapy associations guidelines, and must include

(B) didactic instructions and courses in indications, contraindications, emergency preparedness and response, potential risks,

Add the following language in one section instead of to each license type regulation: 12 AAC 54.905. Criminal justice information. (a) An applicant for licensure under this chapter must submit with the application the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. (b) The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400 and request the Department of Public Safety to

- (1) submit the fingerprints to the Federal Bureau of Investigation for a report on national criminal justice information;
- (2) perform a check for state criminal justice information; and
- (3) report to the board the results of the

Amend to read:

(b) A licensee shall notify the department when the licensee's name has changed in accordance with 12 AAC 02.900 [by submitting a notarized copy of a legal document verifying the change of name].

repeal language

ADD a new section to Article 8 to read:  
12 AAC 54.940. Review of interstate licensure compact. The board shall review all interstate licensure compacts, including bylaws, rules, and policies and procedures, as often as necessary to ensure effectiveness in this state. If the board determines that any interstate licensure compact no longer provides a benefit to the state, the board shall notify the legislature.

change to read: (2) documentation that all continuing education requirements of 12 AAC 54 have been met.

change to read: (3) evidence of completion of all continuing education requirements in 12 AAC 54 that would have been required to maintain a current license for the entire period the license has been lapsed;

repeal language

repeal language

repeal language

repeal language

repeal adoption by reference



## Explanation of Intended Changes

*Focus on what the change will do to achieve reduction, transparency, ease of government interaction, or other reforms. If the project does not meet those goals, explain why it is necessary for protection of public safety or standards, compliance with legislation, or other goal.*

Reference does not provide information that can be statutorily used to deny licensure.

requirement is outdated; application has attestation; JP is not scored

Puts maximum timeframe limitation when applying by examination of 24 months before application date to ensure applicants are current/competent in skill level.

requires license verification when applying by examination of previous licenses held, if any for any prior disciplinary actions to ensure patient safety

statutorily required - SB74

Remove barriers to licensure - repeal requirement for 6 month post graduate internship for foreign educated applicants by defining internship as the field work received as part of educational program (CAPTE) equivalent standards

Reference does not provide information that can be statutorily used to deny licensure.

requirement is outdated; application has attestation; JP is not scored

removes barriers to licensure; removes as post graduate internship would no longer be required

statutorily required - SB74

removes barriers to licensure; remove as post graduate internship would no longer be required

removes barriers to licensure; remove as post graduate internship would no longer be required

removes barriers to licensure; remove as post graduate internship would no longer be required

removes barriers to licensure; remove as post graduate internship would no longer be required

statutorily required - SB74

This needs to be removed - we don't accept transcripts any longer for foreign educated applications by examinations - only credentials evaluations. This changed with HB99 and should have changed then.

Allowing transcript conflicts with 12 AAC 54.040 or 12 AAC 54.100

Reference does not provide information that can be statutorily used to deny licensure.

removes barriers to licensure; remove as post graduate internship would no longer be required

statutorily required - SB74

cleanup - 12 AAC 54.915 repealed  
03/27/2024

statutorily required - SB74

removes barriers to licensure; allows an avenue for therapists who took the NPTE before 1990 to meet statutory qualifications.

statutorily required - SB74

cleanup - makes language match 12 AAC 54.040

Licensee has active license to practice in another state; active practice requirement immaterial and barrier to licensure.

active practice requirement being eliminated  
In (A); exemption option no longer needed

150 hour internship repealed; conflict with AS 08.84.150 License required; exceptions and cannot issue temporary permit

statutorily required - SB74

statutorily required - SB74

statutorily required - SB74

remove requirement for post-graduate 6-month internship. Educational requirement ensures applicant has completed course of study per AS 08.84.032 + applicant has valid license to practice in another state

Remove barriers to licensure - repeal requirement for 6 month post graduate internship for foreign educated applicants by defining internship as the field work received as part of educational program (CAPTE) equivalent standards

Reference does not provide information that can be statutorily used to deny licensure.

Licensee has active license to practice in another state; active practice requirement immaterial and barrier to licensure.

statutorily required - SB74

statutorily required - SB74

statutorily required - SB74

statutorily required - SB74

Transparency - currently no regulations exist outlining how a limited permit for physical therapy is issued

remove barriers; remove active practice requirement for renewal/reinstatement;

Remove barriers to renewal/reinstatement. Board does not care when they were done, only that they've been completed for renewal or reinstatement. Otherwise discretion in 12 AAC 02.965 is exercised.

Remove barriers to renewal/reinstatement. Board does not care when they were done, only that they've been completed for renewal or reinstatement. Otherwise discretion in 12 AAC 02.965 is exercised.

Change to all contact hours must be approved. While all contact hours must now be approved, approving entities list in 12 AAC 54.420 is being modified to allow therapists enhanced selection of courses and activities applicable to professional advancement while still maintaining integrity of any CE taken.

Cleanup - change to match centralized regulation to reduce confusion

Modifies physical therapy specific entities to broader healthcare professional organizations to enhance selection of courses and activities applicable to professional advancement while still maintaining integrity of any CE used for renewal purposes.

modernize continuing education by shifting  
the focus from traditional CE to a more  
robust continuing competency model

cleanup

Outdated language; many therapists work in settings that do not allow for posting in a visible area or do not have control over posting in an employer location. Updated language allows for public access while not penalizing therapist.

AS 08.84.150(4) refers to recognized standards of ethics of the physical therapy professions or the occupational therapy profession. Both AOTA and APTA have their ethics standards available publicly.

AS 08.84.150(4) refers to recognized standards of ethics of the physical therapy professions or the occupational therapy profession. Both AOTA and APTA have their ethics standards available publicly.

Ensure patient safety by setting minimum educational and standards for dry needling

Remove minimum monthly requirement.  
Schedule to be determined by supervising PT based on the needs and experience level of the PTA. Change from "The" to "A" to clarify that PTAs have evolving/changing supervisors from day to day and are not locked in to one specific PT.

Federal statute/regulations override state.

This is unnecessary.

outdated - Centralized statute AS 08.02.130  
supersedes

150 hour internship repealed; conflict with  
AS 08.84.150 License required; exceptions  
and cannot issue temporary permit

150 hour internship repealed; conflict with  
AS 08.84.150 License required; exceptions  
and cannot issue temporary permit  
provides clarification for event of self-  
discharging patients

transparency - currently regulation requires  
that anyone applying by exam must have an  
active license in good standing = Rewrite  
regulation so it applies only to application for  
occupational therapy licensure by  
examination

transparency - currently regulation requires that anyone applying by exam must have an active license in good standing

Reference does not provide information that can be statutorily used to deny licensure.

transparency - rewriting regulation so it applies only to application for occupational therapy licensure by examination

Licensee has active license to practice in another state; active practice requirement immaterial and barrier to licensure.

150 hour internship repealed; conflict with AS 08.84.150 License required; exceptions and cannot issue temporary permit

requirement is outdated; application has  
attestation; JP is not scored

statutorily required - SB74

transparency - rewriting 12 AAC 54.600 and  
splitting out so 54.600 applies only to  
application for occupational therapy  
licensure by examination and creating new  
section for occupational therapy licensure by  
credentials

statutorily required

separate section created for application by  
credentials for OT to provide  
clarification/transparency

separate section created for application by  
credentials for OT to provide  
clarification/transparency

statutorily required - SB74

create different criteria for foreign educated  
occupational therapy applicants by  
examination versus credentials to eliminate  
barriers to licensure

create different criteria for foreign education  
occupational therapy applicants by  
examination versus credentials to eliminate  
barriers to licensure - no valid license  
required in another jurisdiction

Reference does not provide information that can be statutorily used to deny licensure.

create different criteria for foreign education occupational therapy applicants by examination versus credentials to eliminate barriers to licensure

create different criteria for foreign education occupational therapy applicants by examination versus credentials to eliminate barriers to licensure - work experience not required for applying by examination

see 12 AAC 64.610(a)(6) above

requirement is outdated; application has attestation; JP is not scored

statutorily required - SB74

create different criteria for foreign education  
occupational therapy applicants by  
credentials versus examination to eliminate  
barriers to licensure

Cleanup - uniformity with physical therapy  
regulation

Reference does not provide information that can be statutorily used to deny licensure.

Reference does not provide information that can be statutorily used to deny licensure.

Active practice requirement being eliminated in (A); but still need to provide proof of initial certification to meet educational requirements in AS 08.84.032(b).

Licensee has active license to practice in another state; active practice requirement immaterial and barrier to licensure.

statutorily required - SB74

Cleanup

statutorily required - SB74

Transparency - currently no regulations exist outlining how a limited permit for occupational therapy is issued

requirement is outdated; application has attestation; JP is not scored

remove barriers; remove active practice requirement for renewal/reinstatement;

Remove barriers to renewal/reinstatement. Board does not care when they were done, only that they've been completed for renewal or reinstatement. Otherwise discretion in 12 AAC 02.965 is exercised.

Remove barriers to renewal/reinstatement. Board does not care when they were done, only that they've been completed for renewal or reinstatement. Otherwise discretion in 12 AAC 02.965 is exercised.

Change to all contact hours must be approved. While all contact hours must be approved, approving entities list in 12 AAC 54.715 is being modified to allow therapists enhanced selection of courses and activities applicable to professional advancement while still maintaining integrity of any CE taken.

Transparency - no conversion currently exists for professional development units (PDUs) to contact hours

Cleanup - change to match centralized regulation to reduce confusion

Cleanup - outdated language.

Modifies occupational therapy specific entities to broader healthcare professional organizations to enhance selection of courses and activities applicable to professional advancement while still maintaining integrity of any CE used for renewal purposes.

modernize continuing education by shifting the focus from traditional CE to a more robust continuing competency model

cleanup

AS 08.84.150(4) refers to recognized standards of ethics of the physical therapy professions or the occupational therapy profession. Both AOTA and APTA have their ethics standards available publicly.

Outdated language; many therapists work in settings that do not allow for posting in a visible area or do not have control over posting in an employer location. Updated language allows for public access while not penalizing therapist.

Supervising OT determines schedule based on the needs and experience level of the OTA. Creates uniformity with PT language in 12 AAC 54.510(e)  
outdated - Centralized statute AS 08.02.130  
Telehealth supersedes

150 hour internship repealed; conflict with AS 08.84.150 License required; exceptions and cannot issue temporary permit

150 hour internship repealed; conflict with AS 08.84.150 License required; exceptions and cannot issue temporary permit provides clarification for event of self-discharging patients

Ensure patient safety by setting minimum educational and standards for dry needling

statutorily required - SB74

Cleanup - change to match centralized regulations to avoid confusion  
Cleanup - service no longer offered. No payment of fees required; no license printed - issued electronically through MyLicense portal

statutorily required - SB74

Active practice requirement being removed  
for renewal would also remove for  
reinstatement

Active practice requirement being removed  
for renewal would also remove for  
reinstatement

150-hour internship being repealed;  
statutory conflict with AS 08.84.150 licensure  
required; exceptions for anyone to complete  
a 150 internship (no temporary permit can be  
issues; cannot provide therapy services  
without a license

150-hour internship being repealed;  
statutory conflict with AS 08.84.150 licensure  
required; exceptions for anyone to complete  
a 150 internship (no temporary permit can be  
issues; cannot provide therapy services  
without a license  
outdated language; Centralized statute AS  
08.02.130(j)(5)telehealth; AS 47.05.270(e)  
overrides

no longer required; repealing 12 AAC 54.530  
and 12 AAC 54.825 telerehabilitation sections

AS 08.84.150(4) refers to recognized  
standards of ethics of the physical therapy  
professions or the occupational therapy  
profession. Both AOTA and APTA have their  
ethics standards available publicly.  
last line

**TOTAL**



**Proposed Regulatory Reduction**

List the **number** of reductions from your baseline that you plan to achieve with this change. This could be a reduction of words on a webpage or PDF or pages of a PDF. (Sample reduction number below for the purposes of the formula in column E.)

700

4

1

-1

-3

statutorily required

not scored in markup

3

1

not scored in markup

statutorily required

19

not scored in markup

1

not scored in markup

statutorily required

not scored in markup

3

3

not scored in markup

not scored in markup

0

9

0

1

1

not scored in markup

statutorily required

statutorily required

statutorily required

4

1

3

statutorily required

statutorily required

statutorily required

statutorily required

-3

5

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-0.5

not scored in markup

not scored in markup

not scored in markup

0

1

1

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not scored in markup

7

17

2

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0

0

3

-1

4

1

statutorily required

-1

statutorily required

-1

-3

statutorily required

0

-2

3

-1

3

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1

statutorily required

-7

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3

1

0

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statutorily required

not scored in markup

statutorily required

-3

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not scored in markup

-0.5

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not scored in markup

not scored in markup

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1

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-1

6

15

0

not scored in markup

0

statutorily required

not scored in markup

0

0

0

2

2

not scored in markup

not scored in markup

17

last line

**148**



**Percentage of Regulatory Reduction**

**Date of Anticipated Reduction**

State the **percentage** of anticipated reduction from your original baseline. This may be achieved using a simple Excel formula such as "=SUM(X-Y)\*0.001" where X equals your baseline and Y equals the cell in column D, then express the column as a percentage. See sample below.

State whether you anticipate this reduction will be achieved in 2026 or 2027.

30%

1.20%

**2026**

0.30%

**2026**

-0.30%

**2026**

-0.90%

**2026**

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**2026**

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**2026**

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**2026**

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**2026**

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**2026**

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**2026**

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**2026**

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**2027**

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**2026**

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**2026**

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**2026**

5.11%

**2027**

last line

**44.44%**

<b>Division or Corporate Agency</b>	<b>Name of Guidance Document</b>	<b>Nature of the Guidance</b>
	<i>Provide the name of the document as stated in your inventory.</i>	<i>Provide the purpose of the guidance document; can be what you stated in your inventory.</i>

**Web Link****Summary of the Intended Changes**

*If you provided a web link in the Inventory, provide it again here for reference.*

*Briefly describe what you plan to change to achieve reduction, transparency, ease of government interaction, other reforms.*

**Proposed Regulatory Reduction**

**Percentage of Regulatory Reduction**

List the **number** of reductions from your baseline that you plan to achieve with this change. This could be a reduction of words on a webpage or PDF or pages of a PDF. (Sample reduction number below for the purposes of the formula in column F.)

State the **percentage** of anticipated reduction from your original baseline. This may be achieved using a simple Excel formula such as "`=SUM(X-Y)*0.001`" where X equals your baseline and Y equals the cell in column E, then express the column as a percentage. See sample below.

700

30%

## **Date of Anticipated Reduction**

*State whether you anticipate this reduction will be achieved in 2026 or 2027.*

# ***Statutes and Regulations*** **Physical Therapy and Occupational Therapy**

***March 2025***



DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING***

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DRAFT

**CHAPTER 84.  
PHYSICAL THERAPISTS AND OCCUPATIONAL THERAPISTS**

**Article**

- 1. State Physical Therapy and Occupational Therapy Board (§§ 08.84.010, 08.84.020)**
- 2. Licensing (§§ 08.84.030 – 08.84.120)**
- 3. Unlawful Acts (§§ 08.84.130 – 08.84.180)**
- 4. Interstate Physical Therapy Licensure Compact (§ 08.84.188)**
- 5. General Provisions (§§ 08.84.190, 08.84.200)**

**ARTICLE 1.  
STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD**

**Section**

- 10. Creation and membership of board**
- 20. Applicability of Administrative Procedure Act**

**Sec. 08.84.010. Creation and membership of board.** (a) There is created the State Physical Therapy and Occupational Therapy Board, which consists of seven members. The membership consists of three physical therapists licensed in the state or two physical therapists and one physical therapist assistant licensed in the state, three occupational therapists licensed in the state or two occupational therapists and one occupational therapy assistant licensed in the state, and one lay person with no direct financial interest in the health care industry. Members of the board shall be United States citizens domiciled in the state.

(b) The board shall control all matters pertaining to the licensing of physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants and the practice of physical therapy and the practice of occupational therapy. The board shall

- (1) pass upon the qualifications of applicants;
- (2) provide for the examination of applicants;
- (3) issue temporary permits and licenses to persons qualified under this chapter;
- (4) suspend, revoke, or refuse to issue or renew a license under AS 08.84.120;
- (5) keep a current register listing the name, business address, date, and number of the license of each person who is licensed to practice under this chapter;
- (6) adopt regulations under AS 44.62 (Administrative Procedure Act) necessary to carry out the purposes of this chapter, including regulations establishing qualifications for licensure and renewal of licensure under this chapter;
- (7) implement the Interstate Physical Therapy Licensure Compact under AS 08.84.188.

**Sec. 08.84.020. Applicability of Administrative Procedure Act.** The board shall comply with AS 44.62 (Administrative Procedure Act).

**ARTICLE 2.  
LICENSING**

**Section**

- 30. Qualifications for licensing**
- 32. Foreign-educated applicants**
- 34. Exemption from criminal justice information and criminal history record check**
- 40. Application for license**
- 50. Fees**
- 60. Licensure by acceptance of credentials**
- 65. Temporary permit**
- 75. Limited permit**
- 80. Examinations**
- 90. Licensure**
- 100. Renewal of license**
- 120. Refusal, revocation, and suspension of license; discipline**

**Sec. 08.84.030. Qualifications for licensing.** (a) To be eligible for licensure by the board as a physical therapist or physical therapist assistant, an applicant, unless a graduate of a foreign school of physical therapy located outside the United States, shall

- (1) have graduated from a professional physical therapy education program that includes supervised field work and is accredited by a national accreditation agency approved by the board;

(2) pass, to the satisfaction of the board, an examination prepared by a national testing service approved by the board to determine the applicant's fitness for practice as a physical therapist or physical therapist assistant, or be entitled to licensure without examination as provided in AS 08.84.060;

(3) meet qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b); and

(4) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400

(b) To be eligible for licensure by the board as an occupational therapist or occupational therapy assistant, an applicant, unless a graduate of a foreign school of occupational therapy located outside the United States, shall

(1) have graduated from a professional occupational therapy education program that includes supervised field work and is accredited by a national accreditation agency approved by the board;

(2) pass, to the satisfaction of the board, an examination prepared by a national testing service approved by the board or an examination recognized by a national accreditation agency approved by the board to determine the applicant's fitness for practice as an occupational therapist or occupational therapy assistant, or be entitled to licensure without examination under AS 08.84.060;

(3) meet qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b); and

(4) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

**Sec. 08.84.032. Foreign-educated applicants.** (a) To be eligible for licensure by the board as a physical therapist or physical therapist assistant, an applicant who is a graduate of a school of physical therapy that is located outside the United States shall

(1) have completed, to the satisfaction of the board, a resident course of study and professional instruction substantially equivalent to a professional physical therapy education program that is accredited by a board-approved national accreditation agency in the United States;

(2) have completed, to the satisfaction of the board, an internship under the continuous direction and immediate supervision of a physical therapist in an institution that ordinarily provides physical therapy and is approved by the board, for that period of time specified by the board, and furnish documentary evidence of compliance with this paragraph;

(3) pass an examination recognized by the board that measures the competence of the applicant in the English language if the applicant's physical therapist or physical therapist assistant education program was not taught in English;

(4) have met applicable requirements under 8 U.S.C. 1101 – 1503 (Immigration and Nationality Act), unless a United States citizen;

(5) pass the examination approved by the board under AS 08.84.030(a)(2);

(6) pay the fee required under AS 08.84.050;

(7) meet additional qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b); and

(8) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

(b) To be eligible for licensure by the board as an occupational therapist or occupational therapy assistant, an applicant who is a graduate of a school of occupational therapy that is located outside the United States shall

(1) have completed, to the satisfaction of the board, a resident course of study and professional instruction substantially equivalent to a professional occupational therapy education program that is accredited by a board-approved national accreditation agency in the United States;

(2) have completed, to the satisfaction of the board, supervised field work equivalent to that required under AS 08.84.030(b);

(3) pass an examination recognized by the board that measures the competence of the applicant in the English language if the applicant's occupational therapist or occupational therapy assistant education program was not taught in English;

(4) have met applicable requirements under 8 U.S.C. 1101 – 1503 (Immigration and Nationality Act), unless a United States citizen;

(5) pass an examination approved by the board under AS 08.84.030(b);

(6) pay the fee required under AS 08.84.050;

(7) meet additional qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b); and

(8) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

**Sec. 08.84.034. Exemption from criminal justice information and criminal history record check.** A physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant holding a valid license under this chapter on July 1, 2024, is exempt from the requirements of AS 08.84.030(a)(4) and (b)(4) and 08.84.032(a)(8) and (b)(8), but is otherwise subject to this chapter.

**Sec. 08.84.040. Application for license.** To be licensed under this chapter to practice physical therapy or occupational therapy, an applicant shall apply to the board on a form prescribed by the board. An applicant shall include in the application evidence under oath that the applicant possesses the qualifications required by AS 08.84.030 or 08.84.032.

**Sec. 08.84.050. Fees.** The Department of Commerce, Community, and Economic Development shall set fees under AS 08.01.065 for the following:

- (1) application;
- (2) license by examination;
- (3) license by acceptance of credentials;
- (4) renewal;
- (5) temporary permit;
- (6) limited permit;
- (7) compact privilege.

**Sec. 08.84.060. Licensure by acceptance of credentials.** The board may license without examination an applicant who is a physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under the laws of another state, if the requirements for licensure in that state were, at the date of the applicant's licensure, substantially equal to the requirements in this state.

**Sec. 08.84.065. Temporary permit.** (a) The board may issue a nonrenewable temporary permit to an applicant for licensure by acceptance of credentials or by examination who

- (1) meets the requirements of
  - (A) AS 08.84.030(a)(1) or (b)(1); or
  - (B) AS 08.84.032(a)(2) and (4) or (b)(2) and (4); and
- (2) pays the required fee.

(b) A temporary permit issued to an applicant for licensure by acceptance of credentials is valid for eight months or until the board considers the applicant's application for acceptance of credentials, whichever occurs first.

(c) A temporary permit issued to an applicant for licensure as a physical therapist or physical therapist assistant by examination is valid for eight months or until the results of the first examination for which the applicant is scheduled are published, whichever occurs first. If the applicant fails to take the first examination for which the applicant is scheduled, the applicant's temporary permit lapses the day of the examination.

(d) A temporary permit issued to an applicant who is a graduate of a foreign school of physical therapy or occupational therapy located outside the United States is valid until the results of the first examination for which the applicant is scheduled are published following completion of the internship required under AS 08.84.032.

(e) A temporary permit issued to an applicant for licensure as an occupational therapist or occupational therapy assistant by examination is valid for eight months or until the results of the examination for which the applicant is scheduled are published, whichever occurs first. If the applicant fails to take an examination for which the applicant is scheduled the applicant's temporary permit lapses on the day of the examination.

**Sec. 08.84.070. Registration fee.** *[Repealed, Sec. 8 ch 49 SLA 1969.]*

**Sec. 08.84.075. Limited permit.** (a) The board may issue a limited permit to a person to practice occupational therapy in the state as a visiting, nonresident occupational therapist or occupational therapy assistant, if the person

- (1) applies on the form provided by the board;
- (2) has not previously been denied occupational therapy licensure in the state;
- (3) is licensed to practice occupational therapy in another state or satisfies the requirements for certification by the American Occupational Therapy Association;
- (4) provides proof satisfactory to the board that the person will not practice in the state for more than 120 days in the calendar year for which the permit is issued; and
- (5) pays the fee required under AS 08.84.050.

(b) The board may issue a limited permit to a person to practice physical therapy in the state as a visiting, nonresident physical therapist or physical therapist assistant, if the person

- (1) applies on the form provided by the board;

- (2) has not previously been denied physical therapy licensure in the state;
- (3) is licensed to practice physical therapy in another state;
- (4) provides proof satisfactory to the board that the person will not practice in the state for more than 120 days in the calendar year for which the permit is issued; and
- (5) pays the fee required under AS 08.84.050.
- (c) A limited permit is valid for a period of 120 consecutive days in a calendar year.
- (d) A person may not receive more than
  - (1) one limited permit to practice occupational therapy or physical therapy in a 12-month period; and
  - (2) three limited permits to practice occupational therapy or physical therapy during the person's lifetime.

**Sec. 08.84.080. Examinations.** The board shall examine applicants for licensure under this chapter at the times and places it determines.

**Sec. 08.84.090. Licensure.** The board shall license an applicant who meets the qualifications for licensure under this chapter and shall issue a license certificate to each person licensed. A license certificate is prima facie evidence of the right of the person to hold out as a licensed physical therapist, licensed physical therapist assistant, licensed occupational therapist, or licensed occupational therapy assistant.

**Sec. 08.84.100. Renewal of license.** (a) *[Repealed, Sec. 49 ch 94 SLA 1987.]*

(b) If the license remains lapsed for more than three years, the board may require the applicant to submit proof, satisfactory to the board, of continued competency.

(c) A license may not be renewed unless the applicant submits proof of continued competence to practice physical therapy or occupational therapy in a manner established by the board in regulations adopted under AS 08.84.010(b).

**Sec. 08.84.110. Renewal fee.** *[Repealed, Sec. 8 ch 49 SLA 1969.]*

**Sec. 08.84.120. Refusal, revocation, and suspension of license; discipline.** (a) The board may refuse to license an applicant, may refuse to renew the license of a person, may discipline a person, and may suspend or revoke the license of a person who

- (1) has obtained or attempted to obtain a license by fraud or material misrepresentation;
- (2) uses drugs or alcohol in any manner that affects the person's ability to practice physical therapy or occupational therapy competently and safely;
- (3) has been convicted of a state or federal felony or other crime that effects the person's ability to practice competently and safely;
- (4) is guilty, in the judgement of the board, of gross negligence or malpractice or has engaged in conduct contrary to the recognized standards of ethics of the physical therapy profession or the occupational therapy profession;
- (5) has continued to practice physical therapy or occupational therapy after becoming unfit because of physical or mental disability;
- (6) has failed to refer a patient to another qualified professional when the patient's condition is beyond the training or ability of the person;
- (7) as a physical therapist assistant, has attempted to practice physical therapy that has not been initiated, supervised, and terminated by a licensed physical therapist;
- (8) as an occupational therapy assistant, has attempted to practice occupational therapy that has not been supervised by a licensed occupational therapist; or
- (9) has failed to comply with this chapter, a regulation adopted under this chapter, or an order of the board.

(b) The refusal or suspension of a license may be modified or rescinded if the person has been rehabilitated to the satisfaction of the board.

(c) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the licensee

- (1) or another licensed health care provider is available to provide follow-up care;
- (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) meets the requirements established by the board in regulation.

(d) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (c) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

### ARTICLE 3. UNLAWFUL ACTS

#### Section

- 130. False claim of license prohibited
- 140. Penalty for fraud in obtaining license
- 150. License required; exceptions
- 160. Scope of authorized practice
- 180. Investigation

**Sec. 08.84.130. False claim of license prohibited.** (a) A person not licensed as a physical therapist, or whose license is suspended or revoked or has lapsed, who uses in connection with the person's name the words or letters "P.T.," "Physical Therapist," "L.P.T.," "Licensed Physical Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed physical therapist, or who, in any way, orally or in writing, directly or by implication, holds out as a licensed physical therapist, is guilty of a class B misdemeanor.

(b) A person not licensed as a physical therapist assistant, or whose license is suspended or revoked or has lapsed, who, in any way, orally or in writing, directly or by implication, holds out as a licensed physical therapist assistant is guilty of a class B misdemeanor.

(c) A person not licensed as an occupational therapist, or whose license is suspended or revoked, or whose license is lapsed, who uses in connection with the person's name the words "Licensed Occupational Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed occupational therapist, or who orally or in writing, directly or by implication, holds out as a licensed occupational therapist is guilty of a class B misdemeanor.

(d) A person not licensed as an occupational therapy assistant, or whose license is suspended or revoked, or whose license is lapsed, who orally or in writing, directly or by implication, holds out as a licensed occupational therapy assistant is guilty of a class B misdemeanor.

**Sec. 08.84.140. Penalty for fraud in obtaining license.** A person who willfully makes a false oath or affirmation or who obtains or attempts to obtain a license by a fraudulent representation is guilty of a class B misdemeanor.

**Sec. 08.84.150. License required; exceptions.** (a) It is unlawful for a person to practice physical therapy without being licensed under this chapter unless the person is

- (1) a student in an accredited physical therapy program;
- (2) a graduate of a foreign school of physical therapy fulfilling the internship requirement of AS 08.84.032, and then only unless under the continuous direction and immediate supervision of a physical therapist;
- (3) issued a limited permit under AS 08.84.075; or
- (4) granted a compact privilege under AS 08.84.188.

(b) A person may not provide services that the person describes as occupational therapy without being licensed under this chapter unless the person is

- (1) a student in an accredited occupational therapy program or in a supervised field work program;
- (2) a graduate of a foreign school of occupational therapy fulfilling the internship requirement of AS 08.84.032, and then only unless under the continuous direction and immediate supervision of an occupational therapist;
- (3) an occupational therapist or occupational therapy assistant employed by the United States Government while in the discharge of official duties;
- (4) granted a limited permit under AS 08.84.075;
- (5) licensed under this title and uses occupational therapy skills in the practice of the profession for which the license is issued; or

(6) employed as a teacher or teacher's aide by an educational institution and is required to use occupational therapy skills during the course of employment, if

- (A) the occupational therapy skills are used under a program implemented by the employer and developed by a licensed occupational therapist;
- (B) the employer maintains direct supervision of the person's use of occupational therapy skills; and
- (C) the person does not represent to
  - (i) be an occupational therapist or occupational therapy assistant; and
  - (ii) practice occupational therapy.

**Sec. 08.84.160. Scope of authorized practice.** This chapter does not authorize a person to practice medicine, osteopathy, chiropractic, or other method of healing, but only to practice physical therapy or occupational therapy.

**Sec. 08.84.170. Penalty.** *[Repealed, Sec. 7 ch 46 SLA 1986.]*

**Sec. 08.84.180. Investigation.** The board shall request appropriate authorities to conduct investigations of every supposed violation of this chapter coming to its notice and shall report all cases that in the judgment of the board warrant prosecution to the proper law enforcement officials.

**Sec. 08.84.185. Limits or conditions on license; discipline.** *[Repealed, Sec. 49 ch 94 SLA 1987.]*

**ARTICLE 4.**  
**INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT**

**Sec. 08.84.188. Compact enacted.** The Interstate Physical Therapy Licensure Compact as contained in this section is enacted into law and entered into on behalf of the state with all other states and jurisdictions legally joining it in a form substantially as follows:

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient or client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This Compact is designed to achieve the following objectives:

- (1) Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
- (2) Enhance the states' ability to protect the public's health and safety;
- (3) Encourage the cooperation of member states in regulating multistate physical therapy practice;
- (4) Support spouses of relocating military members;
- (5) Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
- (6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

- (1) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211.
- (2) "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.
- (3) "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes substance abuse issues.
- (4) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient or client is located at the time of the patient/client encounter.
- (5) "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
- (6) "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.
- (7) "Encumbered license" means a license that a physical therapy licensing board has limited in any way.
- (8) "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
- (9) "Home state" means the member state that is the licensee's primary state of residence.
- (10) "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.
- (11) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.
- (12) "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.
- (13) "Member state" means a state that has enacted the Compact.
- (14) "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.
- (15) "Physical therapist" means an individual who is licensed by a state to practice physical therapy.
- (16) "Physical therapist assistant" means an individual who is licensed or certified by a state and who assists the physical therapist in selected components of physical therapy.
- (17) "Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist.
- (18) "Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.
- (19) "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.
- (20) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

- (21) "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.
- (22) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

### SECTION 3. STATE PARTICIPATION IN THE COMPACT

- (a) To participate in the Compact, a state must:
- (1) Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;
  - (2) Have a mechanism in place for receiving and investigating complaints about licensees;
  - (3) Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;
  - (4) Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3(b);
  - (5) Comply with the rules of the Commission;
  - (6) Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and
  - (7) Have continuing competence requirements as a condition for license renewal.
- (b) Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 34 U.S.C. §40316.
- (c) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.
- (d) Member states may charge a fee for granting a compact privilege.

### SECTION 4. COMPACT PRIVILEGE

- (a) To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall
- (1) Hold a license in the home state;
  - (2) Have no encumbrance on any state license;
  - (3) Be eligible for a compact privilege in any member state in accordance with Section 4(d), (g) and (h);
  - (4) Have not had any adverse action against any license or compact privilege within the previous 2 years;
  - (5) Notify the Commission that the licensee is seeking the compact privilege within a remote state;
  - (6) Pay any applicable fees, including any state fee, for the compact privilege;
  - (7) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and
  - (8) Report to the Commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.
- (b) The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of Section 4(a) to maintain the compact privilege in the remote state.
- (c) A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.
- (d) A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.
- (e) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:
- (1) The home state license is no longer encumbered; and
  - (2) Two years have elapsed from the date of the adverse action.
- (f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4(a) to obtain a compact privilege in any remote state.
- (g) If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:
- (1) The specific period of time for which the compact privilege was removed has ended;
  - (2) All fines have been paid; and
  - (3) Two years have elapsed from the date of the adverse action.
- (h) Once the requirements of Section 4(g) have been met, the licensee must meet the requirements in Section 4(a) to obtain a compact privilege in a remote state.

### SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

- (1) Home of record;
- (2) Permanent Change of Station (PCS); or
- (3) State of current residence if it is different than the PCS state or home of record.

#### SECTION 6. ADVERSE ACTIONS

(a) A home state shall have exclusive power to impose adverse action against a license issued by the home state.  
(b) A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

(c) Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

(d) Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

(e) A remote state shall have the authority to:

- (1) Take adverse actions as set forth in Section 4(d) against a licensee's compact privilege in the state;
- (2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

- (3) If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(f) Joint Investigations

- (1) In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

- (2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

#### SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

(a) The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission.

- (1) The Commission is an instrumentality of the Compact states.

- (2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

- (3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, Voting, and Meetings

- (1) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

- (2) The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

- (3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

- (4) The member state board shall fill any vacancy occurring in the Commission.

- (5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

- (6) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

- (7) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(c) The Commission shall have the following powers and duties:

- (1) Establish the fiscal year of the Commission;

- (2) Establish bylaws;

- (3) Maintain its financial records in accordance with the bylaws;

- (4) Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

- (5) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;
  - (6) Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;
  - (7) Purchase and maintain insurance and bonds;
  - (8) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
  - (9) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
  - (10) Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
  - (11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
  - (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
  - (13) Establish a budget and make expenditures;
  - (14) Borrow money;
  - (15) Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
  - (16) Provide and receive information from, and cooperate with, law enforcement agencies;
  - (17) Establish and elect an Executive Board; and
  - (18) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.
- (d) The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.
- (1) The Executive Board shall be composed of nine members:
    - (A) Seven voting members who are elected by the Commission from the current membership of the Commission;
    - (B) One ex-officio, nonvoting member from the recognized national physical therapy professional association; and
    - (C) One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.
  - (2) The ex-officio members will be selected by their respective organizations.
  - (3) The Commission may remove any member of the Executive Board as provided in bylaws.
  - (4) The Executive Board shall meet at least annually.
  - (5) The Executive Board shall have the following duties and responsibilities:
    - (A) Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;
    - (B) Ensure Compact administration services are appropriately provided, contractual or otherwise;
    - (C) Prepare and recommend the budget;
    - (D) Maintain financial records on behalf of the Commission;
    - (E) Monitor Compact compliance of member states and provide compliance reports to the Commission;
    - (F) Establish additional committees as necessary; and
    - (G) Other duties as provided in rules or bylaws.
- (e) Meetings of the Commission
- (1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 9.
  - (2) The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:
    - (A) Non-compliance of a member state with its obligations under the Compact;
    - (B) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
    - (C) Current, threatened, or reasonably anticipated litigation;
    - (D) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
    - (E) Accusing any person of a crime or formally censuring any person;
    - (F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
    - (G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
    - (H) Disclosure of investigative records compiled for law enforcement purposes;

(I) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

(J) Matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(f) Financing of the Commission

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(g) Qualified Immunity, Defense, and Indemnification

(1) The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

## SECTION 8. DATA SYSTEM

(a) The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license or compact privilege;  
(4) Non-confidential information related to alternative program participation;  
(5) Any denial of application for licensure, and the reason(s) for such denial; and  
(6) Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

(c) Investigative information pertaining to a licensee in any member state will only be available to other party states.

(d) The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

## SECTION 9. RULEMAKING

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(d) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the Commission or other publicly accessible platform; and

(2) On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least twenty-five (25) persons;

(2) A state or federal governmental subdivision or agency; or

(3) An association having at least twenty-five (25) members.

(h) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings will be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(l) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures

provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) Meet an imminent threat to public health, safety, or welfare;
- (2) Prevent a loss of Commission or member state funds;
- (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (4) Protect public health and safety.

(m) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

## SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

### (a) Oversight

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

(3) The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

### (b) Default, Technical Assistance, and Termination

(1) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

- (A) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and
- (B) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

### (c) Dispute Resolution

(1) Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

### (d) Enforcement

(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(2) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief

sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

#### SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(a) The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

(b) Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

(c) Any member state may withdraw from this Compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

(e) This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

#### SECTION 12. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

### ARTICLE 5. GENERAL PROVISIONS

#### Section

##### 190. Definitions

##### 200. Short title

**Sec. 08.84.190. Definitions.** In this chapter, unless the context otherwise requires,

(1) "board" means the State Physical Therapy and Occupational Therapy Board;

(2) "occupational therapist" means a person who practices occupational therapy;

(3) "occupational therapy" means, for compensation, the use of purposeful activity, evaluation, treatment, and consultation with human beings whose ability to cope with the tasks of daily living are threatened with, or impaired by developmental deficits, learning disabilities, aging, poverty, cultural differences, physical injury or illness, or psychological and social disabilities to maximize independence, prevent disability, and maintain health; "occupational therapy" includes

(A) developing daily living, play, leisure, social, and developmental skills;

(B) facilitating perceptual-motor and sensory integrative functioning;

(C) enhancing functional performance, prevocational skills, and work capabilities using specifically designed exercises, therapeutic activities and measure, manual intervention, and appliances;

(D) design, fabrication, and application of splints or selective adaptive equipment;

(E) administering and interpreting standardized and nonstandardized assessments, including sensory, manual muscle, and range of motion assessments, necessary for planning effective treatment; and

(F) adapting environments for the disabled;

(4) "occupational therapy assistant" means a person who assists in the practice of occupational therapy under the supervision of an occupational therapist;

(5) “physical therapist” means a person who practices physical therapy;

(6) “physical therapist assistant” means a person who assists in the practice of physical therapy or an aspect of physical therapy as initiated, supervised, and terminated by a licensed physical therapist; the responsibilities of a physical therapist assistant do not include evaluation;

(7) “physical therapy” means the examination, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction, pain from injury, disease and other bodily or mental conditions and includes the administration, interpretation 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 preventive and therapeutic purposes; the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain; “physical therapy” does not include the use of roentgen rays and radioactive materials for diagnosis and therapeutic purposes, the use of electricity for surgical purposes, and the diagnosis of disease.

**Sec. 08.84.200. Short Title.** This chapter may be cited as the Physical Therapists and Occupational Therapists Practice Act.

DRAFT

**CHAPTER 54.  
STATE PHYSICAL THERAPY AND OCCUPATIONAL  
THERAPY BOARD.**

**Article**

1. **Physical Therapy Licensure by Examination (12 AAC 54.010 – 12 AAC 54.080)**
2. **Physical Therapy Licensure by Credentials (12 AAC 54.100 – 12 AAC 54.130)**
3. **Physical Therapy License Renewal and Continuing Competency Requirements (12 AAC 54.200 – 12 AAC 54.440)**
4. **Physical Therapy Standards of Practice (12 AAC 54.500 – 12 AAC 54.590)**
5. **Occupational Therapy Licensure (12 AAC 54.600 – 12 AAC 54.660)**
6. **Occupational Therapy License Renewal and Continuing Competency Requirements (12 AAC 54.700 – 12 AAC 54.725)**
7. **Occupational Therapy Standards of Practice (12 AAC 54.800 – 12 AAC 54.890)**
8. **General Provisions (12 AAC 54.900 – 12 AAC 54.990)**

**ARTICLE 1.  
PHYSICAL THERAPY LICENSURE BY EXAMINATION.**

**Section**

10. **(Repealed)**
20. **(Renumbered)**
30. **Requirements for physical therapy license by examination**
40. **Foreign-educated physical therapy applicants**
50. **Physical therapist temporary permits and scope of practice under those permits**
55. **(Repealed)**
60. **(Repealed)**
70. **Supervised field work**
80. **Passing scores**

**12 AAC 54.010. OFFICERS OF THE BOARD.** Repealed 9/26/91.

**12 AAC 54.020. BOARD MEETINGS.** Renumbered as 12 AAC 54.960, 9/26/91.

**12 AAC 54.030. REQUIREMENTS FOR PHYSICAL THERAPY LICENSE BY EXAMINATION.** (a) An applicant for a physical therapist or a physical therapist assistant license by examination, other than an applicant who is a graduate of a school of physical therapy that is located outside of the United States, shall submit a completed application on a form prescribed by the board with

- (1) payment of the fees established in 12 AAC 02.320;
  - (2) the applicant's certified transcript sent directly to the department from a physical therapy school meeting the requirements of AS 08.84.030(a)(1);
  - ~~(3) a signed letter of professional reference sent directly to the department on a form provided by the department from~~
    - ~~(A) the head of the physical therapy school; or~~
    - ~~(B) an instructor, physician, supervising physical therapist, or supervisor;~~
  - ~~(4) the jurisprudence questionnaire prepared by the board covering the provisions of AS 08.84 and this chapter;~~
- and
- ~~(5) proof of passing examination scores, sent directly to the department from the Federation of State Boards of Physical Therapy (FSBPT).~~

(b) Repealed 8/7/2021.

(c) An applicant who has applied for, but not yet received, licensure in another state and who has passed the national physical therapy examination in that state may have the examination scores transferred to the board and may apply for licensure by examination under (a) of this section.

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.040

**12 AAC 54.040. FOREIGN-EDUCATED PHYSICAL THERAPY APPLICANTS.** (a) A physical therapist or physical therapist assistant applicant for license by examination who received an education and qualifying degree outside of the United States must meet all requirements for licensure under AS 08.84. An applicant under this section must be a graduate from a school of physical therapy with a resident course of study and professional instruction that is

- ~~(1) substantially equivalent to a professional physical therapy education program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE); and~~

- (2) evaluated by one of the following board-approved credential evaluation services:
- (A) International Consultants of Delaware (ICD);
  - (B) Foreign Credentialing Commission on Physical Therapy (FCCPT);
  - (C) International Education Research Foundation (IERF); or
  - (D) an equivalent nationally recognized company as approved by the board.
- (b) To apply for a physical therapist or physical therapist assistant license by examination under this section, an applicant must submit
- (1) a completed application on the form prescribed by the board;
  - (2) payment of the fees established in 12 AAC 02.320;
  - ~~(3) a professional reference letter on a form provided by the department; the form must be signed and sent directly to the department from~~
    - ~~(A) the head of the applicant's physical therapy school; or~~
    - ~~(B) a professional who has knowledge of the applicant's competency, including a current or former instructor, supervising physician or physical therapist, or other supervisory professional;~~
    - ~~(4) the jurisprudence questionnaire covering the provisions of AS 08.84 and this chapter as prepared by the board;~~
  - (5) verification that the applicant
    - ~~(A) completed the internship requirements under (c) of this section; and~~
    - ~~(B) passed the National Physical Therapy Examination; the applicant's passing scores must be sent directly to the department from the Federation of State Boards of Physical Therapy (FSBPT).~~
- ~~(c) A foreign-educated physical therapist or physical therapist assistant applicant shall complete an internship under the on-site supervision of a currently licensed physical therapist in an institution that meets the requirements of (d) of this section and AS 08.84.032(a)(2). The board will not consider internship hours claimed before the date the board pre-approves the internship. A foreign-educated physical therapist or physical therapist assistant applicant shall complete an internship based on~~
- ~~(1) a minimum of six months of full-time work, averaging not less than 35 hours per week; or~~
  - ~~(2) part-time work averaging less than 35 hours per week, but equivalent to the total minimum number of hours required under (1) of this subsection.~~
- ~~(d) An institution used for an internship must have at least two full-time physical therapists on the staff licensed under this chapter and be in a clinic setting providing a varied case load to be approved by the board. A government service hospital may be used if the hospital meets the requirements of this subsection.~~
- ~~(e) A licensed physical therapist who serves as a preceptor to a foreign-educated intern applicant shall assume responsibility for the intern's experience and the safety and welfare of the patient.~~
- ~~(f) A licensed physical therapist who serves as a preceptor under this section shall directly submit a national performance evaluation tool that is recognized by the board to the department. On the tool, the preceptor shall attest to the applicant's~~
- ~~(1) satisfactory or unsatisfactory completion of the internship; and~~
  - ~~(2) level of skill in completion of evaluation, program planning, therapeutic practice, potential ability to practice safely while unsupervised with sound professional judgment, and ethics related to the practice of physical therapy.~~
- ~~(g) If a licensed physical therapist who serves as a preceptor will not recommend to the board that the applicant is qualified to work unsupervised at the end of an internship under (c) of this section, the board may require the applicant to arrange for another internship equivalent to six months or less. The board must approve any change in a preceptor before the change takes effect. If the applicant is not recommended by a preceptor as qualified to work independently at the end of a second internship, the board may deny licensure.~~
- ~~(h) If a licensed physical therapist who serves as a preceptor determines that an applicant is unqualified to continue the internship, nothing in this section obligates the preceptor or the preceptor's facility to either complete a six-month internship or provide a second internship for that applicant. A preceptor who terminates the internship of an applicant before the scheduled completion date must notify the board in writing and state the reason for the termination. Either an intern or a preceptor may request an advisory review of the internship by the board.~~
- ~~(i) After an applicant has satisfactorily completed an internship and has been scheduled for the National Physical Therapy Examination, the applicant may apply for a temporary permit under AS 08.84.065 and 12 AAC 54.050.~~
- ~~(j) To receive credit for an internship, an applicant must take and pass the National Physical Therapy Examination either before completing the internship or not later than one year after completing the internship.~~
- ~~(k) Verification of achieving a passing score, as set out in 12 AAC 54.080, on the national examination, meets the English language proficiency requirements of AS 08.84.032(a)(3).~~
- ~~(l) In this section, "preceptor" means a currently licensed physical therapist under this chapter who provides on-site supervision for an individual who is completing an internship under this section.~~

**Authority:** AS 08.84.010 AS 08.84.032 AS 08.84.065

**12 AAC 54.050. PHYSICAL THERAPIST TEMPORARY PERMITS AND SCOPE OF PRACTICE UNDER THOSE PERMITS.** (a) The board or department will issue a temporary permit to an applicant for a physical

therapist or physical therapist assistant license by examination, other than an applicant who is a graduate of a school of physical therapy that is located outside the United States, if the following are on file with the department:

- (1) a complete application on a form provided by the department;
- (2) the temporary permit fee established in 12 AAC 02.320;
- (3) all items required under 12 AAC 54.030(a);
- (4) a signed and notarized statement of responsibility from the supervising physical therapist; the statement must indicate that the supervising physical therapist will assume the full responsibility of supervising the applicant.

(b) The board or department will issue a temporary permit to an applicant for a physical therapist or physical therapist assistant license by credentials, other than an applicant who is a graduate of a school of physical therapy that is located outside the United States, if the following are on file with the department:

- (1) a complete application on a form provided by the department;
- (2) the temporary permit fee established in 12 AAC 02.320;
- ~~(3) all items required under 12 AAC 54.100.~~

(c) The board or department will issue a temporary permit to an applicant for a physical therapist or physical therapist assistant license by examination who is a graduate of a school of physical therapy that is located outside the United States and demonstrates compliance with AS 08.84.032(a)(1) and 08.84.065(a) to the satisfaction of the board. A temporary permit issued under this subsection expires on the date the scores are posted to the board. The following items documenting compliance with 12 AAC 54.040 must be on file with the department before the temporary permit is issued:

- (1) a complete application on a form provided by the department;
- (2) an official copy of a
  - (A) credentials evaluation sent directly to the department from an agency approved by the board; or
  - ~~(B) transcript indicating compliance with AS 08.84.032(a)(1) if the degree was obtained from a foreign program accredited by a board-approved accrediting agency;~~
- ~~(3) a signed letter of professional reference on a form provided by the department and sent directly to the department from
  - ~~(A) the head of a physical therapy school; or~~
  - ~~(B) an instructor, physician, supervising physical therapist, or supervisor;~~~~
- (4) a signed and notarized statement of responsibility sent directly to the department on a form provided by the department from the supervising physical therapist; the statement must indicate that the supervising physical therapist will assume the full responsibility of supervising the applicant;
- (5) a copy of the confirmation from the testing center indicating the date that the applicant is scheduled to take the national physical therapy examination;
- ~~(6) a signed letter of verification sent directly to the department on a form provided by the department from the preceptor attesting to the applicant's satisfactory completion of the internship;~~
- (7) the application, license, and temporary permit fees established in 12 AAC 02.320;
- (8) repealed 3/27/2024.

(d) The board or department will issue a temporary permit to an applicant for a physical therapist or physical therapist assistant license by credentials who is a graduate of a school of physical therapy that is located outside the United States if the following are on file with the department:

- (1) a complete application on a form provided by the department;
- (2) the temporary permit fee established in 12 AAC 02.320;
- ~~(3) all items required under 12 AAC 54.110.~~

~~(e) The board will review an applicant for a physical therapist or physical therapist assistant temporary permit in accordance with 12 AAC 54.915.~~

(f) An applicant for a physical therapist or physical therapist assistant license who is waiting to take the next scheduled examination and who has been issued a temporary permit under AS 08.84.065 may practice only under the supervision of a licensed physical therapist and may not act as a supervisor until a permanent license is issued.

(g) The holder of a temporary permit as a physical therapist, issued according to the provisions of AS 08.84.065(b), who is awaiting licensure by acceptance of credentials, may practice without supervision.

(h) The holder of a temporary physical therapist assistant permit issued according to the provisions of AS 08.84.065(b) who is awaiting licensure by acceptance of credentials shall practice in accordance with 12 AAC 54.510.

**Authority:** AS 08.84.010 AS 08.84.065

**12 AAC 54.055. LICENSURE OF APPLICANTS.** Repealed 9/26/91.

**12 AAC 54.060. ADMINISTRATION OF EXAMINATION.** Repealed 10/20/99.

~~**12 AAC 54.070. SUPERVISED FIELD WORK.** As used in AS 08.84.030(a)(1), "supervised field work" means the clinical education experience portion of a CAPTE-accredited educational program to be completed under the supervision of a licensed physical therapist.~~

**Authority:** AS 08.84.010 AS 08.84.030

**12 AAC 54.080. PASSING SCORES.** (a) To pass the national examination an applicant must achieve at least the criterion-referenced passing score recommended by the Federation of State Boards of Physical Therapy for that examination. The passing score will equal a scaled score of 600 based on a scale ranging from 200 to 800.

(b) Repealed 10/20/99.

(c) Repealed 8/7/2021.

**Authority:** AS 08.84.010

AS 08.84.080

## **ARTICLE 2. PHYSICAL THERAPY LICENSURE BY CREDENTIALS.**

### **Section**

**100. Application for licensure by credentials**

**110. Foreign-educated applicants**

**120. Military-trained therapy assistant**

**130. Temporary military courtesy license**

**12 AAC 54.100. APPLICATION FOR LICENSURE BY CREDENTIALS.** An application for licensure by credentials as a physical therapist or a physical therapist assistant must be submitted to the department on a form prescribed by the board with

- ~~(1) all items required under 12 AAC 54.030(a);~~
- ~~(2) a report sent directly to the department from the testing organization of the applicant's national physical therapy examination scores;~~
- (3) verification of the applicant's licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice physical therapy, one of which must indicate a current license in good standing; each verification from each jurisdiction where the applicant has or has ever held a license must include an explanation of any disciplinary actions taken against the licensee;
- (4) other evidence considered necessary by the board to determine if the requirements of the other jurisdiction were, at the date of issuance, substantially equal to the requirements of this state;
- ~~(5) verification sent directly to the department from the source that the applicant has~~
  - ~~(A) been employed in physical therapy at least 60 hours within the 24 months immediately preceding the date the application is received;~~
  - ~~(B) passed the national physical therapy examination within the 24 month period immediately preceding the date the application is received; or~~
  - ~~(C) satisfactorily completed an internship of 150 hours approved by the board.~~

**Authority:** AS 08.84.010  
AS 08.84.030

AS 08.84.040

AS 08.84.060

**12 AAC 54.110. FOREIGN-EDUCATED APPLICANTS.** An applicant for a physical therapist or physical therapist assistant license by credentials who received an education and degree outside the United States shall meet all requirements for licensure under AS 08.84, 12 AAC 54.030(a)(1) and (4), and this section, and shall submit an application to the department on a form provided by the department. The application must include

- (1) transcripts evaluated in accordance with 12 AAC 54.040(a)(2);
- (2) a report sent directly to the department from the testing organization of the applicant's national physical therapy examination scores;
- (3) verification of the applicant's licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice physical therapy, one of which must indicate a current license in good standing; each verification from each jurisdiction where the applicant holds or has ever held a license must include an explanation of any disciplinary actions taken against the licensee;
- ~~(4) satisfactory evidence sent directly to the department on a form provided by the department from a supervising therapist of~~
  - ~~(A) a minimum six months of supervised work experience while licensed as a physical therapist or physical therapist assistant in another state, another territory, or the District of Columbia; or~~
  - ~~(B) satisfactory completion of an internship that meets the requirements of 12 AAC 54.040(c), (e), and (f);~~
- ~~(5) other evidence determined necessary by the board to determine if the applicant's out-of-state license is substantially equal to the license requirements of this state;~~
- (6) verification of achieving a passing score, as set out in 12 AAC 54.080, on the national examination, shall meet the English language proficiency requirements of AS 08.84.032(a)(3);
- ~~(7) a signed letter of professional reference sent directly to the department on a form provided by the department from~~
  - ~~(A) the head of the physical therapy school from which the applicant graduated; or~~

~~(B) an instructor, physician, or physical therapist other than the physical therapist preceptor described in 12 AAC 54.040(c) and (f); and~~  
~~(8) verification sent directly to the department from the source that the applicant has~~  
~~(A) been employed in physical therapy at least 60 hours during the 24 months immediately preceding the date the application is received; or~~  
~~(B) passed the national physical therapy examination during the 24-month period immediately preceding the date the application is received.~~

**Authority:** AS 08.84.010 AS 08.84.032 AS 08.84.060

**12 AAC 54.120. MILITARY-TRAINED THERAPY ASSISTANT.** A military-trained physical therapist assistant may apply to the board for license by credentials only and must submit verification of a current and valid certificate, license, or other evidence of qualification issued under the laws of another state.

**Authority:** AS 08.84.010 AS 08.84.060

**12 AAC 54.130. TEMPORARY MILITARY COURTESY LICENSE.** (a) The board will issue a temporary military courtesy license to an active duty military member or spouse of an active duty military member of the armed forces of the United States to practice as a physical therapist or physical therapy assistant to an applicant who meets the requirements of AS 08.01.063 and this section not later than 30 days after the board receives a completed application.

- (b) An applicant for a temporary military courtesy license under this section
- (1) must submit an application on a form provided by the department;
  - ~~(2) must pay the temporary license application fee and fee for a temporary license set out under 12 AAC 02.105;~~
  - (3) must submit a copy of
    - (A) the applicant's current active duty military orders showing assignment to a duty station in this state; or
    - (B) if the applicant is the spouse of an active duty military member, the applicant's spouse's current active duty military orders showing assignment to a duty station in this state;
  - (4) must submit documentation showing the applicant is currently licensed and in good standing in another licensing jurisdiction and the applicant's license in the other jurisdiction is not suspended, revoked, or otherwise restricted except for failure to apply for renewal or failure to obtain the required continuing education requirements;
  - (5) must demonstrate that the licensing jurisdiction of the applicant's current licensure required a passing score on the examination required under 12 AAC 54.030(a)(5) as a condition of licensure; and
  - (6) may not have been convicted of a crime that affects the applicant's ability to practice as a physical therapist or physical therapy assistant competently and safely, as determined by the board.
- (c) A temporary military courtesy license issued to an active duty military member or spouse of an active duty military member under this section will be issued for a period of 180 days and may be renewed for one additional 180-day period, at the discretion of the board.
- (d) While practicing under a temporary military courtesy license issued under this section, the holder of the temporary military courtesy license must comply with the standards of practice set out in AS 08.84 and this chapter.
- (e) The board may refuse to issue a temporary military courtesy license for the same reasons that it may deny, suspend, or revoke a license under AS 08.84.120.

**Authority:** AS 08.01.062 AS 08.01.063 AS 08.84.010

### **ARTICLE 3.**

#### **PHYSICAL THERAPY LICENSE RENEWAL AND CONTINUING COMPETENCY REQUIREMENTS.**

<b>Section</b>	
<b>200.</b>	<b>(Repealed)</b>
<b>210.</b>	<b>(Repealed)</b>
<b>220.</b>	<b>(Repealed)</b>
<b>230.</b>	<b>(Repealed)</b>
<b>400.</b>	<b>Physical therapy license renewal requirements</b>
<b>405.</b>	<b>Physical therapy continuing professional practice requirements and alternatives to those requirements</b>
<b>410.</b>	<b>Physical therapy continuing education requirements</b>
<b>420.</b>	<b>Approved physical therapy courses and activities</b>
<b>430.</b>	<b>Audit of physical therapy continuing competency requirements</b>
<b>435.</b>	<b>Exemption from continuing education requirements for active duty military service</b>
<b>440.</b>	<b>(Repealed)</b>

**12 AAC 54.200. APPLICATION FOR LICENSURE BY CREDENTIALS.** Repealed 10/1/88.

**12 AAC 54.210. APPLICATION FOR LICENSE RENEWAL.** Repealed 6/3/89.

**12 AAC 54.220. INACTIVE STATUS.** Repealed 6/3/89.

**12 AAC 54.230. INTERNSHIP.** Repealed 6/3/89.

**12 AAC 54.400. PHYSICAL THERAPY LICENSE RENEWAL REQUIREMENTS.** An applicant for renewal of a physical therapist or physical therapist assistant license shall

- (1) complete the renewal application on a form prescribed by the board;
- (2) pay the license renewal fee established in 12 AAC 02.320; and
- (3) document continuing competency by submitting proof of having completed
  - (A) the continuing professional practice requirements or an alternative under 12 AAC 54.405; and
  - (B) the continuing education contact hours required under 12 AAC 54.410.

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.405. PHYSICAL THERAPY CONTINUING PROFESSIONAL PRACTICE REQUIREMENTS AND ALTERNATIVES TO THOSE REQUIREMENTS.** ~~(a) An applicant for renewal of a physical therapist or physical therapist assistant license shall document completion of the jurisprudence questionnaire prepared by the board, covering the provisions of AS 08.84 and this chapter, and shall also document~~

- ~~(1) having provided physical therapy services for at least 60 hours during the concluding licensing period; or~~
- ~~(2) successful completion during the concluding licensing period of at least one of the following:~~

~~(A) the national physical therapy examination sponsored by the Federation of State Boards of Physical Therapy;~~

~~(B) in addition to the contact hours of continuing education required under 12 AAC 54.410 and 12 AAC 54.420, 40 contact hours of continuing education consistent with the requirements of 12 AAC 54.410 and 12 AAC 54.420;~~

~~(C) a review course sponsored by a school of physical therapy approved by the American Physical Therapy Association;~~

~~(D) a physical therapy internship of 150 hours approved by the board.~~

~~(b) If an applicant for renewal is uncertain whether the applicant's work or volunteer experience will constitute physical therapy services under this section, the applicant may request board approval before submitting the application for license renewal.~~

~~(c) In this section, "physical therapy services" includes work and volunteer service under a position title other than physical therapist or physical therapist assistant if the applicant documents that the position required the use of physical therapy skills recognized by the board.~~

**Authority:** AS 08.84.010 AS 08.84.100

**Editor's note:** A list of schools of physical therapy approved by the American Physical Therapy Association may be obtained from the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, VA 22314; website at [www.apta.org](http://www.apta.org). Information on the national physical therapy examination may be obtained from the Federation of State Boards of Physical Therapy, 124 West Street South, Third Floor, Alexandria, VA 22314; website at [www.fsbpt.org](http://www.fsbpt.org).

**12 AAC 54.410. PHYSICAL THERAPY CONTINUING EDUCATION REQUIREMENTS.** (a) Except as provided in 12 AAC 54.435, an applicant for renewal of a physical therapist or physical therapist assistant license who has been licensed for 12 months or more of the concluding licensing period shall have completed 24 contact hours of continuing education during that period. An applicant for renewal of a physical therapist or physical therapist assistant license who has been licensed for less than 12 months of the concluding licensing period shall have

- (1) completed during that period 12 contact hours of continuing education; or
- (2) passed the national physical therapy examination within 12 months immediately before the date that the applicant's license is due to lapse.

~~(b) An applicant shall complete at least one-half of the required contact hours in courses or programs offered by an accredited academic institution or a professional organization approved by the board under 12 AAC 54.420(a).~~

(c) For the purposes of this section,

- (1) one "contact hour" equals a minimum of 50 minutes of instruction;
- (2) one continuing education unit awarded by a professional health care association equals 10 contact hours;
- (3) one academic semester credit hour equals 15 contact hours; and
- (4) one academic quarter credit hour equals 10 contact hours.

~~(d) An applicant for renewal is responsible for maintaining adequate and detailed records of all continuing education contact hours claimed and shall make the records available to the board upon request under 12 AAC 54.430. Records must be retained for three years from the date the contact hours were obtained.~~

- (e) The following activities will not be accepted for continuing education contact hours under this section:
- (1) routine staff meetings attended by the applicant;
  - (2) rounds conducted by the applicant;
  - (3) routine courses required for employment, including courses on cardiopulmonary resuscitation, first aid, and training related to Occupational Safety and Health Administration requirements.

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.420. APPROVED PHYSICAL THERAPY COURSES AND ACTIVITIES.** (a) The following continuing education activities are approved for continuing education credit if they meet the requirements of (c) of this section:

- ~~(1) courses recognized by~~
    - ~~(A) the Alaska Physical Therapy Association;~~
    - ~~(B) the American Physical Therapy Association (APTA);~~
    - ~~(C) the Federation of State Boards of Physical Therapy (FSBPT);~~
    - ~~(D) other state physical therapy associations; or~~
    - ~~(E) other state physical therapy licensing boards;~~
  - ~~(2) American Medical Association category one and two continuing education courses that involve physical therapy;~~
  - ~~(3) continuing education activities sponsored by a professional organization or university approved by the Alaska Physical Therapy Association or the American Physical Therapy Association.~~
- (b) Repealed 9/29/2019.
- (c) ~~To be accepted by the board, a continuing education course or activity must contribute directly to the professional competency of a physical therapist or physical therapist assistant and must be directly related to the skills and knowledge required to implement the principles and methods of physical therapy within the meaning given in AS 08.84.190.~~

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.430. AUDIT OF PHYSICAL THERAPY CONTINUING COMPETENCY REQUIREMENTS.**

- (a) After each renewal period the board will, in its discretion, audit renewal applications to monitor compliance with the continuing competency requirements of 12 AAC 54.400 - 12 AAC 54.430.
- (b) A licensee selected for audit shall, within 30 days after the date of notification, submit documentation of completion of contact hours required by 12 AAC 54.410 and physical therapy service hours or an alternative required by 12 AAC 54.405.
- (c) Refusal to cooperate with an audit will be considered an admission of an attempt to obtain a license by material misrepresentation under AS 08.84.120(a)(1).

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.435. EXEMPTION FROM CONTINUING EDUCATION REQUIREMENTS FOR ACTIVE DUTY MILITARY SERVICE.**

- (a) A physical therapist or physical therapist assistant who meets the requirements of this section is exempt from the continuing education requirements of 12 AAC 54.400 - 12 AAC 54.430 as specified in this section. An exemption under this section applies to the renewal of the physical therapist or physical therapist assistant license for the biennial licensing period immediately following a period of service by the physical therapist or physical therapist assistant, during which the physical therapist or physical therapist assistant was engaged in active duty military service in the armed forces of the United States.
- (b) To obtain an exemption under this section, a physical therapist or physical therapist assistant must submit official documentation satisfactory to the board of active duty military service.
- (c) The board will waive half of the continuing education hours required in 12 AAC 54.410, if the board determines that the applicant was engaged in active duty military service in the armed forces of the United States for at least six consecutive months during the concluding licensing period.
- (d) The board will waive all continuing education hours required in 12 AAC 54.410, if the board determines that the applicant was engaged in active duty military service in the armed forces of the United States for 12 or more months during the concluding licensing period.
- (e) In this section, "engaged in active duty military service" means military personnel serving in an active capacity, including
- ~~(1) active duty personnel in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; and~~
  - (2) reservists and National Guard personnel in a combat zone for a named United States military conflict; in this paragraph, "combat zone" means an area that the President of the United States designates by executive order as an area in which the armed forces of the United States are engaging or have engaged in combat.

**Authority:** AS 08.01.100 AS 08.84.010 AS 08.84.100

ARTICLE 4.  
PHYSICAL THERAPY STANDARDS OF PRACTICE.

Section

- 500. Physical therapy standards
- 510. Supervision of physical therapist assistants
- 520. Supervision of non-licensed personnel
- 530. Standards for practice of telerehabilitation by physical therapist
- 535. Physical therapy internship standards
- 590. Definitions related to physical therapy

**12 AAC 54.500. PHYSICAL THERAPY STANDARDS.** (a) Services may not be stated or implied as being physical therapy unless performed by a licensed physical therapist or under the supervision of a licensed physical therapist.

~~(b) A license or permit issued by the board, or a copy of the license or permit, must be posted in a conspicuous location in the licensee's place of business, for public inspection. Pending receipt of the current license certificate from the department, the licensee shall display the department's Internet website posting confirming licensure.~~

~~(c) To maintain a high standard of integrity in the profession and to safeguard the health and welfare of the public, physical therapists shall adhere to the ethical standards set out in the *State Physical Therapy and Occupational Therapy Board Principles of Practice*, dated March 2015. The *State Physical Therapy and Occupational Therapy Board Principles of Practice* is adopted by reference.~~

~~(d) To maintain a high standard of integrity in the profession and to safeguard the health and welfare of the public, physical therapist assistants shall adhere to the ethical standards set out in the *State Physical Therapy and Occupational Therapy Board Principles of Practice*, dated March 2015. The *State Physical Therapy and Occupational Therapy Board Principles of Practice* is adopted by reference.~~

(e) A physical therapist may not supervise more than three aides, assistants, students, foreign-educated candidates, or permittees in any combination at the same time.

**Authority:** AS 08.84.010 AS 08.84.150

~~**Editor's note:** The current posting confirming licensure can be found at the Internet website of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing: <https://www.commerce.alaska.gov/web/cbp/main>. A copy of the *State Physical Therapy and Occupational Therapy Board Principles of Practice* described in 12 AAC 54.500 may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, State Physical Therapy and Occupational Therapy Board, State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801; telephone (907) 465-2580; website at <http://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/PhysicalTherapyOccupationalTherapy.aspx>.~~

**12 AAC 54.510. SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS.** (a) A physical therapist assistant shall work under the supervision of a licensed physical therapist.

(b) A licensed physical therapist is responsible for and shall participate in a patient's care.

(c) Except as specified in 12 AAC 54.500(e), a physical therapist may supervise a maximum of three physical therapist assistants.

(d) A licensed physical therapist assistant shall have written treatment plans formulated by the licensed physical therapist in possession for each patient under the care of the physical therapist assistant. Treatment plans must be revised following periodic evaluations by the licensed physical therapist.

(e) ~~At least once a month, a supervising physical therapist shall provide periodic supervision to a physical therapist assistant while the physical therapist assistant being supervised implements a treatment plan with a patient.~~ Supervision shall be conducted on site or by video or teleconference when in-person supervision is not reasonably practicable. The supervising physical therapist shall be available for consultation with the physical therapist assistant by telephone, verbally, or in writing.

~~(f) Nothing in this chapter restricts public health service or military personnel engaged in the practice of physical therapy in programs administered by federal agencies.~~

(g) If a licensed physical therapist agrees to supervise a physical therapist assistant, the supervising physical therapist shall

(1) determine the frequency and manner of consultations with the physical therapist assistant, taking into consideration the treatment settings being used, patient rehabilitation status, and the competency of the physical therapist assistant;

(2) fully document the supervision provided, including a record of all consultations provided, and maintain those records at the physical therapist assistant's place of employment; and

(3) countersign the patient treatment record each time the supervising physical therapist is physically present and directly supervises or supervises by video or teleconference the treatment of a patient by the physical therapist assistant being supervised.

**Authority:** AS 08.84.010

**12 AAC 54.520. SUPERVISION OF NON-LICENSED PERSONNEL.** (a) Regardless of the practice setting, a licensed physical therapist is solely responsible for the treatment and management of all aspects of physical therapy care of the patient.

(b) A licensed physical therapist or physical therapist assistant may use non-licensed personnel in the delivery of patient-related duties and non-patient related duties. Patient-related duties performed by non-licensed personnel are not considered the practice of physical therapy.

(c) A licensed physical therapist shall assure the training of non-licensed personnel under the supervision of the physical therapist or physical therapist assistant and shall document that training.

(d) A supervising physical therapist or physical therapist assistant shall provide continual on-site supervision of non-licensed personnel who are performing patient-related duties.

**Authority:** AS 08.84.010

~~**12 AAC 54.530. STANDARDS FOR PRACTICE OF TELEREHABILITATION BY PHYSICAL THERAPIST.** (a) The purpose of this section is to establish standards for the practice of telerehabilitation by means of an interactive telecommunication system by a physical therapist licensed under AS 08.84 and this chapter in order to provide physical therapy to patients who are located in this state and do not have access to a physical therapist in person due to geographic constraints or health and safety constraints.~~

~~(b) A physical therapist licensed under AS 08.84 and this chapter conducting telerehabilitation by means of an interactive telecommunication system~~

~~(1) Repealed 9/29/2019;~~

~~(2) must interact with the patient maintaining the same ethical conduct and integrity required under 12 AAC 54.500(c) and (d);~~

~~(3) must comply with the requirements of 12 AAC 54.510 for any licensed physical therapist assistant providing services under this section;~~

~~(4) may conduct one-on-one consultations, including initial evaluation, under this section; and~~

~~(5) must provide and ensure appropriate client confidentiality and HIPAA compliance, establish secure connections, activate firewalls, and encrypt confidential information.~~

**Authority:** AS 08.84.010 AS 08.84.120

~~**12 AAC 54.535. PHYSICAL THERAPY INTERNSHIP STANDARDS.** (a) This section establishes the standards for a physical therapy internship required under 12 AAC 54.100(5)(C), 12 AAC 54.405(a)(2)(D), or 12 AAC 54.950(e).~~

~~(b) An internship must be served~~

~~(1) under the continual on-site supervision of a physical therapist licensed under this chapter; and~~

~~(2) in an institution that ordinarily provides physical therapy, has a varied caseload, and has on staff at least one physical therapist licensed under this chapter.~~

~~(c) A licensed physical therapist serving as a preceptor to an intern is responsible for the intern's experience and for the safety and welfare of the patient.~~

~~(d) Upon an intern's completion of the internship, the preceptor shall submit, on a form provided by the board, a statement attesting to the intern's~~

~~(1) satisfactory or unsatisfactory completion of the internship; and~~

~~(2) level of skill in~~

~~(A) completion of evaluation;~~

~~(B) program planning;~~

~~(C) therapeutic practice;~~

~~(D) potential ability to practice safely while unsupervised with sound professional judgment; and~~

~~(E) ethics related to the practice of physical therapy.~~

~~(e) The board will not accept internship hours claimed before the date that the internship was approved by the board. To be approved by the board, internship hours must be completed no more than six months after the date the internship begins.~~

~~(f) In this section, "preceptor" means a physical therapist licensed under this chapter who provides on-site supervision for an intern serving an internship.~~

**Authority:** AS 08.84.010 AS 08.84.040 AS 08.84.060  
AS 08.84.030

**12 AAC 54.590. DEFINITIONS RELATED TO PHYSICAL THERAPY.** (a) In 12 AAC 54.030 – 12 AAC 54.590,

- (1) "continual on-site supervision" means the supervising physical therapist or physical therapist assistant
    - (A) is present in the department or facility where services are being provided;
    - (B) is immediately available to the non-licensed personnel being supervised; and
    - (C) maintains continual oversight of patient-related duties performed by the non-licensed personnel;
  - ~~(2) "internship" means postgraduate on-the-job training of a physical therapist or physical therapist assistant, approved by the board;~~
  - (3) "non-licensed personnel"
    - (A) means personnel who are
      - (i) used by a licensed physical therapist or physical therapist assistant to deliver patient-related duties and non-patient related duties related to the practice of physical therapy; and
      - (ii) trained under the direction of a licensed physical therapist or physical therapist assistant to perform designated non-patient related duties and patient-related duties related to the practice of physical therapy;
    - (B) includes personnel who are referred to as "aides", "technicians", or "techs";
  - (4) "non-patient related duties" includes clerical and maintenance activities and preparation of the work area or equipment;
  - (5) "patient-related duties" means routine tasks that do not require the education, skill, and training of a physical therapist or physical therapist assistant, and for which the
    - (A) outcome anticipated for the task is predictable;
    - (B) situation of the patient and the environment is stable and will not require that judgment, interpretations, or adaptations be made by non-licensed personnel; and
    - (C) task routine and process have been clearly established;
  - (6) "supervision" means
    - (A) the licensed physical therapist will be present whenever a patient is evaluated, a treatment program is established, or a treatment program is changed; and
    - (B) the licensed physical therapist is present to personally review the diagnosis of the condition to be treated, to authorize the procedure, and ~~before dismissal~~ of the patient, to evaluate the performance of the treatment given.
- (b) In AS 08.84.190, "physical therapy" does not include exercise or activities performed by non-licensed personnel in a home or school setting for the benefit of a patient or student.

**Authority:** AS 08.84.010

## **ARTICLE 5. OCCUPATIONAL THERAPY LICENSURE.**

### **Section**

- 600. Occupational therapy license requirements**
- 610. Foreign-educated occupational therapy applicants**
- 620. Supervised field work**
- 630. (Repealed)**
- 640. Occupational therapy temporary permits and scope of practice under those permits**
- 650. (Repealed)**
- 660. Temporary military courtesy license**

~~**12 AAC 54.600. OCCUPATIONAL THERAPY LICENSE REQUIREMENTS.** An applicant for an occupational therapist license or occupational therapy assistant license, other than an applicant who is a graduate of a school of occupational therapy that is located outside the United States, shall submit~~

- ~~(1) a completed application on the form prescribed by the board;~~
- ~~(2) the fees established in 12 AAC 02.320;~~
- ~~(3) verification of the applicant's licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license to practice occupational therapy, one of which must indicate a current license in good standing; each verification from each jurisdiction where the applicant holds or has ever held a license must include an explanation of any disciplinary actions taken against the licensee;~~
- ~~(4) a signed letter of professional reference sent directly to the department on a form provided by the department from a physician, instructor, supervisor, or official of the applicant's occupational therapy school;~~
- ~~(5) proof of initial certification sent directly to the department from the National Board for Certification in Occupational Therapy (NBCOT) as evidence of having met the requirements of AS 08.84.030(b);~~
- ~~(6) verification that, during the 24 months immediately before the date the application is received by the department, the applicant
  - (A) performed at least 60 hours of occupational therapy service; the verification of at least 60 hours of occupational therapy service must be sent directly to the department on a form provided by the department from the agency or source;~~

- ~~(B) passed the NBCOT examination; or~~
- ~~(C) satisfactorily completed an internship of 150 hours approved by the board; the verification must be sent directly to the department on a form provided by the department from the agency or source; and~~
- ~~(7) the jurisprudence questionnaire prepared by the board covering the provisions of AS 08.84 and this chapter.~~

**Authority:** AS 08.84.010 AS 08.84.060 AS 08.84.120  
AS 08.84.030

**12 AAC 54.610. FOREIGN-EDUCATED OCCUPATIONAL THERAPY APPLICANTS.** (a) A foreign-educated occupational therapist or occupational therapy assistant applicant must have graduated from a resident course of study and professional instruction substantially equivalent to a professional occupational therapy education program that is accredited by the Accreditation Council for Occupational Therapy Education (ACOTE). A foreign-educated occupational therapist or occupational therapy assistant applicant shall submit

- (1) a completed application on the form prescribed by the board;
- (2) the fees established in 12 AAC 02.320;
- ~~(3) verification of licensure status sent directly to the department from each jurisdiction where the applicant holds or has ever held a license, one of which must indicate a current license in good standing; each verification from each jurisdiction where the applicant holds or has ever held a license must include an explanation of any disciplinary actions taken against the licensee;~~
- ~~(4) a signed letter of professional reference sent directly to the department on a form provided by the department from a physician, instructor, supervisor, or official of the applicant's occupational therapy school;~~
- (5) evidence of meeting each of the requirements of AS 08.84.032(b);
- ~~(6) verification that, within the 24 months immediately before the date the application is received by the department, the applicant~~
  - ~~(A) performed at least 60 hours of occupational therapy service; the verification of at least 60 hours of occupational therapy service must be sent directly to the department on a form provided by the department from the agency or source; or~~
  - ~~(B) passed the NBCOT examination; and~~
  - ~~(7) the jurisprudence questionnaire prepared by the board covering the provisions of AS 08.84 and this chapter.~~
- (b) An applicant who has been certified by the National Board for Certification in Occupational Therapy (NBCOT) meets the requirements of AS 08.84.032(b)(1) - (5).
- (c) An applicant who has passed the NBCOT examination meets the requirements of AS 08.84.032(b)(3) and (5).

**Authority:** AS 08.84.010 AS 08.84.032 AS 08.84.120  
AS 08.84.030

~~**12 AAC 54.620. SUPERVISED FIELD WORK.** As used in AS 08.84.030(b)(1), 08.84.032(b)(2), and 08.84.150(b)(1), "supervised field work" means the portion of an ACOTE-accredited professional occupational therapy education program to be completed by an applicant under the supervision of a licensed occupational therapist.~~

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.060

**12 AAC 54.630. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS.** Repealed 5/21/97.

**12 AAC 54.640. OCCUPATIONAL THERAPY TEMPORARY PERMITS AND SCOPE OF PRACTICE UNDER THOSE PERMITS.** (a) An applicant for an occupational therapist or occupational therapy assistant license by examination who is scheduled for the next NBCOT examination or who has taken the NBCOT examination and is waiting for the results of the examination may apply for a temporary permit. A temporary permit will be issued if the following are on file:

- (1) a complete application on a form provided by the department;
- ~~(2) a signed professional reference letter sent directly to the department on a form provided by the department from a physician, instructor, supervisor, or official of the applicant's occupational therapy school;~~
- (3) a signed and notarized statement of responsibility sent directly to the department on a form provided by the department from the supervising occupational therapist; the statement must indicate that the supervising occupational therapist will assume the full responsibility for supervising the applicant;
- (4) a letter verifying
  - (A) the applicant's scheduled examination date sent directly to the department from NBCOT; or
  - (B) that the applicant has taken the examination and is waiting for the results to be sent directly to the department from NBCOT;
- (5) the application fee established in 12 AAC 02.320;
- (6) the license fee established in 12 AAC 02.320;
- (7) the temporary permit fee established in 12 AAC 02.320.
- (b) An applicant for an occupational therapist or occupational therapy assistant license who is or was initially certified with the NBCOT may qualify for a temporary permit by

- (1) meeting the requirements of (a)(1), ~~(2)~~, (5), (6), and (7) of this section;
- (2) submitting verification that the applicant is certified or was initially certified with the NBCOT;
- (3) providing verifications of licensure from each jurisdiction where the applicant holds or has ever held a license to practice occupational therapy; at least one verification must be of a current license in good standing in another state; and
- ~~(4) providing verification that, during the 24 months immediately before the date the application is received by the department, the applicant~~
  - ~~(A) performed at least 60 hours of occupational therapy service; the verification of at least 60 hours of occupational therapy service must be on a form provided by the department; or~~
  - ~~(B) passed the NBCOT examination.~~
- (c) The verifications required in (b)(2) and (3) of this section must be sent directly to the board from NBCOT or the licensing agency for the other jurisdiction.
- (d) An applicant for an occupational therapist or occupational therapy assistant license, who is waiting to take an examination or for the results of the examination, and who has been issued a temporary permit under AS 08.84.065 shall work under the supervision of a licensed occupational therapist and may not act as a supervisor until a permanent license is issued.
- (e) The holder of a temporary permit under AS 08.84.065(b) as an occupational therapist, who is waiting for licensure by acceptance of credentials, may practice without supervision.
- (f) The holder of a temporary permit under AS 08.84.065(b) as an occupational therapy assistant, who is waiting for licensure by acceptance of credentials, shall practice in accordance with 12 AAC 54.810.

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.065

**12 AAC 54.650. OCCUPATIONAL THERAPY STANDARDS OF PRACTICE.** Repealed 5/21/97.

**12 AAC 54.660. TEMPORARY MILITARY COURTESY LICENSE.** (a) The board will issue a temporary military courtesy license to an active duty military member or spouse of an active duty military member of the armed forces of the United States to practice as an occupational therapist or occupational therapy assistant to an applicant who meets the requirements of AS 08.01.063 and this section not later than 30 days after the board receives a completed application.

- (b) An applicant for a temporary military courtesy license under this section
  - (1) must submit an application on a form provided by the department;
  - ~~(2) must pay the temporary license application fee and fee for a temporary license set out under 12 AAC 02.105;~~
  - (3) must submit a copy of
    - (A) the applicant's current active duty military orders showing assignment to a duty station in this state; or
    - (B) if the applicant is the spouse of an active duty military member, the applicant's spouse's current active duty military orders showing assignment to a duty station in this state;
  - ~~(4) must submit documentation showing the applicant is currently licensed and in good standing in another licensing jurisdiction and the applicant's license in the other jurisdiction is not suspended, revoked, or otherwise restricted except for failure to apply for renewal or failure to obtain the required continuing education requirements;~~
  - (5) must demonstrate that the licensing jurisdiction of the applicant's current licensure required a passing score on the NBCOT examination as a condition of licensure; and
  - (6) may not have been convicted of a crime that affects the applicant's ability to practice as an occupational therapist or occupational therapy assistant competently and safely, as determined by the board.
- (c) A temporary military courtesy license issued to an active duty military member or spouse of an active duty military member under this section will be issued for a period of 180 days and may be renewed for one additional 180-day period, at the discretion of the board.
- (d) While practicing under a temporary military courtesy license issued under this section, the holder of the temporary military courtesy license must comply with the standards of practice set out in AS 08.84 and this chapter.
- (e) The board may refuse to issue a temporary military courtesy license for the same reasons that it may deny, suspend, or revoke a license under AS 08.84.120.

**Authority:** AS 08.01.062 AS 08.01.063 AS 08.84.010

**ARTICLE 6.  
OCCUPATIONAL THERAPY LICENSE RENEWAL AND  
CONTINUING COMPETENCY REQUIREMENTS.**

**Section**

- 700. Occupational therapy license renewal requirements**
- 705. Required continuing occupational therapy professional practice and alternatives**
- 710. Occupational therapy continuing education requirements**
- 715. Approved occupational therapy courses and activities**

**720. Audit of occupational therapy continuing competency requirements**

**725. Exemption from continuing education requirements for active duty military service**

**12 AAC 54.700. OCCUPATIONAL THERAPY LICENSE RENEWAL REQUIREMENTS.** An applicant for renewal of an occupational therapist license or an occupational therapy assistant license shall submit

- (1) a complete renewal application on a form prescribed by the board;
- (2) the license renewal fee established in 12 AAC 02.320;
- (3) proof of continuing competency by submitting documentation verifying that the applicant has completed
  - (A) the continuing occupational therapy professional practice requirements or an alternative under 12 AAC 54.705; and
  - (B) the continuing education contact hours required under 12 AAC 54.710; and
- ~~(4) a completed jurisprudence questionnaire prepared by the board covering the provisions of AS 08.84 and this chapter.~~

**Authority:** AS 08.84.010 AS 08.84.100

~~**12 AAC 54.705. REQUIRED CONTINUING OCCUPATIONAL THERAPY PROFESSIONAL PRACTICE AND ALTERNATIVES.** (a) An applicant for renewal of an occupational therapist or occupational therapy assistant license shall document~~

- ~~(1) having provided occupational therapy services for at least 60 hours during the concluding licensing period;~~  
or
- ~~(2) successful completion during the concluding licensing period of one of the following:~~
  - ~~(A) the applicable of the following certification examinations sponsored by the National Board for Certification in Occupational Therapy:~~
    - ~~(i) for an occupational therapist, the Certification Examination for Occupational Therapist, Registered;~~
    - ~~(ii) for an occupational therapy assistant, the Certification Examination for Certified Occupational Therapy Assistant;~~
  - ~~(B) in addition to the contact hours of continuing education required under 12 AAC 54.710, 40 contact hours of continuing education that is consistent with the requirements of 12 AAC 54.710 - 12 AAC 54.720;~~
  - ~~(C) a review course sponsored by a school of occupational therapy approved by the American Occupational Therapy Association; or~~
  - ~~(D) an occupational therapy internship of 150 hours approved by the board.~~
- ~~(b) If an applicant for renewal is uncertain whether the applicant's work or volunteer experience will constitute occupational therapy services under this section, the applicant may request board approval before submitting the application for license renewal.~~
- ~~(c) In this section, "occupational therapy services" includes work and volunteer service under a position title other than occupational therapist or occupational therapy assistant if the applicant documents that the position required the use of occupational therapy skills recognized by the board.~~

**Authority:** AS 08.84.010 AS 08.84.100

**Editor's note:** Information on certification examinations in occupational therapy may be obtained from the National Board for Certification in Occupational Therapy, 12 South Summit Avenue, Suite 100, Gaithersburg, MD 20877-4150; website at [www.nbcot.org](http://www.nbcot.org). Information on approved schools of occupational therapy may be obtained from the American Occupational Therapy Association, 6116 Executive Boulevard, Suite 200, North Bethesda, MD 20824-4929; website at [www.aota.org](http://www.aota.org).

**12 AAC 54.710. OCCUPATIONAL THERAPY CONTINUING EDUCATION REQUIREMENTS.** (a) Except as provided in 12 AAC 54.725, an applicant for renewal of an occupational therapist or an occupational therapy assistant license who has been licensed for 12 months or more of the ~~concluding licensing period~~ shall have

- (1) completed, ~~during that period~~, 24 contact hours of continuing education; or
  - (2) evidence of current certification by the National Board for Certification in Occupational Therapy (NBCOT).
- (b) An applicant for renewal of an occupational therapist or an occupational therapy assistant license who has been licensed for less than 12 months of the concluding licensing period shall have
- (1) completed, during that period, 12 contact hours of continuing education;
  - (2) passed the national occupational therapy examination during the 12 months immediately before the date that the applicant's license is due to lapse; or
  - (3) evidence of current certification by the National Board for Certification in Occupational Therapy (NBCOT).
- ~~(c) An applicant shall complete at least one-half of the required contact hours in courses or programs offered by an accredited academic institution or a professional organization approved by the board under 12 AAC 54.715(a).~~
- (d) For the purposes of this section,

- (1) one "contact hour" equals a minimum of 50 minutes of instruction;
  - (2) one continuing education unit awarded by a professional health care association equals 10 contact hours;
  - (3) one academic semester credit hour equals 15 contact hours; and
  - (4) one academic quarter credit hour equals 10 contact hours.
- ~~(e) An applicant for renewal is responsible for maintaining adequate and detailed records of all continuing education contact hours claimed and shall make the records available to the board upon request under 12 AAC 54.720. Records must be retained for three years from the date the contact hours were obtained.~~
- (f) The following activities will not be accepted for continuing education contact hours under this section:
- (1) routine staff meetings attended by the applicant;
  - (2) rounds conducted by the applicant;
  - (3) routine courses required for employment, including courses on cardiopulmonary resuscitation, first aid, and training related to Occupational Safety and Health Administration requirements.
- (g) The board recognizes the maintenance of NBCOT certification as fulfilling the requirements of (a) and (b) of this section.
- ~~(h) To document current certification with the NBCOT, the applicant shall submit a photocopy of the front and back of the applicant's current NBCOT certificate.~~

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.715. APPROVED OCCUPATIONAL THERAPY COURSES AND ACTIVITIES.** (a) The following continuing education activities are approved for continuing education credit if they meet the requirements of (c) of this section:

- ~~(1) courses recognized by
 
    - ~~(A) the Alaska Occupational Therapy Association;~~
    - ~~(B) the American Occupational Therapy Association;~~
    - ~~(C) the World Federation of Occupational Therapy;~~
    - ~~(D) the National Board for Certification in Occupational Therapy (NBCOT);~~
    - ~~(E) other state occupational therapy associations; or~~
    - ~~(F) other state occupational therapy licensing boards;~~~~
  - ~~(2) continuing education activities sponsored by a professional organization or university approved by the Alaska Occupational Therapy Association or the American Occupational Therapy Association.~~
- (b) Repealed 9/29/2019.
- ~~(c) To be accepted by the board, a continuing education course or activity must contribute directly to the professional competency of an occupational therapist or occupational therapy assistant and must be directly related to the skills and knowledge required to implement the principles and methods of occupational therapy.~~

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.720. AUDIT OF OCCUPATIONAL THERAPY CONTINUING COMPETENCY REQUIREMENTS.** (a) After each renewal period the board will, in its discretion, audit renewal applications to monitor compliance with the continuing competency requirements of 12 AAC 54.700 - 12 AAC 54.720.

(b) A licensee selected for audit shall, within 30 days after the date of notification, submit documentation that verifies completion of the contact hours claimed under 12 AAC 54.710 and occupational therapy service hours or an alternative required under 12 AAC 54.705.

(c) Refusal to cooperate with an audit will be considered an admission of an attempt to obtain a license by material misrepresentation under AS 08.84.120(a)(1).

**Authority:** AS 08.84.010 AS 08.84.100

**12 AAC 54.725. EXEMPTION FROM CONTINUING EDUCATION REQUIREMENTS FOR ACTIVE DUTY MILITARY SERVICE.** (a) An occupational therapist or occupational therapy assistant who meets the requirements of this section is exempt from the continuing education requirements of 12 AAC 54.700 – 12 AAC 54.720 as specified in this section for renewal of an occupational therapist or occupational therapy assistant license for the biennial licensing period immediately following a period of service by an occupational therapist or occupational therapy assistant during which an occupational therapist or occupational therapy assistant was engaged in active duty military service in the armed forces of the United States.

(b) To obtain an exemption under this section, an occupational therapist or occupational therapy assistant must submit official documentation satisfactory to the board of active duty military service.

(c) The board will waive half of the continuing education hours required in 12 AAC 54.710, if the board determines that the applicant was engaged in active duty military service in the armed forces of the United States for at least six consecutive months during the concluding licensing period.

(d) The board will waive all continuing education hours required in 12 AAC 54.710, if the board determines that the applicant was engaged in active duty military service in the armed forces of the United States for 12 or more months during the concluding licensing period.

(e) In this section, "engaged in active duty military service" means military personnel serving in an active capacity, including

- ~~(1) active duty personnel in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; and~~
- (2) reservists and National Guard personnel in a combat zone for a named United States military conflict; in this paragraph, "combat zone" means an area that the President of the United States designates by executive order as an area in which the armed forces of the United States are engaging or have engaged in combat.

**Authority:** AS 08.01.100 AS 08.84.010 AS 08.84.100

## ARTICLE 7. OCCUPATIONAL THERAPY STANDARDS OF PRACTICE.

### Section

- 800. Occupational therapy standards
- 805. Posting of license or permit
- 810. Supervision of occupational therapy assistants
- 815. Supervision of non-licensed personnel
- 820. (Repealed)
- 825. Standards for practice of telerehabilitation by occupational therapy
- 830. Occupational therapy internship standards
- 890. Definitions related to occupational therapy

~~12 AAC 54.800. OCCUPATIONAL THERAPY STANDARDS. (a) In order to maintain a high standard of integrity in the profession and to safeguard the health and welfare of the public, occupational therapists and occupational therapy assistants shall adhere to the State Physical Therapy and Occupational Therapy Board Principles of Practice, dated March 2015. The State Physical Therapy and Occupational Therapy Board Principles of Practice is adopted by reference.~~

(b) An occupational therapist may not supervise more than three aides, assistants, students, foreign-educated candidates, or permittees at the same time, in any combination.

**Authority:** AS 08.84.010 AS 08.84.065 AS 08.84.150  
AS 08.84.030

~~**Editor's note:** A copy of the State Physical Therapy and Occupational Therapy Board Principles of Practice, adopted by reference in 12 AAC 54.800, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, State Physical Therapy and Occupational Therapy Board, State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801; telephone (907) 465-2580; <http://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/PhysicalTherapyOccupationalTherapy.aspx>.~~

~~12 AAC 54.805. POSTING OF LICENSE OR PERMIT. A license or permit issued under this chapter, or a copy of a license or permit, must be posted in a conspicuous location in the licensee's primary place of business for public inspection. Pending receipt of the current license certificate from the department, the licensee shall display the department's Internet website posting confirming licensure.~~

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.065

~~**Editor's note:** The current posting confirming licensure can be found at the Internet website of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing: [www.commerce.state.ak.us/occc/search3.htm](http://www.commerce.state.ak.us/occc/search3.htm).~~



**12 AAC 54.810. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS.** (a) An occupational therapy assistant shall work under the supervision of a licensed occupational therapist. To meet this supervision requirement,

~~(1) at least once every month, while the occupational therapy assistant being supervised implements a treatment plan for a patient, the occupational therapist supervising the licensed occupational therapy assistant shall be physically present, or shall be present by video or teleconference when in-person supervision is not reasonable or practicable; and~~

(2) the occupational therapist supervising the occupational therapy assistant shall be available for consultation with the occupational therapy assistant being supervised, through telephone consultations, written reports, or in-person conferences.

(b) If the licensed occupational therapist agrees to supervise an occupational therapy assistant, the occupational therapist shall

- (1) determine the frequency and manner of consultations, taking into consideration the treatment settings being used, patient rehabilitation status, and the competency of the occupational therapy assistant being supervised;
- (2) fully document the supervision provided, including a record of all consultations provided, and maintain those records at the occupational therapy assistant's place of employment; and
- (3) countersign the patient treatment record each time the occupational therapist supervising the occupational therapy assistant is physically present and directly supervises or supervises by video or teleconference the treatment of a patient by the occupational therapy assistant being supervised.

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.190

**12 AAC 54.815. SUPERVISION OF NON-LICENSED PERSONNEL.** (a) Regardless of the practice setting, a licensed occupational therapist is solely responsible for the treatment and management of all aspects of occupational therapy care of the patient.

(b) A licensed occupational therapist or occupational therapy assistant may use non-licensed personnel in the delivery of patient-related and non-patient related duties. Patient-related duties performed by non-licensed personnel are not considered the practice of occupational therapy.

(c) A licensed occupational therapist shall assure the training of non-licensed personnel under the supervision of the occupational therapist or occupational therapy assistant, and shall document that training.

(d) The supervising occupational therapist or occupational therapy assistant shall provide continual on-site supervision of non-licensed personnel who are performing patient-related duties.

(e) Nothing in this section restricts the implementation by a teacher or teacher's aide of a program that meets the requirements of AS 08.84.150(b)(6).

**Authority:** AS 08.84.010

**12 AAC 54.820. STANDARDS FOR SUPERVISION.** Repealed 6/10/2010.

~~**12 AAC 54.825. STANDARDS FOR PRACTICE OF TELEREHABILITATION BY OCCUPATIONAL THERAPY.** (a) The purpose of this section is to establish standards for the practice of telerehabilitation by means of an interactive telecommunication system by an occupational therapist licensed under AS 08.84 and this chapter in order to provide occupational therapy to patients who are located in this state and do not have access to an occupational therapist in person due to geographic constraints or health and safety constraints.~~

~~(b) An occupational therapist licensed under AS 08.84 and this chapter conducting telerehabilitation by means of an interactive telecommunication system~~

~~(1) Repealed 9/29/2019;~~

~~(2) must interact with the patient maintaining the same ethical conduct and integrity required under 12 AAC 54.800;~~

~~(3) must comply with the requirements of 12 AAC 54.810 for any licensed occupational therapist assistant providing services under this section;~~

~~(4) may conduct one on one consultations, including initial evaluation, under this section; and~~

~~(5) must provide and ensure appropriate client confidentiality and HIPAA compliance, establish secure connections, activate firewalls, and encrypt confidential information.~~

~~**Authority:** AS 08.84.010 AS 08.84.120~~

~~**12 AAC 54.830. OCCUPATIONAL THERAPY INTERNSHIP STANDARDS.** (a) This section establishes the standards for an occupational therapy internship required under 12 AAC 54.600(6)(C), 12 AAC 54.705(a)(2)(D), or 12 AAC 54.950(e).~~

~~(b) An internship must be served~~

~~(1) under the continual on-site supervision of an occupational therapist licensed under this chapter; and~~

~~(2) in an institution that ordinarily provides occupational therapy, has a varied caseload, and has on staff at least one occupational therapist licensed under this chapter.~~

~~(c) A licensed occupational therapist serving as a preceptor to an intern is responsible for the intern's experience and for the safety and welfare of the patient.~~

~~(d) Upon an intern's completion of the internship, the preceptor shall submit, on a form provided by the board, a statement attesting to the intern's~~

~~(1) satisfactory or unsatisfactory completion of the internship; and~~

~~(2) level of skill in~~

~~(A) completion of evaluation;~~

~~(B) program planning;~~

~~(C) therapeutic practice;~~

~~(D) potential ability to practice safely while unsupervised with sound professional judgment; and~~

~~(E) ethics related to the practice of occupational therapy.~~

~~(e) The board will not accept internship hours claimed before the date that the internship was approved by the board. To be approved by the board, internship hours must be completed no more than six months after the date the internship begins.~~

~~(f) In this section, "preceptor" means an occupational therapist licensed under this chapter who provides on-site supervision for an intern serving an internship.~~

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.060

**12 AAC 54.890. DEFINITIONS RELATED TO OCCUPATIONAL THERAPY.** (a) In 12 AAC 54.600 – 12 AAC 54.890,

(1) "continual on-site supervision" means the supervising occupational therapist or occupational therapy assistant

(A) is present in the department or facility where services are being provided;

(B) is immediately available to the non-licensed personnel being supervised; and

(C) maintains continual oversight of patient-related duties performed by the non-licensed personnel;

~~(2) "internship" means postgraduate on-the-job training of occupational therapists or occupational therapy assistants, approved by the board;~~

(3) "non-licensed personnel"

(A) means personnel who are

(i) used by a licensed occupational therapist or occupational therapy assistant to deliver patient-related duties and non-patient related duties related to the practice of occupational therapy; and

(ii) trained under the direction of a licensed occupational therapist or occupational therapy assistant to perform designated non-patient related duties and patient-related duties related to the practice of occupational therapy;

(B) includes personnel who are referred to as "aides", "technicians", or "techs";

(4) "non-patient related duties" includes clerical and maintenance activities and preparation of the work area or equipment;

(5) "patient-related duties" means routine tasks that do not require the education, skill, and training of an occupational therapist or occupational therapy assistant, and for which the

(A) outcome anticipated for the task is predictable;

(B) situation of the patient and the environment is stable and will not require that judgment, interpretations, or adaptations be made by non-licensed personnel; and

(C) task routine and process have been clearly established;

(6) "supervision" means

(A) the licensed occupational therapist will be present whenever a patient is evaluated, a treatment program is established, or a treatment program is changed; and

~~(B) the licensed occupational therapist is present to personally review the diagnosis of the condition to be treated, to authorize the procedure, and before dismissal of the patient, to evaluate the performance of the treatment given.~~

(b) In AS 08.84.190, "occupational therapy" does not include exercise or activities performed by non-licensed personnel in a home or school setting for the benefit of a patient or student.

**Authority:** AS 08.84.010

## ARTICLE 8. GENERAL PROVISIONS.

### Section

**900. Refund of fees and renewals**

**910. (Renumbered)**

**915. (Repealed)**

**920. Change of name or address**

**930. (Renumbered)**

**950. Reinstatement of a lapsed license**

**960. Board meetings**

**990. Definitions**

**12 AAC 54.900. REFUND OF FEES AND RENEWALS.** (a) Unless an application is considered abandoned under 12 AAC 02.910, an applicant for licensure who requests withdrawal of an application before taking an examination and before action has been taken by the board is entitled to a refund of all fees except the application fee.

(b) Renewal notices will be sent by the department to all current licensees at least 30 days before the end of the current licensing period. Failure to receive a renewal notice does not relieve a licensee from the responsibility of renewing a license on time.



**Authority:** AS 08.84.010(b) AS 08.84.100

**12 AAC 54.910. STANDARDS.** Renumbered as 12 AAC 54.500, 9/26/91.

**12 AAC 54.915. REVIEW OF APPLICATIONS FOR TEMPORARY PERMIT OR LIMITED PERMIT.**  
Repealed 3/27/2024.

**12 AAC 54.920. CHANGE OF NAME OR ADDRESS.** (a) It is the responsibility of a licensee to notify the department of a change in the licensee's name or mailing address.

~~(b) A licensee shall notify the department when the licensee's name has changed by submitting a notarized copy of a legal document verifying the change of name.~~

(c) A licensee shall notify the department when the licensee's mailing address has changed in accordance with 12 AAC 02.900.

~~(d) Upon written request and payment of the fees established in 12 AAC 02.105, a new license or certificate will be printed showing the licensee's new name or address.~~

**Authority:** AS 08.84.010(b) AS 08.84.090

**12 AAC 54.930. STANDARDS OF PRACTICE OF PHYSICAL THERAPY ASSISTANTS.** Renumbered as 12 AAC 54.510, 9/26/91.

 **12 AAC 54.950. REINSTATEMENT OF A LAPSED LICENSE.** (a) A licensee whose license is lapsed for any reason is prohibited from practicing physical therapy or occupational therapy until the license is reinstated by the board.

(b) A license which has been lapsed for less than two years will be reinstated by the board upon submission of

(1) the fees required by 12 AAC 02.105 and 12 AAC 02.320; and

(2) documentation that all continuing competency and continuing education requirements of 12 AAC 54 have been met.

(c) A license that has been lapsed for two but less than five years will, in the board's discretion, be reinstated, if the applicant submits

(1) an application for reinstatement on a form provided by the department;

(2) the fees required by 12 AAC 02.105 and 12 AAC 02.320 for the entire period the license has been lapsed;

(3) evidence of completion of all continuing competency and continuing education requirements in 12 AAC 54 that would have been required to maintain a current license for the entire period the license has been lapsed;

(4) verification of all physical therapy and occupational therapy licenses held in other jurisdictions for the entire period the Alaska license has been lapsed and a signed statement from a licensing official in each of those jurisdictions verifying that no restrictions have been placed on the license or disciplinary sanctions have been taken against the licensee.

(d) In accordance with AS 08.01.100(d), a license that has been lapsed for five years or more is considered permanently lapsed and the former licensee will be required to apply for a new license under AS 08.84.030 or 08.84.060 and regulations adopted under them.

~~(e) An applicant for a new license whose original license in this state was lapsed for five years or more and who has not been actively practicing in another state during that time shall satisfactorily complete an internship approved by the board consisting of 150 hours of training.~~

**Authority:** AS 08.01.100 AS 08.84.030 AS 08.84.040  
AS 08.84.010

**12 AAC 54.960. BOARD MEETINGS.** The board will hold at least two meetings a year at times and places designated by the chairman or by majority of the board.

**Authority:** AS 08.84.010(b)

**12 AAC 54.990. DEFINITIONS.** In this chapter and in AS 08.84

(1) "board" means the State Physical Therapy and Occupational Therapy Board;

(2) "department" means the Department of Commerce, Community, and Economic Development;

(3) "licensed" has the same meaning as registered, certified, or a similar term used by another licensing jurisdiction.

(4) "NBCOT" means the National Board for Certification in Occupational Therapy.

(5) "HIPAA compliance" means compliance with 42 U.S.C. 300gg (Health Insurance Portability and Accountability Act of 1996);

~~(6) "interactive telecommunication system"~~

~~(A) means audio and video equipment that permits a two-way, real-time communication between a therapist licensed under AS 08.84 and this chapter and a patient who is located at a distant site in the state which is~~

~~not in close proximity of the therapist;~~

~~(B) does not include~~

~~(i) electronic mail;~~

~~(ii) facsimile machine; or~~

~~(iii) telephone;~~

~~(7) "telerhabilitation" means the practice of therapy by a person licensed as a therapist under AS 08.84 and this chapter using an interactive telecommunication system;~~

(8) "CAPTE" means the Commission on Accreditation in Physical Therapy Education;

(9) "ACOTE" means the Accreditation Council for Occupational Therapy Education.

<b>Authority:</b>	AS 08.84.010	AS 08.84.040	AS 08.84.160
	AS 08.84.030	AS 08.84.060	AS 08.84.190
	AS 08.84.032		

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