



AK PT Scope Modernization Work Group - April 8, 2025

Alaska Division of Corporations, Business and Professional Licensing
Zoom
2025-04-08 09:00 - 11:00 AKDT

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1. Call to Order

Please update your Zoom to Name, City

A. Pre-questionnaire on PHY website - please complete if you did not do prior to attending

<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/PhysicalTherapyOccupationalTherapy/BoardMeetingDatesAgendas.aspx> Information of PT/PTAs interested in participating in smaller ongoing workgroup and the following questions: Have you noticed any topics/concerns that are not currently addressed in the AK scope of practice language? Is there a component of the current scope of practice language that you feel needs to be re-worded? Please expound. Do you think the existing scope of practice language adequately addresses your practice area? Do you think the existing scope of practice language has any deficiencies that might negatively impact patient care in rural areas? What are your greatest concerns moving forward with a new scope of practice for physical therapists and physical therapist assistants in Alaska? (Rate all that apply from level of greatest concern = 5 to area of least concern =1) Restrictions on autonomy Being overly prescriptive Adequate definition of a physical therapist or physical therapist assistant Adequate definition of the practice of physical therapy Encroachment from other professions Are you a PT or PTA? Are you a member of the American Physical Therapy Association?

2. Purpose and Summary of Workgroup

A. PT Workgroup Objectives

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. Identify needs for change/improvement in the current scope of practice language - AS 08.84.190(7) Develop draft language to address any needs that the workgroup identifies. Address the role of PTAs in scope of practice language Develop an updated draft of scope of practice language with future action steps for recommendation to the PHY Board.

3. Introductions

Jonathan Gates, PT, DPT - Board Member Sheri Ryan, Licensing Examiner 3 Reid Bowman, Program Coordinator 2 Shane Bannarbie, Program Coordinator 1 Ongoing Work Group Members Rebecca Byerley, PT, DPT - APTA-AK Leslie Adrian, DPT, MPA - FSBPT Sarah R. Kowalczyk, PT, DPT, GTS, CLT Mark Venhaus, PTA Tina McLean, PT, DPT, ATC, CMTPTDN, GTS LeeAnne Carrothers, PT, PhD

4. History leading up to this workgroup

5. Legislative Process.....3

Physical Therapy and Occupational Therapy Statutes and Regulations -->
<https://www.commerce.alaska.gov/web/Portals/5/pub/PT-OTStatutes.pdf>

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6. Ongoing Work Group Composition - 7-10 members

Definition of a Work Group Soliciting Public Input When a board identifies the need to propose a regulation to implement, interpret, or make specific a state statute, the board should begin organizing its collective thoughts on the matter at a publicly noticed meeting. If the subject matter is highly technical or complex, it may be helpful for the board to form a public working group from among its members. That group may engage in fact-finding for the purpose of sharing what it has learned with the entire board at an appropriate meeting.

excerpt from page 54 -->

https://www.commerce.alaska.gov/web/Portals/5/pub/CBPL_Board.Commission.Guide.pdf

A. Categories

PHY Board Member = Jonathan Gates, PT, DPT National Organization (FSBPT) = Leslie Adrian, PT, DPT, MPA - Director of Professional Standards w/Federation of State Boards of Physical Therapy State Organization (APTA-AK) = Rebecca Byerly, PT, DPT - Alaska Chief Delegate to the APTA House of Delegates Sarah Kowalczyk, PT, DPT, GTS, CLT Mark Venhaus, PTA Tina McLean, PT, DPT< ATC, CMTPTDN, GTS
Remainder will be practitioners from a wide variety of practice settings and areas across Alaska - important that you complete the website questionnaire to help us gather this information.

7. Formulate needs to guide future meeting agendas

What topics the group feels are inadequately addressed by this? How does this group feel about language related to PTAs? Are there any ideas to share that would improve the format of this work group?

8. Discussion - Homework assignment from 03/25 meeting.....50

Read FSBPT Model Practice Act 2022 - 7th Edition - as a template with intent to make AK specific to provide consistency of scope of practice across all states and helpful in recruiting qualified personnel.

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9. Next Meeting Dates/Times

Tuesday, April 22 - 9am - 11am Tuesday, May 13 - 9am - 11am

10. Next Steps

Invitations to be sent to work group members Sheri Ryan, Licensing Examiner - physicalandoccupationaltherapy@alaska.gov All future meetings are open to attend as a member of the public but comment would be limited to the public comment opportunity at the beginning of the meeting.

11. Adjourn

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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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.

**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(e) 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.

Section

200. (Repealed)

210. (Repealed)

220. (Repealed)

230. (Repealed)

400. Physical therapy license renewal requirements

405. Physical therapy continuing professional practice requirements and alternatives to those requirements

410. Physical therapy continuing education requirements

420. Approved physical therapy courses and activities

430. Audit of physical therapy continuing competency requirements

435. Exemption from continuing education requirements for active duty military service

440. (Repealed)

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. 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.

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; or

(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. 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.

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/occ/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) "telerehabilitation" 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.

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | 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 | | |

IX. Legislation and Legislative Audit

As a member of a professional licensing board or commission, you have considerable latitude—as well as responsibility—to recommend changes to your licensing program’s enabling statutes. Members of the public, consumers, other professionals, and your industry’s association confidently approach members of the legislature to affect the change they wish to see in your practice. Additionally, recognizing the need for statutory change and not pursuing it could become grounds for a legislative audit finding. Whether taking the initiative or reacting to an active bill, board members need to be prepared to champion their cause.

Initiating Legislation

When a board determines statutory change is needed after utilizing the right-touch regulation and decisionmaking strategies included in this guidance, it has the responsibility to shepherd the process. The division usually does not have the authority to spearhead a statutory change that a board governs unless there is a significant impact on licensing processes, staff, efficiency, or other administrative characteristics. Boards must be prepared to fully engage in the legislative process when it proposes a change in statute.

Establish Clear Intent and Timeline

On the record, craft a statement and supporting points that illustrate the purpose of your proposal. It’s like your bill’s mission statement. Turn this into a letter from the board that includes the point person elected by the board and their contact information. This person should be ready to work with the sponsor, organize support, and call in to hearings. If the board is championing a piece of legislation, a history of the meeting minutes reflecting the issues and board’s perspective should be compiled by this leader and made available to board members and division management, who will be at every hearing. This research and history will be especially helpful to new board members who are appointed.

Begin NOW. Legislation may take multiple years, especially if it is not introduced at the start of a legislative session. If the two-year legislature ends before your bill passes, it dies and you have to start over...sometimes with new elected officials who are unfamiliar with you and your cause. Legislators have more time to work on legislation during the interim—if you wait until January to start shopping a new bill, it is likely too late to expect results that year.

Draft the Language

Legislators will expect you to know what language needs to change to accomplish your goal. They have attorneys who will edit and improve the document based on your stated intent, but they will want to see your thoughtful first draft. Some legislators will require the board to present a solid legal draft, especially if they are carrying a bill by request (as a favor) and not because they personally feel passionately about the cause. You may want to engage an agency attorney to assist with drafting if the legislation is especially complex or nuanced. Start as soon as possible.

In addition to drafting the content of the bill, the board will need to adopt a letter on the record that explains and supports the legislation. This document can live with the bill and be used by the sponsor to help educate their peers and promote passage. It will be published on the legislative web site to educate the public, and the board can share it with potential supporters who may, in turn write their own letters

or testify favorably. Be sure to update the letter if the bill changes; committees or even floor votes can alter the language of a bill without notice.

Seek Supporters...and Know the Opposition

Identify who will be willing to write a letter and/or testify in support of your legislation. Ask them for ideas on who might oppose it. Sometimes, it's clear, and the board will be ready for the fight. Sometimes, you are too close to your own profession and may not see the downsides to your legislation. Does it affect anyone negatively? Does it increase costs or paperwork? Does it limit the practice of the profession to certain individuals? Do those individuals have a reasonable argument? Engaging the industry, such as a state or national professional association, is often helpful—assuming they support the board's proposal.

Seek a Sponsor

It's a great idea to find a representative (House) and a senator (Senate) since a bill has to pass both bodies before it can move to the governor's office for signature. Look for a legislator who may have an affinity for your program (is a professional licensee, is a health care provider), likely supports the goal of your bill (is pro-health care/building industry, has sponsored similar legislation in the past, is outspoken about government efficiency), or who represents your district. The board may wish to talk to a House or Senate committee chair about committee sponsorship of its proposal. The board can also discuss the potential for sponsorship by the governor; however, it must reach out to the division director a year in advance to ensure adequate review.

Communicate With Committees

Be available to testify, even on short notice. The board must identify board members who are authorized to speak on behalf of the bill. Contact legislators and committee members to ensure they understand and support your bill. If they don't support it, find out why and seek to aid their understanding...or be prepared for difficult questions.

Promote Your Bill

Everyone will vote on your bill, whether in a committee, on the floor, or both. Some members may vote in several committees, depending on how many times they hear the bill (usually two committees on each side— Finance and Labor and Commerce or Health and Social Services). So, it's helpful if they understand what the bill does and how it helps Alaskans. Legislators have an entire state to worry about, so they don't know the finer points of your licensing program or industry. You can help them understand the main points without dwelling on the details or overthinking it. Be prepared for all kinds of questions!

The Open Meetings Act Always Applies

AS 44.62.310(h) provides detailed definitions of "governmental body," "meeting," and "public entity" that, when combined, define what constitutes a public meeting. A meeting of a decision or policy-making body occurs when more than three members or a majority of the members, whichever is less, engage collectively in discussion of a subject that the body is authorized to act and set policy on and is therefore subject to the Open Meetings Act. Under this definition, it doesn't matter where the meeting occurs, if it was prearranged, or who arranged it and could include unplanned casual or social contact in any location, including the office of a legislator.

LEGISLATIVE PROCESS IN ALASKA

THE LEGISLATURE

The Alaska State Legislature consists of 60 members in two houses, The Senate and the House of Representatives. There are 20 Senators and 40 Representatives. The presiding officer or head of the Senate is the President of the Senate and the presiding officer or head of the House of Representatives is the Speaker of the House.

A Legislature consists of two regular sessions, a first Regular Session convening in odd-numbered years and a second Regular Session convening in the following, even-numbered year, and any special sessions held during that two year period. The Constitution of the State of Alaska requires that the Legislature adjourn 120 days after the day the Legislature convenes (the constitutional 121 day session limit) unless extended for up to 10 days by a two-thirds vote of each house. By law (AS 24.05.150), the Legislature must adjourn within 90 days of convening (the statutory 90 day session limit). Regular sessions begin in January.

CLERICAL OFFICERS: House Chief Clerk and Senate Secretary

The Chief Clerk of the House of Representatives and the Secretary of the Senate, along with their technical staffs, maintain official records of action in each body, prepare the daily journals, and facilitate the transmittal of work to and from the committees, between the two houses, and to the Governor. They are responsible for the flow of journal information and data entry for the history of each piece of legislation. This information is transmitted to the Legislative Affairs Agency for inclusion in the computerized systems available to the public. This information can be found on the Legislature's website at akleg.gov.

UNIFORM RULES

The Constitution of the State of Alaska provides: "The houses of each legislature shall adopt uniform rules of procedure." The uniform rules are intended to permit the members to conduct and the public to follow the legislative process without confusion. The rules were adopted by both houses sitting in joint session as one body in 1981. The rules have been and can be amended by the passage of a concurrent resolution.

The rules are designed as an aid to legislators and both houses in the conduct of their business in the formal processing of legislative documents and the exercise of other powers and duties assigned the Legislature by the constitution and by statute.

When the legislature meets for its daily session, it follows the order of business set out in Uniform Rule 17.

UNIFORM RULE 17. DAILY ORDER OF BUSINESS

Unless changed by a two-thirds vote of the full membership of the house the daily order of business of each house is as follows:

1. Roll call
2. Invocation or meditation
3. Pledge of Allegiance
4. Certification by the chief clerk or secretary to the house as to the correctness of the journal of the previous day, journal approved or ordered changed
5. Introduction of guests
6. Messages from the Governor
7. Messages from the other house
8. Communications
9. Reports of standing committees
10. Reports of special committees
11. Introduction of resolutions
12. Introduction, first reading and reference of bills
13. Consideration of daily calendar
 - a. Second reading of bills of house
 - b. Second reading of bills of other house
 - c. Third reading of bills of house
 - d. Third reading of bills of other house
 - e. All other matters up for final action in the house
14. Unfinished business
15. Announcement of committee meetings
16. Special Orders (not set for a particular hour)
17. Adjournment

BILL PROCESS

THE IDEA

The idea for a bill, or proposed legislation, may come from a legislator, a legislative committee, a group of legislators, a state or local agency, a business, professional or fraternal group, an individual citizen, a lobbyist, the Governor, etc. The idea must be communicated to a legislator, legislative committee, or the Governor for further action, as all bills must be introduced by a legislator, a legislative committee, or the Governor through the Rules Committee.

BILL DRAFTING

A legislator or a legislative committee transmits a proposal for a bill to the Legislative Affairs Agency, Legal Services. A work order is completed and the Director of Legal Services assigns the request to a staff member for action. The legal staff concentrates on legal research, drafting, and review to assist the legislators and the committees in their efforts to propose new law, amend or repeal existing law, annul regulations, etc. This is a technical service carried out by the professional and administrative staff of the Legislative Affairs Agency under provisions of law (AS 24.08), the Uniform Rules of the Alaska State Legislature, and the Legislative Drafting Manual.

The legislation proposed by the Governor is prepared by the staff of the Department of Law under provisions of law and the Legislative Drafting Manual.

BILL INTRODUCTION

Once a bill has been prepared by Legal Services, the prime sponsor (either an individual legislator or a committee chair) receives the bill with the necessary copies. A member introduces the bill by giving it to the Chief Clerk of the House of Representatives or the Secretary of the Senate on the afternoon before it is to be introduced. Bills by the Governor are introduced by the Rules Committees and bear the sponsor notation: Rules Committee by request of the Governor. The House Chief Clerk or the Senate Secretary will assign the bill its number.

FIRST READING: Referral to Committee(s)

During the Daily Order of Business, a bill is introduced and read the first time with the number, sponsor(s), and the title of the bill. This is referred to as the First Reading. The bill is not read in its entirety. The presiding officer will refer the bill to a committee or committees. The jurisdiction of the various standing committees is set out in Rule 20 of the Uniform Rules.

Uniform Rule 20. STANDING COMMITTEES

- (a) Each house has the following standing committees with the jurisdiction indicated:

Education (the programs and activities of the department of Education and Early Development and the University of Alaska)

Finance (all appropriation, revenue, capital improvement, and bonding measures, the executive budget, and the programs and activities of the Department of Revenue)

Health and Social Services (the programs and activities of the Department of Health and Social Services) Judiciary (the programs and activities of the Alaska Court System and the Department of Law, and the legal and substantive review of bills referred to it for that purpose)

Labor and Commerce (the programs and activities of the Department of Labor and Workforce Development relating to labor-management relations, industrial safety, unemployment compensation, and workers' compensation and the programs and activities of the Department of Commerce, Community and Economic Development that do not primarily relate to local government or to government services or functions in the unorganized borough)

Community and Regional Affairs (the programs and activities of the Department of Commerce, Community and Economic Development that primarily relate to local government and government services or functions in the unorganized borough, and other matters relating to political subdivisions)

Resources (the programs and activities of the Departments of Fish and Game, Natural Resources, and Environmental Conservation)

Rules (interpretation of the Uniform Rules, calendar, the internal administration of the house and matters pertaining to the management of the legislature as a whole)

State Affairs (programs and activities of the Office of the Governor and the Departments of Administration, Military and Veterans' Affairs, Corrections, and Public Safety, and programs and activities of the Department of Transportation and Public Facilities relating to public facilities)

Transportation (programs and activities of the Department of Transportation and Public Facilities relating to transportation and other legislative matters relating to transportation).

(b) The committee chair is authorized to form such subcommittees as they determine to be necessary.

One copy of the bill is delivered to the first committee of referral and the original copy of the bill is kept on file by the Senate Secretary or the House Chief Clerk until passed by the house of origin.

COMMITTEE CONSIDERATION

The committee to which the bill is referred may consider the bill with public hearings at the Capitol or elsewhere. The committee may combine bills that deal with the same subject or add or delete its own ideas for the bill. The committee reports the bill out of committee as introduced or with changes incorporated into a committee substitute or with attached amendments. Legislative Affairs Agency, Legal Services prepares the committee substitute or amendments. Committee substitutes do not replace the original bill but are considered as proposed amendments to the legislation, unless and until a committee substitute is adopted in the second reading of the bill. The committee then returns the bill with its report to the House Chief Clerk or Senate Secretary.

The report is read under Reports of Standing Committees as part of the Daily Order of Business. The bill is then transmitted to the next committee of referral by the House Chief Clerk or Senate Secretary. If the bill does not have another committee referral, it is delivered to the Rules Committee, which may schedule the bill on the Daily Calendar for Second Reading. The Rules Committee may also hold hearings on the bill and may propose amendments or a committee substitute of its own.

SECOND READING (Receipt of committee reports; consideration of amendments)

Once the bill has been scheduled for floor action by the Rules Committee, the bill appears on the calendar in Second Reading. The bill is again read by number, sponsor(s), and title along with the standing committee reports. A motion is made on the floor to adopt a committee substitute, if any, in Second Reading. If there is an objection to adoption of a committee substitute, a roll call vote must be taken and recorded in the journal. Any amendments to the bill are offered and voted on in Second Reading. Drafted amendments should be requested through Legislative Affairs Agency, Legal Services, by the sponsor of the amendments.

Approved amendments are engrossed (integrated) in the bill by the Office of the House Chief Clerk or Senate Secretary. Often a bill which has been read a second time will be considered engrossed and advanced to Third Reading for final passage on the same day. This special advancement motion requires the affirmative vote of three-fourths of the full membership (30 in the House, 15 in the Senate).

If the bill was not advanced to Third Reading on the same day it was read in Second Reading, it automatically appears on the Calendar in Third Reading on the next day the Legislature convenes.

THIRD READING (Final Passage)

After the bill is read the third time and is in Third Reading, a motion may be made to return the bill to Second Reading for a specific amendment. This motion requires the affirmative vote of the majority of the full body (21 in the House, 11 in the Senate). Only action on that specific amendment may be taken at that time. Following the vote on the specific amendment, the bill is again in Third Reading.

The bill is passed if it receives an affirmative vote of a majority of the members of the body. If the bill has an effective date clause, for example, the bill provides for an immediate effective date or a specific date, a - 6separate - two-thirds vote of the full membership is required to pass (27 in the House, 14 in the Senate). Without an effective date clause, the bill takes effect ninety days after it has been signed by the Governor or permitted to become law without the Governor's signature. An immediate effective date causes a bill to take effect the day following the Governor's signature or day of enactment without the Governor's signature. A bill may also have a specific effective date, such as July 1, 2019 or January 1, 2020. See AS 01.10.070 regarding effective dates.-

RECONSIDERATION

As provided in Rule 30 of the Uniform Rules, a member may give notice of reconsideration of his/her vote on a bill. Reconsideration may be taken up on the next legislative day unless the body, by a two-thirds vote (27 in the House, 14 in the Senate), orders the reconsideration to be taken up on the same day.

Calling up reconsideration on the next legislative day automatically places the question to be reconsidered again before the body in Third Reading. Calling up reconsideration cancels the previous vote on the question to be reconsidered as completely as though the vote had never been taken.

The time for reconsideration expires at adjournment on the next legislative day unless an extension of time is granted to the next legislative day or to a date certain by a majority vote of the members present.

RECONSIDERATION IN THE OTHER HOUSE

After final passage in one house, the bill is then engrossed and sent to the other house, where it again goes through the same introduction, committee referral, and three readings as in the house of origin.

IN CASE OF DISAGREEMENT (Conference Committees)

If the second house amends the bill and adopts the amended version, the bill is returned in its amended form to the house of origin. Upon receipt of the amended bill, a motion is required to concur (agree) or not to concur in the amendments. If the house of origin concurs with the amendments from the other body, the bill is sent to the Legislative Affairs Agency, Legal Services, for enrollment. If the house of origin does not concur with the amendments, the bill then goes back to the house of origin for enrollment. If the other body refuses to recede, it so advises the presiding officer of the house of origin. It is then in order for the presiding officer of each house to appoint three members to a conference committee to resolve the differences and bring in a report offering a solution.

A conference committee addresses only those points of contention in the previously adopted versions of the bill adopted by either house. If the two houses cannot agree on amendments, or one or both houses refuses to adopt the committee report, it is then in order for the conference committee to request limited powers of free conference.

Conference Committees and Free Conference Committees with Limited Powers of Free Conference

The presiding officer of each house may grant limited powers of free conference related only to those specific points of disagreement contained in the conference committee report.

If the members of a Conference Committee with limited powers of free conference cannot agree on amendments, or one or both houses refuses to adopt the committee report, it is then in order to appoint a Free Conference Committee. A member who serves on a Conference Committee with limited powers of free conference may not be appointed to a subsequent Conference Committee or Free Conference Committee concerning the same bill.

The vote on adoption of the conference committee report in each house is recorded in the journals and requires a majority vote of the full membership of each body (21 in the House, 11 in the Senate). A conference committee report cannot be amended.

ENROLLMENT AND SIGNATURE

When a bill has been passed by both houses, the bill is sent to the Legislative Affairs Agency, Legal Services, where it is rechecked by the enrolling secretary and the Revisor of Statutes. The Legal Editor for Legal Services is the enrolling secretary for the Legislature. Any needed corrections are made, and a cover page and authentication page are added. If corrections are made by the enrolling secretary and the Revisor of Statutes, the House Chief Clerk and Senate Secretary are notified and they must notify the Speaker of the House and President of the Senate. The bill in final form is then returned to the house of origin, where it is signed by the presiding officer and House Chief Clerk or Senate Secretary and then sent to the second house for like of origin and formally transmitted to the Governor for review and action.

ROLE OF THE GOVERNOR

The Governor has 15 days, Sundays excluded, to act on a bill if the Legislature is in session. If the Legislature has adjourned, the Governor has 20 days, excluding Sundays. During either period, the Governor may have the bill examined by the Department of Law and affected agencies before acting on it.

By constitutional mandate, the Governor must sign the bill, veto the bill or let it become law without signature. If the Governor vetoes a bill or reduces or vetoes an appropriation item (line item veto), the Governor must return it to the house of origin with a statement of the Governor's reasons for vetoing the bill and do so within the constitutional time limits.

When the Governor allows a bill to become law without signature, the Governor returns the bill and so advises the Legislature.

If the Legislature is in session, both houses may agree on a time to meet in joint session to override or sustain the veto. The houses sit in joint session as a unicameral body and it requires two-thirds (three-fourths if an appropriation bill or a bill to raise revenue) of the membership of the combined houses to override the veto and have the bill become law. If the Legislature has adjourned, the vetoed bill must be taken up within five days after the convening of the Legislature in its second regular session or any special session.

If the Governor vetoes a bill after the adjournment of a second regular session of a Legislature, the veto will not be addressed unless a special session is called before the next Legislature convenes.

FROM A BILL TO AN ACT TO LAW

When the Governor signs the bill, allows it to become law without signature, or the Governor's veto is overridden, the bill is enacted and becomes an Act and is given a chapter number and is now a session law. The session law is returned to the Legislative Affairs Agency, where the notations -on 9 -the date of signing and actual effective date of the Act are affixed. The former bill is now designated as Chapter ____, Session Laws of Alaska 20____ (Current year) and is printed in slip law form.

When the session work is completed, the Session Laws of Alaska are compiled, indexed, and distributed to legislators and Legislative Information Offices. The Alaska State Library makes other distributions and prepares complete indexed sets available for public purchase. The session laws are reviewed by the Revisor of Statutes for placement in the Alaska Statutes with appropriate annotations and notes and sent on to the publisher of the Alaska Statutes, along with the revisor's instructions and notes, for printing. At the end of each session, the Legislative Affairs Agency, Legal Services, publishes the Summary of Alaska Legislation, which contains synopses of all bills enacted or vetoed, tables of statute sections amended or repealed, and other statistical data on the session.

Approximately three months after all session-related materials are sent to the publisher, the Alaska Statutes, which are the permanent law and temporary and special acts, are ready for use.

A new replacement set of the Alaska Statutes is published in even-numbered years and a supplement is published in odd-numbered years. In the meantime, the session laws as published in slip law form, along with any technical modification noted by the revisor, are in general use.

AND THEN...

Under the Constitution of the State of Alaska an Act takes effect 90 days after it is enacted. The Act is enacted when it is signed by the Governor or it becomes law without the governor's signature. The Legislature by a two-thirds vote of the full membership can provide for a different or specific effective date in the Act. When an Act becomes effective it is subject to enforcement, observance, and administrative action, as appropriate. The Act, now law, may be subject to implementation by an agency through the adoption of administrative regulations, which spell out the details of how the law is to be applied. (See AS 44.62).

The Model Practice Act for Physical Therapy

A Tool for Public Protection and Legislative Change

Seventh Edition

Revised 2022(Original Printing 1997)

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Preface

The *Model Practice Act for Physical Therapy: A Tool for Public Protection and Legislative Change (MPA)* is the preeminent standard and most effective tool available for revising and modernizing physical therapy practice acts. The continuing movement to update physical therapy practice acts helps ensure that they provide the legal authority to fully protect the public while allowing for the effective regulation of the profession.

This is the Seventh Edition of the Model Practice Act. Differences from the Sixth Edition can be compared in Appendix A. The structure of the Model Practice Act has remained consistent and is a model worthy of use in all jurisdiction practice acts. The statute language has remained clear and understandable throughout each edition and will continue to influence greater uniformity in practice acts now and in the future.

Delegate Assembly motion DEL-02-07 encouraged each jurisdiction to review, improve and strengthen practice acts and to use the latest edition of the Model Practice Act as a resource in that task. Even where sections of existing jurisdiction law may differ from the Model Practice Act, there is much that can be learned from MPA model statute language and the commentary that can be applied to many regulatory situations or questions.

The Federation of State Boards of Physical Therapy welcomes recommendations relative to any aspect of *The Model Practice Act for Physical Therapy: A Tool for Public Protection and Legislative Change*. Recommendations may be sent to the Federation for consideration in later revisions that will be initiated by the Ethics and Legislation Committee. The committee remains a continuing resource for any jurisdiction contemplating practice act changes. The Federation invites your use of this Model Practice Act for Physical Therapy and pledges its resources for your ongoing support.

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Acknowledgements

The Model Practice Act Task Force of the Federation of State Boards of Physical Therapy served from November 1994 until the completion of their task in March 1997. Acknowledgement and appreciation are extended to them, to Federation staff and to many others who reviewed and contributed comments on early drafts and on the field review. Acknowledgement and appreciation are also extended to the Ethics and Legislation Committee, which continues the work of the original task force by periodically updating and revising the Model Practice Act as needed. The Federation is also grateful to the many jurisdiction licensing boards and APTA chapters that have already used this tool to effectively modernize jurisdiction practice acts.

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Introduction

The Federation of State Boards of Physical Therapy was organized in 1986. Soon thereafter, discussion began about the feasibility of developing model language for physical therapy practice acts. It wasn't until 1994 that the FSBPT Board of Directors appointed an eight-member task force, and their work was completed in 1997 with the publication of *The Model Practice Act for Physical Therapy: A Tool for Public Protection and Legislative Change*.

Over decades the various physical therapy practice acts have contained functional and useful regulatory language but also some problematic language. Most jurisdictional practice acts had their origins in the 1950s and early 1960s, and amendments have turned some practice acts into cobbled-together collections of regulatory language that are very diverse in their approach to the basic board responsibility of protecting the public and regulating the profession.

The task force originally envisioned a model act that could be used cafeteria style to allow states to change a specific section of a practice act as needed. While the Model Practice Act can be used effectively this way, those who study this document will find a tightly constructed and integrated model for the regulation of physical therapy. The component sections of this model fit together well and complement other sections. Certain areas of this model act are indispensable from others and changes in one of these areas will require additional modification of a jurisdiction's practice act in other areas. The commentary sections of this Model Practice Act will identify important cross-links in statute language. Since 1997 many states have enacted large portions and, in some instances, nearly the entire Model Practice Act as their jurisdiction statute.

As regulatory changes are made in jurisdiction practice acts, the Federation suggests the use of terms and statute language as recommended in this model act. This underscores the importance of a "model" act and will help avoid further confusion of terminology and regulation from jurisdiction to jurisdiction and occasionally within the same practice act.

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Model Practice Act Language

Introductory Notes

- This is the Federation of State Boards of Physical Therapy's model physical therapy practice act.
- The numerical references used with each paragraph are only for organizational purposes within this model act. Each jurisdiction should use a numbering system that conforms to its own statutory classification system.
- Bracketed areas throughout the Model Practice Act indicate optional language each jurisdiction should adapt to its own needs. For example, the use of [act] in this model is a drafting option for statutory references such as "chapter," "act," "section" or "law" used commonly in practice acts. Each jurisdiction should use the term applicable to its statutes. The optional [certificate] and [certificate holder] apply if physical therapist assistants are certified by a jurisdiction. However, if physical therapist assistants are licensed by a jurisdiction this particular bracket option would not apply. Other bracketed options are explained in the context of the paragraphs where they appear or in commentary.
- For jurisdictions that are members of the Physical Therapy Compact, additional language to this act may be considered. These recommendations are found in the commentary of this document. However, jurisdictions should be assured that the Physical Therapy Compact legislation grants the authority to the jurisdiction to be a fully participating member of the Compact.
- Several other documents are referenced throughout the Model Practice Act. A few of these are included in the Appendix. Others may be referenced on websites of the Federation of State Boards of Physical Therapy or the American Physical Therapy Association.

Physical Therapy Practice Act

[Include proper numerical statute reference, e.g., Chapter # and/or Title #]

Article 1: General Provisions

1.01 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. 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 as authorized by this [act]. This [act] shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

1.02 Definitions

As specifically used in this [act], the following terms have the meanings set forth below, unless the context requires otherwise.

1. "Board" means the [specify the jurisdiction] board of physical therapy.
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.
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. "Examination" means a national examination approved by the board for the licensure of a physical therapist or the [certification/licensure] of a physical therapist assistant.
7. "Jurisdiction of the United States" means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.
8. "Nexus to practice" means the criminal act of the applicant or licensee [certificant] posing a risk to the public's welfare and safety relative to the practice of physical therapy.
9. "Onsite supervision" means supervision provided by a physical therapist who is continuously onsite and present in the department or facility where services are provided. The supervising therapist is immediately available to the person being supervised and maintains continued involvement in the necessary aspects of patient/client care.
10. "Patient/client" means any individual receiving physical therapy from a licensee [or certificate holder] under this Act.
11. "Physical therapist assistant" means a person who is [certified/licensed] pursuant to this [act] and who assists the physical therapist in selected components of the physical therapy treatment intervention.
12. "Physical therapist assistant-patient/client relationship" means the formal or inferred relationship entered into by mutual consent between a licensed [certified] physical therapist assistant and a patient/client or their legally authorized representative established once the physical therapist assistant assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged or treatment is formally transferred to another practitioner or as further defined by rule.
13. "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].
14. "Physical therapist-patient/client relationship" means the formal or inferred relationship entered into by mutual consent between a licensed physical therapist and a patient/client or their legally authorized representative established once the physical therapist assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged, or treatment is formally transferred to another healthcare practitioner or as further defined by rule.
15. "Physical therapy aide" means a person trained by or under the direction of a physical therapist who performs designated and supervised routine tasks related to physical therapy services.
16. "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].
17. "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, 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 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. Referring a patient/client to healthcare providers and facilities for services and testing to inform the physical therapist plan of care.
 - e. Engaging in administration, consultation, education, and research.
18. "Restricted [certificate/license]" for a physical therapist assistant means a [certificate/license] on which the board has placed any restrictions and/or condition as to scope of work, place of work, duration of certified or licensed status, or type or condition of patient/client to whom the certificate holder or licensee may provide services.
 19. "Restricted license" for a physical therapist means a license on which the board has placed any restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of individual to whom the licensee may provide services.
 20. "Supervision" means the process by which a physical therapist oversees and directs safe and effective delivery of patient care through appropriate verbal, written, or electronic communication. This may be accomplished with the physical therapist located onsite or remotely as deemed appropriate based on the patient/client needs.
 21. "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.
 22. "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.

Article 2: Board of Physical Therapy

The Board shall have all of the duties, powers, and authority specifically granted by or necessary for the enforcement of this Act, as well as such other duties, powers, and authority as it may be granted from time to time by applicable law.

2.01 Board of Physical Therapy

- A. The board of physical therapy shall consist of [seven] members appointed by the Governor. [Four] members shall be physical therapists who are residents of this jurisdiction, possess unrestricted licenses to practice physical therapy in this jurisdiction and have been practicing in this jurisdiction for no less than five years before their appointments. [One] member shall be a physical therapist assistant who is a resident of this jurisdiction and possesses an unrestricted [certificate/license]. The Governor shall also appoint [two] public members who shall be residents of this jurisdiction and who are not affiliated with, nor have a financial interest

in, any healthcare profession and who have an interest in consumer rights. The Governor shall, to the greatest extent possible, appoint individuals to achieve diversity on the board.

- B. Board members shall serve staggered four-year terms. Board members shall serve no more than two successive four-year terms or for more than ten consecutive years. By approval of the majority of the board, the service of a member may be extended at the completion of a four-year term until a new member is appointed or the current member is reappointed.
- C. The board may request the Governor remove any member of the board for misconduct, incompetence, or neglect of duty.
- D. Board members are eligible for [compensation and/or] reimbursement of necessary expenses pursuant to [cite applicable statute relating to [compensation and/or] reimbursement] for attending each board meeting or representing the board in an official board-approved activity.
- E. A board member who acts within the scope of board duties, without malice and in the reasonable belief that the member's action is warranted by law, is immune from civil liability.

2.02 Powers and Duties of the Board

The board shall:

1. Evaluate the qualifications of applicants for licensure [and certification].
2. Provide for the examination of physical therapists and physical therapist assistants.
3. Issue licenses [or certificates] to persons who meet the qualifications of this [act].
4. Regulate the practice of physical therapy by interpreting and enforcing this [act].
5. Have the authority to establish committees, advisory panels, and task forces to further the work of the board.
6. Adopt and revise rules consistent with this [act]. Such rules, when lawfully adopted, shall have the effect of law.
7. Meet at least once each quarter in compliance with the open meeting requirements of [cite applicable statute]. A majority of filled board member positions shall constitute a quorum for the transaction of business. The board shall keep an official record of its meetings.
8. Establish mechanisms for assessing the continuing competence of physical therapists to practice physical therapy.
9. Establish mechanisms for assessing the continuing competence of physical therapist assistants to work in the profession of physical therapy.
10. Establish and collect fees for sustaining the necessary operation and expenses of the board.
11. Elect officers from its members necessary for the operations and obligations of the board. Terms of office shall be one year.
12. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this [act], and board rules, policies and procedures.

13. Maintain a current list of all persons regulated under this [act]. This information includes the person's name, current business and residential address, email address, telephone numbers, and license [or certificate] number.
14. Provide information to the public regarding the complaint process.
15. Employ necessary personnel to carry out the administrative work of the board. Board personnel are eligible to receive compensation pursuant to [cite specific statute].
16. Enter into contracts for services necessary for enforcement of this [act].
17. Report final disciplinary action taken against a licensee [or certificate holder] to a national disciplinary database recognized by the board or as required by law.
18. Report information of alleged unlawful conduct by licensees [or certificate holders], unlicensed individuals, other healthcare providers, and entities to the appropriate county, jurisdiction, or federal authority.
19. Publish, at least annually, final adverse action taken against a licensee [or certificate holder].
20. Publish at least annually, board rulings, opinions, and interpretations of statutes or rules in order to guide persons regulated pursuant to this [act].
21. Participate in or conduct performance audits.
22. Have the authority to fully participate in a national Exam, Licensure, and Disciplinary Database as defined by rule.
23. Have the authority to obtain biometric-based information from every physical therapist or physical therapist assistant applicant for licensure[certification] and submit this information to the Federal Bureau of Investigation for a criminal background check.
24. Have the authority to determine and collect, at the time of new licensure [or certification] and licensure [or certification] renewal, a core set of data elements deemed necessary for the purpose of workforce assessment and planning. The data elements shall be used to create and maintain a healthcare workforce database. The Board may enter into agreements with a private or public entity to establish and maintain the database, perform data analysis, and/or prepare reports concerning the physical therapy workforce. The Board shall promulgate rules to perform duties pursuant to this [act].
25. Have the authority to require a licensee [certificate holder] to complete educational activities.

2.03 Disposition of Funds

(No model language is offered under this section heading. See *Commentary* for further information.)

Article 3: Examination and Licensure

3.01 National Examination

- A. The board shall provide for a national examination within the jurisdiction.
- B. To be eligible to sit for the national examination, the candidate must meet nationally recognized requirements that support the integrity of the examination and are further defined by rule.
 1. The physical therapist examination is a national examination that tests entry-level competence related to

physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention and consultation.

2. The physical therapist assistant examination is a national examination that tests for requisite knowledge and skills in the technical application of physical therapy services.

- C. Candidates must agree to abide by security and copyright provisions related to the national licensure examination. If the board determines that an applicant has violated any of these provisions or engaged in or attempted to engage in any other conduct that subverts or undermines the integrity of the examination process or validity of examination results, the board may disqualify the applicant from taking or retaking the examination permanently or for a specified period of time.
- D. Any violation of security and copyright provisions related to the national licensure examination, subversion or attempts to subvert the national examination shall be reported by the board to the Federation of State Boards of Physical Therapy.
- E. If the board determines that an applicant has engaged or has attempted to engage in conduct that subverts or undermines the integrity of the examination process, including a violation of security and copyright provisions related to the national licensure examination, the board may disqualify the applicant from taking or retaking the examination permanently or for a specified period of time.

3.02 Qualifications for Licensure [and Certification]

- A. An applicant for a license as a physical therapist shall:
 - 1. Complete the application process including payment of fees.
 - 2. Submit proof of graduation from a professional physical therapy education program accredited by a national accreditation agency approved by the board.
 - 3. Pass a national examination approved by the board.
 - 4. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.
 - 5. Submit to a criminal records check.
 - 6. Meet the requirements established by board rule if applicable.
 - 7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].
- B. An applicant for a license as a physical therapist who has been educated at a school that has not been accredited by an agency approved by the board shall:
 - 1. Complete the application process including payment of fees.
 - 2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited entry-level program as determined by the board. Graduation outside the United States from a professional education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure educated at a school that has not been accredited by an agency approved by the board shall have:
 - a. Graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy;
 - b. Provided written proof that the applicant's school of physical therapy is recognized by its own ministry of education or other appropriate recognition agency;
 - c. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - d. Completed any additional education as required by the board.

3. Pass a board-approved English proficiency examination as required by the board as further established by rule.
4. Pass a national examination approved by the board.
5. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.
6. Submit to a criminal records check.
7. Complete supervised clinical practice as defined by rules with a restricted license.
8. Meet the requirements established by board rule if applicable.
9. Meet other statutory and regulatory requirements applicable to individuals licensed under this [Act].

C. An applicant for a [certificate/license] as a physical therapist assistant shall:

1. Complete the application process including payment of fees.
2. Submit proof of graduation from a physical therapist assistant education program accredited by a national accreditation agency approved by the board.
3. Pass a national examination approved by the board.
4. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.
5. Submit to a criminal records check.
6. Meet the requirements established by board rule if applicable.
7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

D. An applicant for a [certificate/license] as a physical therapist assistant who has been educated at a school that has not been accredited by an agency approved by the board shall:

1. Complete the application process including payment of fees.
2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapist assistants educated in an accredited entry-level program as determined by the board. Graduation outside the United States from an education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure educated at a school that has not been accredited by an agency approved by the board shall have:
 - a. Graduated from a physical therapist assistant educational program that prepares the applicant to work as a physical therapist assistant;
 - b. Provided written proof that the applicant's physical therapist assistant school is recognized by its own ministry of education or other appropriate recognition agency;
 - c. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - d. Completed any additional education as required by the board.
3. Pass a board-approved English proficiency examination as required by the board as further established by rule.
4. Pass a national examination approved by the board.
5. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.
6. Submit to a criminal records check.
7. Complete supervised clinical practice as defined by rules with a restricted license.
8. Meet the requirements established by board rule if applicable.
9. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

E. . An applicant for a [certificate/license] as a physical therapist assistant who has completed a United States Armed Services program of training not accredited by a national accreditation agency approved by the board shall:

1. Complete the application process including payment of fees.
2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapist assistants educated in an accredited entry-level program as determined by the board. Successful completion of a United States Armed Services program of training accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure who has completed a United States Armed Services program of training shall have:
 - a. Completed a physical therapist assistant training program that prepares the applicant to work as a physical therapist assistant;
 - b. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - c. Completed any additional education as required by the board.
3. Pass a national examination approved by the board.
4. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.
5. Submit to a criminal records check.
6. Meet the requirements established by board rule if applicable.
7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

3.03 Licensure [and Certification] by Endorsement

- A. The board shall issue a license to a physical therapist who has a current unrestricted license from another jurisdiction of the United States if that person meets all qualifications prescribed in [*Qualifications for Licensure and Certification*, Article 3.02] at the time of the applicant's initial licensure.
- B. The board shall issue a license [certificate] to a physical therapist assistant who has a current unrestricted license [certificate] from another jurisdiction of the United States if that person meets all qualifications prescribed in [*Qualifications for Licensure and Certification*, Article 3.02] at the time of the applicant's initial licensure.

3.04 Exemptions from Licensure [or Certification]

- A. This [act] does not restrict a person licensed or certified under any other law of this jurisdiction from engaging in the profession or practice for which that person is licensed if that person does not represent, imply or claim that he/she is a physical therapist, physical therapist assistant, or a provider of physical therapy as defined in Article 1, 1.02.
- B. The following persons are exempt from the licensure [certification] requirements of this [act] when engaged in the following activities:
1. A person in an entry-level professional education program approved by the board who is satisfying supervised clinical education requirements related to the person's physical therapist education while under onsite supervision of a physical therapist.
 2. A person satisfying a clinical education experience under the onsite supervision of a physical therapist as required by the board.
 3. A physical therapist who is practicing in the United States Armed Services, United States Public Health Service or Veterans Administration pursuant to federal regulations for jurisdiction licensure of healthcare providers. If such person, while federally employed as a physical therapist, shall engage in the practice of physical therapy outside the course and scope of such federal employment, he/she shall then be required to obtain a license in accordance with this [act].
 4. A physical therapist who is licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person is teaching, demonstrating or providing physical therapy services in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year.

5. A physical therapist who is licensed in another jurisdiction of the United States if that person is rendering advice or professional or expert to a licensed healthcare practitioner in this jurisdiction.
 6. A physical therapist who is licensed in a jurisdiction of the United States or credentialed in another country, if that person by contract or employment is providing physical therapy to patients/clients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing, or performing in the jurisdiction for no more than 60 days in a calendar year.
 7. A physical therapist who is licensed in a jurisdiction of the United States and who enters this jurisdiction to provide physical therapy during a declared local, jurisdictional or national disaster or emergency. This exemption applies for no longer than 60 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of their intent to practice.
 8. A physical therapist licensed in a jurisdiction of the United States who is forced to leave his/her residence or place of employment due to a declared local, jurisdictional or national disaster or emergency and due to such displacement seeks to practice physical therapy. This exemption applies for no more than 60 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of their intent to practice.
- C. A physical therapist assistant who is [certified/licensed] in a jurisdiction of the United States and is assisting a physical therapist engaged specifically in activities related to [subparagraphs (B) 2, 3, 5, 6 and 7 of this section] is exempt from the requirement of [certification/licensure] under this [act].

3.05 License [or Certificate] Renewal

- A. A physical therapist applying for renewal of the license shall:
1. Complete a renewal application including payment of fees.
 2. Demonstrate evidence of continuing competence as defined by rule.
 3. Meet the requirements established by board rule if applicable.
 4. Meet other statutory and regulatory requirements applicable to individuals licensed under this [Act].
- B. A physical therapist assistant applying for renewal of the license [certificate] shall:
1. Complete a renewal application including payment of fees.
 2. Demonstrate evidence of continuing competence as defined by rule.
 3. Meet the requirements established by board rule if applicable.
 4. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

3.06 Changes of Name, Address or Telephone Number

Each licensee [and certificate holder] is responsible for reporting a name change and changes in business and home address, email address and telephone numbers to the board within 30 days.

3.07 Reinstatement of License [or Certificate]

- A. The board may reinstate a lapsed license [or certificate] upon completion of a reinstatement application including payment of fees, as defined by rule.
- B. If a physical therapist's license has lapsed for a specified time period, as defined by rule, that person shall fulfill all requirements of [3.07 A] and demonstrate to the board's satisfaction competence to practice physical therapy by one or more of the following as determined by the board:
1. Complete supervised clinical practice as defined by rule with a restricted license.
 2. Demonstrate or complete continued competence requirements, as defined by rule, required during lapsed licensure period.
 3. Pass examination(s) approved by the board.
 4. Provide proof of licensed practice in another jurisdiction.

- C. If a physical therapist assistant's [certificate/ license] has lapsed for a specified time period, as defined by rule, that person shall fulfill all requirements of [3.07 A] and demonstrate to the board's satisfaction competence to work as a physical therapist assistant by one or more of the following as determined by the board:
1. Complete supervised clinical practice as defined by rules with a restricted license.
 2. Demonstrate or complete continued competence requirements, as defined by rule, required during lapsed licensure [certification] period.
 3. Pass examination(s) approved by the board.
 4. Provide proof of licensed [certified] work as a physical therapist assistant in another jurisdiction.
- D. The board may reinstate a suspended or revoked physical therapist's license upon completion of the requirements in [3.07 A] and evidence of satisfactory completion of all requirements for reinstatement that were stipulated in a consent order at the time of discipline. The board may further require evidence of competence to practice physical therapy through the following activities:
1. Complete supervised clinical practice, as defined by rule, with a restricted license.
 2. Demonstrate or complete continued competence requirements, defined by rule, required during the suspended or revoked licensure period.
 3. Successfully complete assessment tool(s) and/or pass examination(s) approved by the board.
- E. The board may reinstate a suspended or revoked physical therapist assistant's [certificate/license] upon completion of the requirements in [3.07 A] and evidence of satisfactory completion of all requirements for reinstatement that were stipulated in a consent order at the time of discipline. The board may further require evidence of the physical therapist assistant's competence to work in the profession of physical therapy through the following activities.
1. Complete supervised clinical practice with a restricted license under a qualified and approved supervisor.
 2. Demonstrate or complete continued competence requirements, defined by rule, required during the suspended or revoked licensure period.
 3. Successfully complete assessment tool(s) and/or pass examination(s) approved by the board.

[3.08 Fees]

(This is optional statute language for states requiring maximum fee ceilings within their statutes.)

A. The board shall establish and collect fees not to exceed:

1. _____ dollars for an application for an original license [or certificate]. This fee is nonrefundable.
2. _____ dollars for a certificate of renewal of a license [or certificate].
3. _____ dollars for an application for reinstatement of a license [or certificate].
4. _____ dollars for each duplicate license [or certificate].
5. _____ dollars for other administrative fees [e.g., criminal records report, pass through or processing fees]

Article 4: Regulation of Physical Therapy

4.01 Ethics in the Physical Therapy Profession

- A. A physical therapist shall adhere to the recognized standards of ethics of the physical therapy profession as established by rule.
- B. A physical therapist assistant shall adhere to the recognized standards of ethics of the physical therapy profession as established by rule.

4.02 Use of Titles and Terms; Restrictions; Classification of Violation

- A. A physical therapist shall use the letters "PT" or the term "physical therapist" immediately following their name to designate licensure as a healthcare practitioner under this [act].
- B. A person or business entity, its employees, agents or representatives shall not use in connection with that person's name or the name or activity of the business, the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "physio," "registered physical therapist," "doctor of physical therapy," the letters "PT," "DPT," "LPT," "RPT," or any other words, abbreviations or insignia indicating or implying directly

or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to this [act]. A person or business entity shall not advertise or otherwise promote another person as being a “physical therapist” or “physiotherapist” unless the individual so advertised or promoted is licensed as a physical therapist under this act. A person or business entity that offers, provides, or bills any other person for services shall not characterize those services as “physical therapy” or “physiotherapy” unless the individual performing those services is a person licensed as a physical therapist under this [act].

- C. Physical therapists who have graduated from a DPT program may use the title Doctor of Physical Therapy. A physical therapist holding a DPT or other doctoral degree shall not use the title Doctor without also clearly informing the public of his or her profession as a physical therapist. Use of the title shall be in accordance with jurisdictional law.
- D. A physical therapist assistant shall use the letters “PTA” immediately following his or her name to designate [certification/licensure] under this [act].
- E. A person shall not use the title “physical therapist assistant,” the letters “PTA,” or any other words, abbreviations, or insignia in connection with that person’s name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is [certified/licensed] as a physical therapist assistant pursuant to this [act].
- F. A person or business entity that violates paragraphs (B) or (E) of this section is guilty of a [cite specific legal sanction]. The board shall have authority to impose a civil penalty, in an amount not to exceed [specify number of dollars] per violation, against any person or business entity that violates paragraphs (B) or (E). In addition, the board shall seek an injunction against conduct in violation of paragraphs (B) or (E) in any court of competent jurisdiction. For purposes of this [act], the board, in seeking an injunction, need only show that the defendant violated paragraphs (B) and (E) of this section to establish irreparable injury or a likelihood of a continuation of the violation.

4.03 Patient/Client Care Management

- A. A physical therapist is fully responsible for managing all aspects of the physical therapy care of each patient/client. A physical therapist shall provide:
 - 1. The initial evaluation, determination of diagnosis, prognosis, and plan of treatment intervention and documentation of each encounter with each patient/client;
 - 2. Periodic reevaluation and documentation of each patient/client;
 - 3. The documented discharge of the patient/client, including the patient’s/client’s response to treatment intervention at the time of discharge.
- B. A physical therapist shall assure the qualifications of all physical therapist assistants and physical therapy aides under their direction and supervision.
- C. For each patient/client on each date of service, a physical therapist shall provide all the treatment intervention that requires the education, skills, and knowledge of a physical therapist and shall determine the use of physical therapist assistants or physical therapy aides to ensure that the delivery of care that is safe, effective, and efficient.
 - 1. A physical therapist assistant shall work under a physical therapist’s supervision. A physical therapist assistant shall document the care they provide.
 - 2. A physical therapist may use physical therapy aides for designated routine tasks. A physical therapy aide shall work under the supervision of a physical therapist.
- D. The physical therapist shall communicate the plan of care with, and obtain informed consent from, the patient/client or their legally authorized representative.

- E. A physical therapist's responsibility shall include accurate documentation and billing of the services provided.
- F. A physical therapist assistant's responsibility shall include accurate documentation and billing of the services provided.
- G. Nothing in this [Act] shall prohibit a licensee[certificate holder] from providing physical therapy to animals for which the licensee[certificate holder] has completed the education and training as further established by rule.

4.04 Grounds for Denial of a License [and Certificate]; Disciplinary Action

A. The following are grounds for denial of a license [and certificate] or disciplinary action:

1. Violating any provision of this [act], board rules or a written order of the board.
2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.
3. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, a violation of security and copyright provisions related to the national licensure exam, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions.
4. Practicing or offering to practice beyond the scope of the practice of physical therapy.
5. Acting in a manner inconsistent with generally accepted standards of physical therapy practice, regardless of whether actual injury to the patient/client is established.
6. Failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rule.
7. Failing to complete continuing competence requirements as established by rule.
8. Failing to maintain adequate patient/client records. For the purposes of this paragraph, "adequate patient/client records" means legible records that contain at minimum sufficient information to identify the patient/client, an evaluation of objective findings, a diagnosis, a plan of care, a treatment record and a discharge plan.
9. Failing to supervise physical therapist assistants, physical therapy aides, a person in an entry-level professional education program approved by the board who is satisfying supervised clinical education requirements related to the person's education, or a person satisfying a supervised clinical practice in accordance with this [act] and board rules.
10. Failing to report to the board, where there is direct knowledge, any unprofessional, incompetent, or illegal acts that appear to be in violation of this [act] or any rules established by the board.
11. Engaging in sexual misconduct. For the purpose of this paragraph, sexual misconduct includes:
 - a. Engaging in or soliciting romantic or sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant-patient/client relationship exists.
 - b. Making advances, requesting favors, or expressing thoughts, feelings, or making gestures that are sexual in nature, or that reasonably may be construed by a patient/client as sexual in nature, by any means including verbal or physical contact, or via electronic communications.
 - c. Intentionally viewing a completely or partially disrobed patient/client in the course of treatment if the viewing is not related to patient/client diagnosis or treatment under current practice standards.
12. Sexual contact between a physical therapist and patient/client after termination of the physical therapist-patient/client relationship may still constitute sexual misconduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from that relationship.
13. Sexual contact between a physical therapist assistant and patient/client after termination of the physical therapist assistant-patient/client relationship may still constitute sexual misconduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from that relationship.
14. Abusing the physical therapist-patient/client relationship to exert undue influence or exploiting persons over whom the licensee has supervisory, evaluative, or other authority.

15. Abusing the physical therapist assistant-patient/client relationship to exert undue influence or exploiting persons over whom the licensee [certificate holder] has supervisory or other authority.
16. Having had a license [or certificate] revoked or suspended, other disciplinary action taken, or an application for licensure [or certification] refused, revoked or suspended by the proper authorities of another jurisdiction, territory, or country.
17. Having been convicted of or pled guilty to a felony with a nexus to the practice of a physical therapist or work of a physical therapist assistant in the courts of this jurisdiction or any other jurisdiction, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilt, an Alfred plea, or a plea of *nolo contendere*.
18. Aiding and abetting the unlicensed practice of physical therapy.
19. Directly or indirectly requesting, receiving, or participating in the dividing, transferring, assigning, rebating or refunding of an unearned fee, or profiting by means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. This does not prohibit the members of any regularly and properly organized business entity recognized by law and comprising physical therapists from dividing fees received for professional services among themselves as they determine necessary.
20. Promoting any unnecessary device, treatment intervention, or service resulting in the financial gain of the practitioner or of a third party.
21. Providing treatment intervention unwarranted by the condition of the patient/client or continuing treatment beyond the point of reasonable benefit.
22. Participating in underutilization or overutilization of physical therapy services for personal or institutional financial gain.
23. Charging fraudulent fees for services performed or not performed.
24. Making misleading, deceptive, untrue or fraudulent representations in violation of this [act] or in the practice of the profession.
25. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other habit-forming drugs, chemicals or alcohol, or by other causes.
26. Practicing physical therapy with a mental or physical condition that impairs the ability of the licensee to practice with skill and safety.
27. Practicing after having been adjudged mentally incompetent by a court of competent jurisdiction.
28. Interfering with an investigation or disciplinary proceeding by failure to cooperate, by misrepresentation of facts, or by the use of threats or harassment against any patient/client or witness to prevent that patient/client or witness from providing evidence in a disciplinary proceeding or any legal action.
29. Failing to maintain patient/client confidentiality without documented authorization of the patient/client or unless otherwise required by law. All records used or resulting from a consultation by telehealth, as defined in [Definitions, Article 1.02], are part of a patient's/client's records and are subject to applicable confidentiality requirements.

4.05 Investigative Powers; Emergency Action; Hearing Officers

A. To enforce this [act], the board is authorized to:

1. Receive complaints filed against licensees [or certificate holders] and conduct a timely investigation.
2. File complaints against licensees [or certificate holders] or individuals engaging in the unlawful or unlicensed practice of physical therapy and conduct timely investigations.
3. Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the board has reason to believe that there may be a violation of this [act].
4. Issue subpoenas to compel the attendance of any witness or the production of any documentation relative to a case.
5. Take emergency action ordering the summary suspension of a license [or certificate] or the restriction of a physical therapist's practice or a physical therapist assistant's work pending proceedings by the board.

6. Appoint hearing officers authorized to conduct hearings. Hearing officers shall prepare and submit to the board findings of fact, conclusions of law and a recommendation for board action that shall be reviewed and voted on by the board.
7. Require a physical therapist to be examined in order to determine his or her mental or physical ability to practice physical therapy.
8. Require a physical therapist assistant to be examined in order to determine his or her mental or physical ability to work in the profession of physical therapy.

B. If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a licensee [or certificate holder] it may take one of the following actions:

1. Dismiss the complaint.
2. Issue an advisory letter to the licensee [or certificate holder]. An advisory letter is non-disciplinary and notifies a licensee [or certificate holder] that, while there is no evidence to merit disciplinary action, the board believes that the licensee [or certificate holder] should become educated about the requirements of this [act] and board rules.

4.06 Hearings

(No model statute language is offered under this section heading. See *Commentary* for additional information.)

4.07 Disciplinary Actions; Penalties

Upon proof that any grounds prescribed in section [*Grounds for Denial of License [and Certificate]; Disciplinary Action*, Article 4.04], have been violated, the board may take the following disciplinary actions singly or in combination.

1. Issue a censure.
2. Restrict a license [or certificate]. The board may require a licensee [or certificate holder] to report regularly to the board on matters related to the grounds for the restricted license [or certificate].
3. Suspend a license [or certificate] for a period prescribed by the board.
4. Revoke a license [or certificate].
5. Refuse to issue or renew a license [or certificate].
6. Impose a civil penalty of at least _____ but not more than _____. (Include minimum and maximum dollar amounts of civil penalties.)
7. Accept a voluntary surrendering of a license [or certificate] based on an order of consent from the board.

4.08 Procedural Due Process

Actions of the board shall be taken subject to the right of notice, opportunity to be heard, and the right of appeal in accordance with [specify the jurisdiction] law relating to administrative law and procedure.

4.09 Unlawful Practice; Classification; Civil Penalties; Injunctive Relief

- A. It is unlawful for any person or business entity, its employees, agents, or representatives not licensed as a physical therapist under this [act] to engage in the practice of physical therapy. Any person who violates this paragraph [(A) or *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02], is guilty of [cite specific criminal sanction, e.g., class 1 misdemeanor] and subject to any other remedies specified in this [act].
- B. The board shall investigate any person or business entity to the extent necessary to determine whether the person or business entity is engaged in the unlawful practice of physical therapy. If an investigation indicates that a person or business entity is practicing physical therapy unlawfully, the board shall inform the person or the business entity of the alleged violation. The board may refer the matter for prosecution regardless of whether the person or business entity ceases the unlawful practice of physical therapy.
- C. The board shall apply to any court of competent jurisdiction for an order enjoining any person or business entity from committing any violation of this [act]. Injunction proceedings under this paragraph shall be in addition to, and not in lieu of, all penalties and other remedies prescribed in this [act].

- D. If a person or business entity knowingly violates this [act] or board rules, fraudulently uses or permits the use of a license [or certificate] number, or knowingly aids or requires another person to violate this [act] or board rules, the board may impose upon such person a civil penalty of not more than [dollar amount of penalty] for the first violation and not more than [dollar amount of penalty] for each subsequent violation.

[Optional Statute]

- E. The board shall transmit all monies it collects from civil penalties pursuant to this [act] to the [specify the disposition of these funds if different from other funds].

4.10 Reporting Violations; Immunity

- A. A person, including but not limited to a licensee [or certificate holder], corporation, insurance company, healthcare organization or healthcare facility and jurisdiction or local governmental agencies, shall report to the board any conviction or determination by an agency or court that a licensee [or certificate holder] has committed an act that constitutes a violation of [*Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04].
- B. A person is immune from civil liability, whether direct or derivative, for reporting such facts as set forth in "A" above to the board in good faith and participating in the board's investigation and subsequent disciplinary process, if applicable.
- C. The board shall not disclose the identity of a person who provides information unless such information is essential to proceedings conducted pursuant to [*Investigative Powers; Emergency Action; Hearing Officers and Hearings*, Articles 4.05 and 4.06], or unless required by a court of law.

4.11 Substance Abuse Recovery Program

- A. The board may permit a licensee [or certificate holder] to actively participate in a board-approved substance abuse recovery program if:
1. The board has evidence that the licensee [or certificate holder] is impaired.
 2. The licensee [or certificate holder] enters into a written agreement with the board for a restricted license [or certificate] and complies with all the terms of the agreement, including making satisfactory progress in the program and adhering to any limitations on his or her practice or employment imposed by the board to protect the public. Failure to enter into such an agreement shall activate an immediate investigation and disciplinary proceeding by the board.
 3. As part of the agreement established between the licensee [or certificate holder] and the board, the licensee [or certificate holder] signs a waiver allowing the substance abuse program to release information to the board if the licensee [or certificate holder] does not comply with the requirements of this section or is unable to practice or work with reasonable skill or safety.

4.12 Rights of Consumers

- A. The public shall have access to the following information:
1. A list of licensees [and certificate holders] that includes license [or certificate] number, date of license [or certificate] expiration, status of license [or certificate], and employment information.
 2. A list of final adverse actions taken by the board.
 3. The address, website, email and phone number of the board.
- B. Each licensee [and certificate holder] shall display a copy of his or her license [or certificate] in a location accessible to public view or produce a copy immediately upon request.
- C. Each licensee [and certificate holder] shall provide the public with information on how to file a complaint with the board against a licensee [or certificate holder].

- D. Any person may submit a complaint regarding any licensee, [certificate holder] or any other person potentially in violation of this [act]. Confidentiality shall be maintained subject to law.
- E. The home address, email address and home telephone numbers of physical therapists and physical therapist assistants are not public records and shall be kept confidential by the board unless they are the only addresses and telephone numbers of record.
- F. A patient/client has freedom of choice in selection of services and products.
- G. Information relating to the physical therapist-patient/client relationship is confidential and shall not be communicated to a third party who is not involved in that patient's/client's care without the written authorization of the patient/client. The physical therapist-patient/client privilege does not extend to cases in which the physical therapist has a duty to report or disclose information as required by law.
- H. Information relating to the physical therapist assistant-patient/client relationship is confidential and shall not be communicated to a third party who is not involved in that patient's/client's care without the written authorization of the patient/client. The physical therapist assistant-patient/client privilege does not extend to cases in which the physical therapist assistant has a duty to report or disclose information as required by law.
- I. The board shall keep all information relating to the receipt and investigation of complaints filed against licensees [or certificate holders] confidential until the information is disclosed in the course of the investigation or any subsequent proceeding or until disclosure is required by law. Patient/client records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment of patients/clients, any information from which a patient/client or their family might be identified, or information received and records or reports kept by the board as a result of an investigation made pursuant to this [act] shall not be available to the public and shall be kept confidential by the board.

Model Practice Act with Commentary

Introductory Notes

This section of the Model Practice Act is divided into two distinct areas for easy reference:

- The Model Language (in bold text) for each statutory section
- The Commentary that clarifies the intent or adds other information about the suggested model language

Physical Therapy Practice Act

[Include proper numerical statute reference, e.g., Chapter # and/or Title #]

Article 1: General Provisions

1.01 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. It is the legislature's intent that only individuals who meet and maintain prescribed standards of competence and conduct shall engage in the practice of physical therapy as authorized by this [act]. This [act] shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

Commentary

A statement of legislative intent makes explicit the desire of the legislature to place public interest first and foremost in the law that governs physical therapy. There is an inherent benefit to society and to individuals when public health, safety and welfare are protected through licensure. Licensing boards are obligated to ensure that the public actually realizes these benefits from the law.

Licensure is inherently restrictive for the licensee and exclusive to the particular profession. Only those who “meet and maintain prescribed standards” established by the board will, for the protection and benefit of the public, be allowed to profess their qualifications and provide their services to the public. The public is dependent upon the jurisdiction to evaluate and affirm the qualifications for licensure of physical therapists and licensure [certification] of physical therapist assistants.

The use of “maintain” in the model statute refers to the licensee’s ongoing commitment to maintain minimal standards of practice throughout a career, also known as continuing competence. The Model Practice Act addresses continuing competence and provides the regulatory authority for this responsibility in the additional paragraphs: *Powers and Duties of the Board*, Article 2.02.8 and 2.02.26 *License [or Certificate] Renewal*, Article 3.05.A.2 and B.2, *Reinstatement of License [or Certificate]*, Articles 3.07.B and C.

The last sentence of the model statute mandates that all interpretations of the practice act and associated rules be “construed liberally”; Liberal construction is a legal concept instructing all parties interpreting a statute to give an expansive meaning to terms and provisions within the statute. This applies to the drafting and interpretation of rules, as well as instruction to the courts for how the statutes and rules combined should be interpreted, and that interpretation shall not only be based on the actual words and phrases used herein, but also by taking into account the legislative intent of promoting the public interest and accomplishing the purposes stated.

1.02 Definitions

As specifically used in this [act], the following terms have the meanings set forth below, unless the context requires otherwise.

Commentary

More exact language in the law produces more consistent understanding of the law by the public, the profession and the regulatory agencies created to enforce the law. Clear and concise laws require fewer modifications and less legal interpretation by attorneys, courts or by the office of the state attorney general.

Practice acts achieve clarity of intent and internal consistency by including definitions of the terms and phrases used within the act. Some of these are operational definitions that have more significance in a specific practice act because of the language used in that jurisdiction's laws. Other terms have overall significance in all practice acts because they define to *whom* and *what* is being regulated. The definitional terms listed below are the minimum recommended for inclusion in all practice acts, because they define *whom* and *what* is being regulated.

1. "Board" means the [specify the jurisdiction] board of physical therapy.

Commentary

This model language indicates a preference for an autonomous physical therapy licensing board structure. Some jurisdictions have autonomous boards, but some jurisdictions have physical therapy boards as part of jurisdiction medical boards or combined with other professions. There are also a few "super boards" where all regulatory activities are subordinate to one board, with distinct committees or commissions for the various professions. (See additional discussion in *Board of Physical Therapy*, Article 2.01).

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 advice or professional or expert opinion to, another physical therapist or professional healthcare provider via electronic communications, telehealth, or in-person.

Commentary

For the purposes of the Model Practice Act, per the definition of professional employee from the National Labor Relations Act, physical therapist assistants would be exempt from the status of "professional employee."

"(15) "professional employee" means—

(A) an employee engaged in the performance of work—

(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) requiring the consistent exercise of discretion and judgment in its performance;

(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;"

Consultation refers to a physical therapist rendering professional expert opinion or seeking professional expert opinion from another health care practitioner. The health care practitioner being consulted may possess highly specialized knowledge and skills to make recommendations, identify problems or solutions. In some cases, the physical therapist will find it necessary to seek the expertise of another healthcare practitioner to benefit the patient/client.

Consultations via electronic communications are intended to improve access to specialty expertise for patients/clients and practitioners without the need for an in-person visit.

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. “Examination” means a national examination approved by the board for the licensure of a physical therapist or the [certification/licensure] of a physical therapist assistant.

Commentary

This definition for examination clarifies that each jurisdiction’s practice act requires a national examination approved by the Board for licensure or certification. It also allows for the term “examination” to be used consistently throughout the act. The name of the examination shall be specified in rules, as many jurisdictions now specify the National Physical Therapy Examination of the Federation of State Boards of Physical Therapy.

6. “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.

Commentary

Electronic communications more accurately reflects the rapid change in technology and possible means of communications rather than the term telecommunications.

7. “Jurisdiction of the United States” means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

Commentary

This necessary clarifying definition specifies the range of possible licensing jurisdictions within the United States.

8. “Nexus to practice” means the criminal act of the applicant or licensee [certificant] posing a risk to the public’s welfare and safety relative to the practice of physical therapy.

Commentary

A “nexus” is a connection or series of connections linking two or more things. “Nexus” is a concept commonly used in the criminal law system, and generally evaluates if the act has a relationship in timing, causation, or logic to the practice of physical therapy. When evaluating nexus to practice, a jurisdiction looking at how the criminal action may affect or have a connection with their ability to safely practice physical therapy.

At the same time, the nexus to practice requirement means that a jurisdiction cannot deny an applicant solely on the basis on the existence of a criminal act. The nexus to practice requirement means the jurisdiction must be able to document a direct relationship between the criminal act and the specific responsibilities and practice setting considerations of the license or certificate the for which the applicant is applying.

A nexus to practice requirement is considered best practice and many jurisdictions have been passing legislation addressing the requirement. According to the Council of State Governments Justice Center, nearly one in four jobs in the U.S. require a government-issued license. However, many people with a criminal record are prohibited from receiving occupational licenses or discouraged from seeking jobs in licensed fields even when no nexus is present.

Furthermore, according to research compiled by the Council of State Legislatures, people of color and those from lower socio-economic status are far more likely to enter the nation's justice system than the general population. For licensing boards, this can mean that disqualification from licensure based on the existence of criminal history without demonstration of nexus can have an unintended discriminatory impact.

9. “Onsite supervision” means supervision by a physical therapist who is continuously onsite and present in the department or facility where services are provided. The supervising therapist is immediately available to the person being supervised and maintains continued involvement in the necessary aspects of patient/client care.

Commentary

“Onsite supervision” is an important inclusion in the definitions section. Some practice acts have very specific definitions where, for example, “onsite” is further defined as meaning direct visual contact, or defining “immediately available” within a time parameter of so many seconds or minutes. Such definitions are overly restrictive. The supervising physical therapist remains professionally and legally responsible for care rendered under the physical therapist’s license, as discussed under the previous definition for “Supervision”.

When onsite supervision is appropriate, the Model Practice Act language recommends that the supervisor should be within close proximity—in the department or facility—and immediately available. “Immediately available” is a term frequently used in healthcare statutes and in Medicare rules. It denotes a sense of urgency in delivery of care, not a sense, necessarily, of standing next to the person being supervised at all times.

The phrase, “maintains continued involvement in the necessary aspects of patient care,” is emphasized and underscores that supervising physical therapists are responsible for provided physical therapy interventions. Supervising physical therapists should remain actively involved with those persons who are under their care and supervision. The definition has been broadened to be inclusive of various types of onsite supervision and may include but not limited to the supervision of physical therapy assistants, physical therapy aides as well as supervision of personnel under restrictive licensure.

10. “Patient/client” means any individual receiving physical therapy from a licensee [or certificate holder] under this Act.

Commentary

The term “patient” has been replaced throughout this document by the term “patient/client” to reflect that licensees [certificate holders] work in a variety of different settings and that, in some of these settings (e.g. health clubs, wellness centers), the term “client” is more representative of the person the licensee [certificate holder] is treating.

11. “Physical therapist assistant” means a person who is [certified/licensed] pursuant to this [act] and who assists the physical therapist in selected components of physical therapy treatment intervention.

Commentary

Several jurisdictions continue to use language that designates that the “assistant” assists in practice (physical *therapy* assistant), rather than language that defines the “assistant” as one who assists the physical therapist (physical *therapist* assistant). Language that equates physical *therapy* assistant with physical therapist assistant is best handled in *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02.

The requirement that a physical therapist assistant “has met the conditions of this [act]” refers to applicant qualifications and requirements addressed in *Examination and Licensure*, Article 3. Educational requirements, such as being a graduate of an accredited physical therapist assistant education program, are best addressed in other areas of the practice act, not in definitions.

Other role delineation or restrictions a board shall wish to include should be specified in rules. The Model Practice Act includes language for both certification and licensure. A jurisdiction shall select its preferred form of regulation for PTAs and apply the appropriate term throughout the practice act.

Optional for PT Compact Members

11. “Physical therapist assistant” means a person who is [certified/licensed] pursuant to this [act] or holds a compact privilege and who assists the physical therapist in selected components of physical therapy treatment intervention.

12. “Physical therapist assistant-patient/client relationship” means the formal or inferred relationship entered into by mutual consent between a licensed [certified] physical therapist assistant and a patient/client or their legally authorized representative established once the physical therapist assistant assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged or treatment is formally transferred to another practitioner or as further defined by rule.

Commentary

Clearly defining the physical therapist assistant-patient/client relationship is important to clarify the professional boundary that must exist for objectivity in care. It is important to understand the inherent power dynamic in a clinician-patient relationship—regardless of gender or patient condition, this dynamic is real and powerful. The power differential between the physical therapist assistant and patient/client exists because the physical therapist assistant has knowledge and skills needed by the patient/client, access to personal medical information, and the patient/client's reliance on them for establishing boundaries in care. That power differential may continue after the end of formal treatment sessions, and boards should develop appropriate standards to protect the public even when the relationship may appear to be mutually consensual. Physical therapist assistants cannot have a relationship with someone who may still be vulnerable to the power imbalance. Additionally, discharging a patient only to have a relationship with them would also not be acceptable and is noted in some administrative codes.

13. “Physical therapist” means a person who is a licensed healthcare practitioner pursuant to this [act] to practice physical therapy. The term “physiotherapist” or “physio” shall be synonymous with “physical therapist” pursuant to this [act].

Commentary

Only a licensed physical therapist shall use the professional designation of “physical therapist.” Physiotherapist is included in the definition as synonymous with physical therapist to strengthen use of that title only by physical therapists. (See additional discussion under *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02.)

The term “healthcare practitioner” is defined in the *Guidebook for the National Practitioner Data Bank* as the “individual who is licensed or otherwise authorized by a state to provide healthcare services.” The term “healthcare provider” has a broader context. At this time, as related to this act, healthcare practitioner refers to a physical therapist, while healthcare provider is more appropriate for the physical therapist assistant.

Several jurisdictions have used the definition of “physical therapist” to introduce other concepts that are better addressed in other areas of a practice act. Language concerning supervision, educational preparation, exclusive use of titles and practice restrictions (no X-rays, surgery, etc.) are sometimes included in this definition in older practice acts but are more appropriately addressed elsewhere in the law.

Outside of the United States, the term “physiotherapist” and the abbreviation “physio” are more commonly used titles than physical therapist.

Optional for PT Compact Members

13. “Physical therapist” means a person who is a licensed health care practitioner pursuant to this [act] or holds a compact privilege to practice physical therapy. The term “physiotherapist” or “physio” shall be synonymous with “physical therapist” pursuant to this [act].

14. “Physical therapist-patient/client relationship” means the formal or inferred relationship entered into by mutual consent between a licensed physical therapist and a patient/client or their legally authorized representative established once the physical therapist assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged or treatment is formally transferred to another healthcare practitioner or as further defined by rule.

Commentary

Clearly defining the physical therapist-patient/client relationship is important to clarify the professional boundary that must exist for objectivity in care. It is important to understand the inherent power dynamic in a clinician-patient relationship—regardless of gender or patient condition, this dynamic is real and powerful. The power differential between the physical therapist and patient/client exists because the physical therapist has knowledge and skills needed by the patient/client, access to personal medical information, and the patient/client's reliance on them for establishing boundaries in care. That power differential may continue after the end of formal treatment sessions, and boards should develop appropriate standards to protect the public even when the relationship may appear to be mutually consensual. Physical therapists cannot have a relationship with someone who may still be vulnerable to the power imbalance. Additionally, discharging a patient only to have a relationship with them would also not be acceptable and is noted in some administrative codes.

15. “Physical therapy aide” means a person trained by or under the direction of a physical therapist who performs designated and supervised components of care related to physical therapy services.

Commentary

Physical therapy aides are generally trained on the job. Physical therapy aides are also known as, but not limited to: technicians (techs), rehabilitation(rehab) aides, or rehabilitation technicians (rehab techs). This does not preclude vocational or technical training that shall exist for physical therapy aides or “techs.” However, such training does not relieve the supervising physical therapist of responsibility for further on-the-job training. What this training is, and the documentation of the training, should be specifically addressed in rules. Regulation beyond this definition is not recommended for aides.

Massage therapists, exercise physiologists, athletic trainers or other persons who have technical or professional education or training, and who assist the physical therapist, should be considered physical therapy aides and be represented as such. The only exception to this is if such persons are providing consultative services and their particular service is not represented or billed as physical therapy.

16. “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].

Commentary

“Physical therapy” and “physiotherapy” are not generic terms. The *combined* language of the three definitions, “physical therapy,” “physical therapist” and the “practice of physical therapy,” is crucial to curtail frequent misrepresentation in the use of these terms and thus strengthen physical therapy practice acts. When changes to

any of these definitions are made they should be examined and changed in concert. It is equally important that the exclusive use of titles and terms be included whenever changes in definitions are made. (See National Examination, Article 3.01, *Use of Titles and Terms, Restrictions; Classification of Violation*, Article 4.02, and *Unlawful Practice; Classification; Civil Penalties; Injunctive Relief*, Article 4.09.)

The public expects the jurisdiction to ensure that practitioners of every profession practice competently within their scope. Jurisdiction regulation includes restrictions on how licensees represent themselves and the use of titles and/or letters and representations that do not mislead the public. For example, a medical or osteopathic physician practices and represents to the public that he or she practices medicine but not dentistry. When practitioners other than physical therapists represent that they are providing “physical therapy” or “physiotherapy,” they are violating the very spirit and core of licensure laws by misrepresenting themselves to the public.

“Physiotherapy” is included in the definition as synonymous with “physical therapy.” This strengthens the protection of the term “physiotherapy,” a historically significant term and current international title, and one that is often used as a generic term and misrepresented by other disciplines.

In the past the practice of physical therapy was defined by listing various physical agents and modalities such as heat, ice, ultrasound, etc. This perpetuated the false concept that physical therapy was a generic term since these physical agents and modalities have not been the exclusive domain of physical therapy.

The solution to strengthening practice acts is to clearly define “physical therapy” as “the care and services provided or under the direction and supervision by (*and only by*) a physical therapist.” Additional strengthening comes from a more modernized definition of the “Practice of physical therapy” that describes current scope of practice and from language in *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02 that protects the public from misrepresentation by others.

Removing the term *individuals* provides opportunity for boards to allow the practice of animal physical therapy for those boards who wish to address animal physical therapy.

Considering the growth of the delivery of physical therapy via telehealth, specifying both modes of delivery in the definition makes clear that the practice of physical therapy is not defined by the mode of delivery.

17. “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, functional limitations and disabilities; promoting health; and preventing disease by designing, implementing and modifying treatment interventions that may include, but ~~are~~ 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 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. Referring a patient/client to healthcare providers and facilities for services and testing to inform the physical therapist plan of care.
- e. Engaging in administration, consultation, education, and research.

Commentary

This language represents the “statutory” definition of the scope of physical therapist practice by identifying the main elements included within the scope. It also supports the two preceding definitions of the profession (physical therapy) and the professional (physical therapist).

The component elements of a profession’s “scope of practice” include three determinants: 1) an established history of inclusion in education and training; 2) an established history of inclusion in clinical practice; and 3) specific statutory authority. When the first two determinants are well established, then specific statutory authority may also be substituted by the “*absence of* statutory prohibition.” For example, where a practice act is silent on the issue of needle insertion EMG, the fact that there is a long history of educational inclusion and an established history of clinical practice in physical therapy substantiates this procedure as being within the scope of practice of physical therapy. Legal opinions in the form of affirmative court decisions also play a role in defining scope of practice, as they have in this specific example. The Model Practice Act offers additional definition language under Paragraph 10 for testing that allows for electrodiagnostic procedures.

The definition of the practice of physical therapy in the MPA gives a clear description of current practice. This definition forms a well-organized and structured outline for the scope of contemporary physical therapy practice. A few additional points regarding this model definition are important to highlight.

The wording “patients with mechanical, physiological and developmental impairments, functional limitations and disability or other health and movement-related conditions” is sufficiently broad to allow for inclusion of any type of patient that physical therapists encounter. Physical therapists must examine and evaluate each patient prior to initiating treatment interventions.

Determining “a diagnosis” rather than “diagnosis” or “the diagnosis” is a subtle but very important point. Direct patient access to physical therapy services is now a reality in the majority of jurisdictions. Physical therapists must determine a diagnosis regarding the patient’s specific condition for which they will be providing treatment intervention prior to making patient management decisions. A diagnosis from a referral source does not rule out a physical therapist’s responsibility to arrive at a diagnosis specific to the condition for which the therapist’s treatment plan and intervention will be directed. By contrast, an inappropriate phrase and one strongly advised against, is “a physical therapy diagnosis.” “Diagnosis for physical therapy,” on the other hand, would be appropriate. Although diagnostic labels, tests or tools shall vary, the process of diagnosis is consistent among health professionals and should not be compartmentalized by provider.

The evaluative and diagnostic process should also include a prognosis or an expectation of outcome associated with treatment intervention. This shall also include time or outcome expectations. The end result of the evaluative process is the design of the treatment intervention. The effects of the treatment intervention are assessed regularly in order to make modifications to the intervention.

It is not necessary or advisable to list the tests and measures used by physical therapists within the definition of the “Practice of physical therapy.” The use of this definition of the “Practice of physical therapy,” should prevent any unreasonable restrictions on current or developing evaluative procedures used by physical therapists.

In Paragraph 4.b., it is appropriate to list some of the typical interventions used in physical therapy. This helps to exemplify the breadth and scope of practice based on education and training. A stand-alone list of physical agents or modalities is not recommended. Similarly, parts of the patient’s/client’s body that may be treated are not listed out. For example, a physical therapist may perform physical therapy for the pelvic floor or temporomandibular joint, both of which may include internal treatments, when the physical therapist has been trained in these specialized areas.

Because of political sensitivities over the term “manipulation,” it shall occasionally be necessary to find an acceptable alternative that still authorizes, and in no way limits, the use of manipulative therapy procedures by physical therapists. An acceptable alternative is to retain in Paragraph 4.b the term “manual therapy” or “manual

therapy techniques” (without using the term “manipulation”) and then further define “manual therapy” in statutes or rules. In 1998 the American Medical Association approved specific CPT coding for use by M.D. physicians and physical therapists for “manual therapy techniques.” This code also contains the terms “mobilization” and “manipulation” as part of the CPT code description.

A physical therapist may refer a patient/client to another healthcare practitioner when information is sought to inform the plan of care and/or to obtain services for the patient/client that are beyond the scope of practice of the physical therapist. The physical therapist may:

- Refer an individual to another provider and conclude care, or not develop a plan of care
- Refer an individual to another provider and continue the plan of care at the same time

If an additional description or clarification is needed for “debridement and wound care” or “needle insertion” it should be further specified in statutes or rules. (See *Guidelines for Rules*.)

18. “Restricted [certificate/license]” for a physical therapist assistant means a [certificate/license] on which the board has placed any restrictions and/or condition as to scope of work, place of work, duration of certified or licensed status, or type or condition of patient or client to whom the certificate holder or licensee may provide services.

19. “Restricted license” for a physical therapist means a license on which the board has placed any restrictions and/or conditions, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client to whom the licensee shall provide services.

20. “Supervision” means the process by which a physical therapist oversees and directs safe and effective delivery of patient/client care through appropriate verbal, written, or electronic communication. This may be accomplished with the physical therapist located onsite or remotely as deemed appropriate based on the patient/client needs.

Commentary

Version 7 of the Model Practice Act has added a definition of “supervision” to underscore the fact that the physical therapist is ultimately the party responsible for the safe and effective delivery of patient care, and that the physical therapist is responsible for determining the level of supervision and direction that is appropriate. While some sections or rules may specify onsite supervision is required, this underscores that even if not required in statute or rule, onsite supervision may be appropriate and therefore necessary based on the needs of the patient/client.

It is also important to note that within patient management, “direction” and “supervision” are functions that belong solely to the licensed physical therapist. The physical therapist assistant shall receive help from a physical therapy aide when performing certain tasks or procedures, but the physical therapist assistant does not assume the responsibility to “direct and supervise” the provision of care. That responsibility remains with the supervising physical therapist and, by law, cannot be relinquished to another.

21. “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.

Commentary

As telehealth has emerged as a critical mode of delivery of physical therapy, it bears stating that the PT/PTA and patient/client relationship can be fully established in the absence of actual physical contact between the PT/PTA

and the patient/client. Telehealth is not a new treatment, or an expansion of scope of practice, but a means to deliver physical therapy care to those in need. The physical therapist is still responsible for the care of the patient and for making determinations of the best means to deliver that care. The standards of care and practice, laws, and regulations currently required to be followed for any in-person encounter must also be followed for any encounter via telehealth. The way in which components of intervention are rendered and the supervision levels required may be further clarified in rule.

Many jurisdictions have provisions for offsite supervision of physical therapist assistants. The way in which components of intervention are rendered by physical therapist assistants under offsite supervision, or interventions rendered directly to a patient by a physical therapist through some means of electronic communications, shall be areas of statute or rules needing further clarification.

22. “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.

Commentary

The definition of “Practice of physical therapy,” Paragraph 4a, includes a reference to “testing.” That statutory definition is purposely and necessarily broad and does not specify any particular tests (see *Commentary* under Paragraph 4). This statutory Paragraph 10 accomplishes two things: it incorporates the profession’s accepted standard definition of “tests and measures,” and it also includes a reference to particular diagnostic testing procedures that are within the scope of physical therapy practice but have occasionally been challenged legally or legislatively.

Some jurisdictions already have, and others shall wish to include, rules that specify additional training requirements and certification procedures relative to physical therapists performing electrodiagnostic and electrophysiologic procedures.

Optional for PT Compact Members

“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/client is located at the time of the patient/client encounter.

Article 2: Board of Physical Therapy

2.01 Board of Physical Therapy

Commentary

The language in this section is constructed upon the model of an autonomous licensing board. The title for this section could easily be modified, if necessary, to apply to other board structures. For example, if a jurisdiction board is actually a panel within a larger Board of Healing Arts, the title might be *The Physical Therapy Panel of the State Board of Healing Arts*.

A. The board of physical therapy shall consist of [seven] members appointed by the Governor. [Four] members shall be physical therapists who are residents of this jurisdiction, possess unrestricted licenses to practice physical therapy in this jurisdiction and have been practicing in this jurisdiction for no less than five years before their appointments. [One] member shall be a physical therapist assistant who is a resident of this jurisdiction and possesses an unrestricted [certificate/license]. The Governor shall also appoint [two] public members who shall be residents of this jurisdiction and who are not affiliated with, nor have a financial interest in, any healthcare profession and who have an interest in consumer rights. The Governor shall, to the greatest extent possible, appoint individuals to achieve diversity on the board.

Commentary

Most jurisdictions have licensing board members who are appointed by an elected official, usually the Governor. Public members are commonly included on boards, but often there is only one public member. Some jurisdictions currently have fewer than five total board members, while larger jurisdictions have far greater numbers serving on their boards.

The language in the Model Practice Act of having no fewer than seven board members is based on the recommendation that boards have a minimum of two public board members. With that minimum, there should also be at least three professional members. The following ratios of professional to public members are the recommended ratios for various board sizes:

| Board Size | Professional Members – PT Members | PTA Members | Public Members |
|------------|-----------------------------------|-------------|----------------|
| 7 | 4 | 1 | 2 |
| 8 | 4 | 1 | 3 |
| 9 | 5 | 1 | 3 |
| 10 | 6 | 1 | 3 |

A board comprising a majority of professionals along with a well-represented component of public members is capable of addressing the many complex and technical issues related to educational preparation and practice procedures. Public representation on boards is essential. Public members heighten the sensitivity of the board to public concerns and consumer protection.

Physical therapist and physical therapist assistant members of the board must reside in the jurisdiction, have practiced for a period of five years preceding their appointments, and have no restrictions on their licenses. The Model Practice Act makes no reference to a nomination process or guarantee of a position on the board from a professional association. This does not preclude a professional association or any other organization from making a nomination. Requirements for a nomination from the physical therapy professional association in the statute is an inappropriate link between a public board and a private professional association.

Public appointees should be competent to serve and effectively advocate for the public. Public members should not be members of any other healthcare discipline or be close enough to one that they shall have a financial or professional interest in the decisions made. In addition to those actually working as healthcare providers, this model language precludes appointment of spouses or immediate family members and those employed by any healthcare provider or organization. The intent is to obtain representation by public members who can be uncompromised in their interests and advocacy on behalf of the public.

B. Board members shall serve staggered four-year terms. Board members shall serve no more than two successive four year terms or for more than ten consecutive years. By approval of the majority of the board, the service of a member shall be extended at the completion of a four-year term until a new member is appointed or the current member is reappointed.

Commentary

A four-year term provides sufficient time to become thoroughly familiar with board functions and processes. Serving two consecutive four-year terms for a total of eight years should not be as imposing an obstacle as serving two five-year terms. The ten consecutive year provision addresses the circumstances in which someone is appointed to fill a partial term and, in addition, fills two consecutive terms.

C. The board may request the Governor remove any member of the board for misconduct, incompetence or neglect of duty.

Commentary

Many statutes specify that a member shall be removed for cause and list several causes, but they do not specify a mechanism. The Governor appoints those who serve on licensing boards, often subject to legislative approval, and should also retain the power to remove members, with certain restrictions. The causes for removal, the process for board consideration and action, and the recommendation to the Governor for removal should all be specified in rules. Such language in statutes and rules shall also preclude mass reappointment of board members due to political reasons, i.e. change in Governor or party affiliation. Preventing mass changeover will also help preserve the board's history and continuity.

D. Board members are eligible for [compensation and] reimbursement of necessary expenses pursuant to [cite applicable statute relating to [compensation and/or reimbursement] for attending each board meeting or for representing the board in an official board-approved activity.

Commentary

Most jurisdictions provide a *per diem* and reimbursement for members, but the method varies. Reimbursement procedures should be specified by reference to applicable statutes or in rules.

E. A board member who acts within the scope of board duties, without malice and in the reasonable belief that the member's action is warranted by law, is immune from civil liability.

Commentary

Commentary

Typically, members have absolute or qualified immunity from liability or suit while serving on a licensing board. This paragraph points out that even this protection has its limits if a board member's conduct is determined to be unwarranted or with malice.

Although many jurisdictions have separate statutes dealing with board member immunity from liability, each jurisdiction's law should be carefully analyzed to ensure that no further mention need be made in the jurisdiction's practice act. In light of the increased threat of litigation against jurisdiction administrative bodies, it is better to ensure, by way of the statute, the immunity of board members when acting without malice and in the scope of their duties.

2.02 Powers and Duties of the Board

The board shall:

1. Evaluate the qualifications of applicants for licensure [and certification].

Commentary

Establishing application requirements and reviewing credentials and other application material is often the first interaction a board has with a prospective licensee. This is the first duty and power listed. "Qualifications" such as graduation from an accredited education program or passing the national licensing examination are generally identical from jurisdiction to jurisdiction. Additional jurisdiction "requirements" are often specified in rules and include specific application questions or details that shall be particular to a given jurisdiction. Meeting the qualifications includes also meeting board requirements if statute language as in *Qualifications for Licensure and Certification*, Article 3.02A is used in a practice act. This is because the "qualifications" as listed under 3.02.A also include meeting jurisdiction "requirements" that shall be further defined in rules.

2. Provide for the examination of physical therapists and physical therapist assistants.

Commentary

This language authorizes testing of both physical therapists and physical therapist assistants by standardized national examinations approved by the board. The name of the examinations can be specified in rules.

3. Issue licenses [or certificates] to persons who meet the qualifications of this [act].**Commentary**

Boards are authorized by this paragraph to issue the appropriate license or certificate after all qualifications (including board requirements) as stated in statutes and rules have been met.

4. Regulate the practice of physical therapy by interpreting and enforcing this [act].**Commentary**

A significant responsibility of licensing boards is interpreting and enforcing the statutes and rules of the practice act. Interpreting the practice act often is derived from a consistent pattern of board actions over time that guides further actions consistent with the statutes and rules. Substantive board policy and opinions are also derived from these consistent actions and interpretations. Rules provide a more formal process for recording and compiling substantive board policy, decisions and opinions. Board decisions shall also provide a valuable guide to the court in the event of an appeal from the administrative hearing level. Jurisdictions shall also have other administrative statutes relating to substantive board policies or opinions. Discipline, including consent orders that are part of the disciplinary process, is a component of the board's authority to regulate and enforce the practice act. The statutory authority of the board for this role should be clearly stated so that an assistant attorney general, in their role of protecting the interest of the jurisdiction, does not tie the hands of board members in their statutory role of interpreting and enforcing the practice act.

5. Have the authority to establish committees, advisory panels, and task forces to further the work of the board.**Commentary**

The board may need specific topics researched or discussed in more detail than typical board meeting time allows. Committees, advisory panels, and task forces can perform the research and report back to assist the board in making decisions and acting.

6. Adopt and revise rules consistent with this [act]. Such rules, when lawfully adopted, shall have the effect of law.**Commentary**

This rule-making authority is essential to the regulatory process. The Model Practice Act attempts to include only necessary, empowering or authorizing language in statutes, leaving the remainder of administrative process and procedure to rules. It is important to clearly define that legally promulgated rules have the effect of statutory law, especially where there is any chance that rulemaking shall only be given the weight of *policy*. Policy decisions, normally, are not legally enforceable.

Jurisdictions vary considerably in the process used to adopt rules. Some licensing boards have wide latitude and discretion; others are under Governor or jurisdiction legislative oversight nearly as restrictive as that required to change the statutes. There are generally other administrative codes or laws that address the rule-making procedure. (See additional discussion in *Guidelines for Rules*.)

7. Meet at least once each quarter in compliance with the open meeting requirements of [cite applicable statute]. A majority of filled board members positions shall constitute a quorum for the transaction of business. The board shall keep an official record of its meetings.**Commentary**

This language sets a minimum meeting frequency to comply with the law. Board meetings are subject to open meeting laws, and administrative procedures acts specify when executive sessions are permissible or advisable. Of necessity, boards require that a majority of members be present to conduct business. Recordkeeping is legally required.

8. Establish mechanisms for assessing the continuing competence of physical therapists to practice physical therapy.

9. Establish mechanisms for assessing the continuing competence of physical therapist assistants to work in the profession of physical therapy.

Commentary

This paragraph empowers the board to set the requirements for assessing continuing competence to practice physical therapy.

The public has been increasingly concerned that licensed professionals demonstrate competence to practice, and all healthcare professions are developing appropriate models to provide for the valid and measurable assessment of continuing competence. Mandatory continuing education as the sole method for meeting requirements for licensure renewal is not recommended. There is no empirical evidence that mandatory continuing education ensures continuing competence of licensees. This Model Practice Act recommends that demonstrating continued competence to practice physical therapy applies only to license renewal of physical therapists.

Models or processes that shall be considered for assessing the continuing competence of physical therapists are outlined in *Guidelines for Rules*.

10. Establish and collect fees for sustaining the necessary operation and expenses of the board.

Commentary

This clause empowers boards to establish and collect fees. Placing the listing of specific fees in the rules gives greater latitude for changes in fee structure that shall occur from time to time. Rules should include a breakout of all the fees, including application fees for licensure and certification, testing fees, renewal fees, reinstatement fees, late penalties, etc.

11. Elect officers from its members necessary for the operations and obligations of the board. Terms of office shall be one year.

Commentary

Eligibility requirements and any particular duties related to the various offices should be specified in rules.

12. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this [act], and board rules, policies and procedures.

Commentary

Several practice acts fail to include requirements for orientation and training of new board members. For the benefit and protection of the public, timely and adequate training of new appointees needs to be a statutory requirement. Responsibility for board orientation and training should be that of the board officers assisted by staff. Appropriate materials provided to a new appointee shall include the statutes and rules, substantive board policies,

other board operational policies, contracts, minutes, sunset reviews, legislative audits, procedures and historical documents.

13. Maintain a current list of all persons regulated under this [act]. This information includes each person's name, current business and residential address, email address, telephone numbers, and license [or certificate] number.

Commentary

Boards should exercise discretion in how they distribute or share such information, subject to the jurisdiction's open records act. For example, board policy shall need to include whether information is shared or sold to patient/client's or organizations for commercial purposes. The public should have access to information regarding those licensed or certified by the jurisdiction. A jurisdiction board directory of licensees and certificate holders shall be one appropriate mechanism for sharing this information. Technological advances shall provide other avenues of electronic access to this information. It is important to note that home addresses and telephone numbers are not public information unless they are the only address and telephone numbers of record, as stated in *Rights of Consumers*, Article 4.12. An email address is becoming increasingly important for board communication with licensees but also is not a public record under *Rights of Consumers*, Article 4.12.

14. Provide information to the public regarding the complaint process.

Commentary

Boards should provide the public with assistance to facilitate the complaint process. The board should have easy-to-follow information available to aid a person who wishes to file a complaint against a licensee or certificate holder. Some jurisdictions require the posting of a public notice in each physical therapy facility that includes contact information for filing a complaint with the Board. Some jurisdictions require the posting of copies of jurisdiction licenses of those individuals providing services in that facility. Such a requirement with the actual language to be used could be specified in rules.

15. Employ necessary personnel to carry out the administrative work of the board. Board personnel are eligible to receive compensation pursuant to [cite specific statute].

Commentary

The board should have statutory authority to employ necessary personnel to carry out duties of the board. The board must comply with jurisdiction administrative employment guidelines, including relevant compensation guidelines. Final decisions to hire, release, give direction relative to duties, review for pay increases, etc., should reside with the board.

16. Enter into contracts for services necessary for enforcement of this [act].

Commentary

This provides for additional activities that shall be needed to carry out the work of the board. This shall include contracts for investigators, administrative law judges or hearing officers, board consultants, outside legal counsel where permitted by law or regulation, and for other services deemed necessary by the board.

17. Report final disciplinary action taken against a licensee [or certificate holder] to a national disciplinary database recognized by the board or as required by law.

Commentary

The ending phrase, "...or as required by law," is in reference to the federally mandated reporting system known as the Healthcare Integrity and Protection Data Bank (HIPDB). Since 1999, jurisdiction boards have been required to report "final adverse action" against anyone regulated by the board to the HIPDB. This requirement is a result of the Health Insurance Portability and Accountability Act (HIPAA), which was signed into law in 1996. The Affordable Care Act of 2010 required a transfer of data from HIPDB to the National Practitioner Data Bank (NPDB). As of 2013, HIPDB was no longer operational; the functions of HIPDB are now with the NPDB.

Naming the Federation of State Boards of Physical Therapy as the jurisdictional board's agent or intermediary for reporting adverse action to the HIPDB facilitates the gathering of data and jurisdictional access to that information in the Federation's national database of disciplinary actions. The Federation of State Boards of Physical Therapy will automatically supply this information when it sends a score report for an applicant currently licensed or certified in another jurisdiction. The effect of this program will be to prevent someone from moving from one jurisdiction to another to escape disciplinary consequences. *Grounds for Denial of License [and Certificate]; Disciplinary Action*, Article 4.04, contains the statute clause allowing previous disciplinary action to be sufficient grounds to continue a disciplinary action in the new jurisdiction or to deny the applicant a license or certificate.

18. Report information of alleged unlawful conduct by licensees [or certificate holders], unlicensed individuals, other healthcare providers, and entities to the appropriate county, jurisdiction, or federal authority.

Commentary

Reporting requirements are imposed by law through other agencies related to law enforcement, public protection or the courts. Jurisdictional boards should have clear authority to comply with such reporting requirements.

Jurisdictions may consider sharing information, records, and documents received or generated by the physical therapy licensing board pursuant to an investigation. Although they cannot act, sharing information of this type prior to resolution of the complaint may alert other jurisdictions of a potential threat to the public's safety. This is similar to the agreement within the Compact to share investigative information pertaining to a licensee [certificate holder] in any member state. Compact member states will abide by the specifics from the Compact statute regarding sharing investigative information.

19. Publish, at least annually, final adverse action taken against a licensee [or certificate holder].

Commentary

The public has the right to know about disciplinary actions taken against any regulated healthcare provider. The purpose of discipline is to remove the risk of harm to the public, correct deficiencies in conduct, and address violations of the law. Discipline is first corrective in nature but shall become punitive if violations are repeated or are serious enough to constitute a threat of harm or actual harm to the public. Whether it is potential or actual harm and whether the discipline is corrective or punitive, the public has the right to access public records pertaining to final disciplinary actions against those regulated by the practice act.

Paragraphs 17 and 18 specify making "final disciplinary action" known to others. Boards shall also be required to release general information about pending complaints; for example, "the licensee has two pending complaints being processed or under investigation." The particular open meeting laws of a jurisdiction will also affect what information a board must release. The board shall also need to address, in rules and in consultation with legal counsel, the extent to which complaint information appears in the minutes of their proceedings.

There are various confidentiality laws that shall guide such decisions. Information being released or published could also be in other forms, and the model statute language speaks of at least two. First, boards must publish at least annually a notice of final disciplinary action against any licensed physical therapist or certified physical therapist assistant. This could occur through the board's own newsletter, through a professional association

newsletter, or through local print media. Second, boards should develop a method to easily accommodate consumer requests for status on any given licensee or certificate holder. A board website shall suffice.

20. Publish, at least annually, board rulings, opinions, and interpretations of statutes or rules in order to guide persons regulated pursuant to this [act].

Commentary

Boards are frequently asked by licensees or other members of the public to provide advisory opinions clarifying definitions or practice issues. This clause gives boards authority to issue such advisory opinions and to publish them periodically as a guide to those regulated under the practice act.

21. Participate in or conduct performance audits.

Commentary

Many jurisdictions conduct regular performance audits of their boards or jurisdiction agencies using an agency such as an Office of the Auditor General. Such audits should suggest improvements in board performance. Boards may find FSBPT resources including but not limited to the Board Assessment Resource, Examination, Licensure, and Disciplinary Database, Healthy Practice Guidelines, and Model Board Action Guidelines helpful to prepare for the audit. The audit results shall also be important if policy makers question the need for the existence of a board. Substantiation of actions taken for public protection demonstrates continued public benefit from the board. This, or an additional clause, shall also require an annual reporting process to the Governor.

22. Have the authority to fully participate in a national Exam, Licensure, and Disciplinary Database as defined by rule.

Commentary

"Exam, Licensure and Disciplinary Database (ELDD)" means an integrated process for collecting, storing, and sharing information on physical therapist and physical therapist assistant licensure/certification and enforcement activities related to physical therapist and physical therapist assistant licensure laws that are administered by a nonprofit organization composed of and controlled by licensing boards." The preferred Exam, Licensure, and Disciplinary Database named in rules is the FSBPT's ELDD. Even though states are required to report disciplinary actions to the National Practitioner Databank (NPDB), this is not sufficient. Boards should participate in another profession-specific database, such as the FSBPT ELDD, to maximize public protection. In order to find out if someone has been reported to the NPDB, a state board must send a query to the NPDB for that information, the information is not automatically sent to the Board. The Board also has to pay to query the NPDB for that specific person; the FSBPT automatically notifies all jurisdictions of the disciplinary record associated with an individual (existing license or open score transfer) in the FSBPT's Exam, Licensure, and Disciplinary Database (ELDD) for no charge.

"Fully participate" must be defined in the rules. Fully participate means supplying licensure and discipline data meaning identifying information that includes but is not limited to the licensee's name, address, nationally recognized unique number of identification (such as the FSBPT ID number), date of birth, and physical therapist/physical therapist education. It is necessary to have at least one unique identifier to confirm identity and avoid mistakes in matching data to individuals. By applying for physical therapist or physical therapist assistant licensure[certification], individuals shall consent to allowing the board to share their licensure and discipline data with the ELDD.

Jurisdictions should be concerned with the security of the information provided to the ELDD. Unless specific permission is granted by the individual, such as releasing a score to a school, access to the information should be restricted to sharing only with other member jurisdictions. Whenever possible, such as for research purposes, information released by the ELDD should only be in the aggregate without reference to any person's name or

other individual identifiers. FSBPT maintains a high level of security for ELDD data and follows these recommendations.

23. Have the authority to obtain biometric-based information from every physical therapist or physical therapist assistant applicant for licensure[certification] and submit this information to the Federal Bureau of Investigation for a criminal background check.

Commentary

FBI background checks should be in accordance with 28 U.S.C. §534 and 42 U.S.C. §14616. In order to be considered for FBI criminal background check approval the state code must comply with the requirements of Federal statute P.L. 92-544 which consists of the following criteria:

- a. The statute must exist as a result of a legislative enactment;
- b. It must require the fingerprinting of applicants who are to be subjected to a national criminal history background check; .
- c. It must expressly or by implication authorize the use of FBI records for the screening of applicants;
- d. It must identify the specific category of applicants/licensees falling within its purview, thereby avoiding overbreadth;
- e. It must not be against public policy; and
- f. It must not authorize receipt of the CHRI by a private entity

However, jurisdictions should consult their state ID bureaus regarding the recommended statutory language in order to meet the requirements of P.L. 92-544. A list of the ID bureaus can be found at <https://www.fbi.gov/services/cjis/identity-history-summary-checks/state-identificationbureau-listing>

24. Have the authority to determine and collect, at the time of new licensure [or certification] and licensure [or certification] renewal, a core set of data elements deemed necessary for the purpose of workforce assessment and planning. The data elements shall be used to create and maintain a healthcare workforce database. The Board may enter into agreements with a private or public entity to establish and maintain the database, perform data analysis, and/or prepare reports concerning the physical therapy workforce. The Board shall promulgate rules to perform duties pursuant to this [act].

Commentary

Collecting a core set of data elements, or minimum data set, for physical therapists/physical therapist assistants allows workforce information to be standardized. Some jurisdictions may have a data set specific to physical therapy providers while others will have a data set for multiple health care professions.

In some jurisdictions, the Board may be required to provide this data either upon request or as required to other state agencies, the Legislative Assembly, the public etc. The Board may choose to add this requirement in the statutory language or in rules.

Whenever possible, information should be released by the Board only in the aggregate without reference to any person's name or other individual identifiers. A Board may choose to add language to that effect in the statutory language or to rules.

25. Have the authority to require a licensee [certificate holder] to complete educational activities.

Commentary

At times it may be necessary for the board to require licensees [certificate holders] to complete educational activities that are non-disciplinary or outside the typical continuing competence requirements. For example, a board may choose (if able) to require a licensee [certificate holder] to complete education on a topic if a complaint is lodged but found to not have enough merit to move forward with a formal investigation and disciplinary

process, however the behavior of the PT or PTA warrants intervention by the board. A board may also have a topic of concern (e.g., COVID-19 pandemic) that justifies additional educational activities to be completed.

Optional for PT Compact Members

26. Participate in a national licensure compact.

Commentary

Including language to allow the Board to participate in a national licensure compact removes all questions as to the ability of the Board to implement necessary procedures to be compliant with the requirements of membership in a licensure compact.

2.03 Disposition of Funds

(No model language is offered under this section heading. See *Commentary* for further information.)

Commentary

No model language is offered under this section, but the heading is noted in the Model Practice Act because this is the proper location to include this language within a practice act.

This section would not include fees or the setting of various fees, but it would cover such topics, for example, as specifying 1) which jurisdiction fund monies are deposited into, general or cash fund 2) how funds are used to cover board expenses, including compensation for appointees' expenses and 3) whether there is a division of fees between a jurisdiction's general fund and that used specifically by the physical therapy board. There shall also be references or a deferring to other jurisdiction statutes that guide or direct jurisdiction agency funding issues.

Article 3: Examination and Licensure

3.01 National Examination

A. The board shall provide for a national examination within the jurisdiction.

B. To be eligible to sit for the national examination, the candidate must meet nationally recognized requirements that support the integrity of the examination and are further defined by rule.

1. The physical therapist examination is a national examination that tests entry-level competence related to physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention, and consultation.

2. The physical therapist assistant examination is a national examination that tests for requisite knowledge and skills in the technical application of physical therapy services.

C. Candidates must agree to abide by security and copyright provisions related to the national licensure examination. If the board determines that an applicant has violated any of these provisions or engaged in or attempted to engage in any other conduct that subverts or undermines the integrity of the examination process or validity of examination results, the board may disqualify the applicant from taking or retaking the examination permanently or for a specified period of time.

D. Any violation of security and copyright provisions related to the national licensure examination, subversion or attempts to subvert the national examination shall be reported by the board to the Federation of State Boards of Physical Therapy.

E. If the board determines that an applicant has engaged or has attempted to engage in conduct that subverts or undermines the integrity of the examination process, including a violation of security and copyright provisions related to the national licensure examination, the board may disqualify the applicant from taking or retaking the examination permanently or for a specified period of time.

Commentary

The entry-level examinations for licensure and certification are provided at testing centers in each state.

The examination for a physical therapist is “competency specific” and covers the entire scope of practice, including theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention and consultation that are consistent with the exam blueprint. This list of competencies is included in the definition of the “Practice of physical therapy.” (See *Definitions*, Article 1.02.)

Examinations used for the measurement of entry-level competence are in most cases protected by copyright laws. The National Physical Therapy Examinations are protected by copyright. Individuals who share questions from any board-approved examination by memorizing, giving away, attempting to give away, receiving recalled questions or trafficking in the same, shall be subject to legal action and/or potentially severe discipline including being prohibited from testing for licensure or losing an existing license. This is also addressed under *Grounds for Denial of License [and Certificate]; Disciplinary Action*, Section 4.04 and 4.07.

3.02 Qualifications for Licensure [and Certification]

A. An applicant for a license as a physical therapist shall:

- 1. Complete the application process including payment of fees.**
- 2. Submit proof of graduation from a professional physical therapy education program accredited by a national accreditation agency approved by the board.**
- 3. Pass a national examination approved by the board.**
- 4. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.**
- 5. Submit to a criminal records check.**
- 6. Meet the requirements established by board rule if applicable.**
- 7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].**

Commentary

The detailed procedure and requirements for license application should be outlined in rules rather than statutes. For example, the board shall decide what questions to include in the application form about criminal records, substance abuse or any other conduct that shall constitute grounds for denial of a license. (See *Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04.) Rather than a vague statement about moral character, such questions will provide more specific information to a board about fitness to practice in addition to the qualifications for practice determined through graduation and passing an entry-level exam.

Jurisdictions may choose to require additional exams for licensure. A common example is a jurisprudence exam testing knowledge of a state’s laws and rules. All licensed physical therapists (PTs) and licensed [certified] physical therapist assistants (PTAs) should be familiar with the practice act and rules under which they are allowed to work.

Many jurisdictions have administrative code that applies to applicants and licensees[certificate holders] of many different disciplines. Applicants and licensees [certificate holders] must meet these requirements to become licensed. Additionally, a jurisdiction may pass laws requiring additional coursework and assessment for applicants within that jurisdiction either at time of initial application or upon renewal. The model practice act provides statutory language enabling any and all of the above examples of additional exams.

An important qualification for licensure is graduation from an accredited educational program. It is not recommended that the actual accrediting agency be named in the statutes. The agency currently accrediting physical therapy education is the Commission on Accreditation in Physical Therapy Education (CAPTE). This agency can be identified either by rule or by board policy. The model language specifies that it is the accrediting agency, rather than each educational program, that needs the approval of the board.

The U.S. Supreme Court (*Dent v. West*, 1889) upheld the constitutional right of jurisdiction licensing boards to set educational requirements for entry into practice. Accreditation, at least for U.S. professional programs, is the means of assuring standardized professional education, thereby giving licensing boards a degree of comfort in licensing a new graduate from any accredited educational program outside their jurisdiction, or granting licensure by endorsement to an applicant previously licensed in another jurisdiction who graduated from an accredited educational program.

The examination approved by the board currently in all jurisdictions is the National Physical Therapy Examination of the Federation of State Boards of Physical Therapy. Board requirements shall also include passing a jurisprudence or law exam.

B. An applicant for a license as a physical therapist who has been educated at a school that has not been accredited by an agency approved by the board shall:

- 1. Complete the application process including payment of fees.**
- 2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited entry-level program as determined by the board. Graduation outside the United States from a professional education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure educated at a school that has not been accredited by an agency approved by the board shall have:**
 - a. Graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy;**
 - b. Provided written proof that the applicant's school of physical therapy is recognized by its own ministry of education or other appropriate recognition agency;**
 - c. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and**
 - d. Completed any additional education as required by the board.**
- 3. Pass a board-approved English proficiency examination as required by the board as further established by rule.**
- 4. Pass a national examination approved by the board.**
- 5. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.**
- 6. Submit to a criminal records check.**
- 7. Complete supervised clinical practice as defined by rules with a restricted license.**
- 8. Meet the requirements established by board rule if applicable.**
- 9. Meet other statutory and regulatory requirements applicable to individuals licensed under this [Act].**

Commentary

The term "substantially equivalent," as defined here in model statute, should be delineated specifically in rules. Rule language should contain, at minimum, the requirement that any credentials evaluation 1) utilize the appropriate edition of the *FSBPT Coursework Tool for Foreign Educated Physical Therapists* in order to determine educational equivalency at the date of graduation; 2) require that a physical therapist trained in credential reviewing participates in the evaluation; and 3) require that quality assurance standards be met by the credentials review agency.

The *Illegal Immigration Reform and Immigrant Responsibilities Act of 1996* requires prescreening of applicants educated at a school that has not been accredited by an agency approved by the board for physical therapist licensure before granting work visas or a change in immigrant status. Screening includes credentials review, English proficiency examinations and determination of prior license or authority to practice in the country where the professional education was completed. Physical therapy licensing boards and their staff spend considerable time processing applications for licensure by applicants educated at a school that has not been accredited by an agency approved by the board. It is important that consistency occurs in the licensing standards from jurisdiction to jurisdiction and that the entire application process is sufficiently detailed both in statute and in rules. The inclusion of supervised clinical practice for the foreign educated physical therapist would provide the opportunity for integration and progression into the United States healthcare delivery system. With variations in healthcare delivery and culture, a supervised clinical experience would provide direct learning and ease of transition of the foreign educated physical therapist.

C. An applicant for a [certificate/license] as a physical therapist assistant shall:

- 1. Complete the application process including payment of fees.**
- 2. Submit proof of graduation from a physical therapist assistant education program accredited by a national accreditation agency approved by the board.**
- 3. Pass a national examination approved by the board.**
- 4. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.**
- 5. Submit to a criminal records check.**
- 6. Meet the requirements established by board rule if applicable.**
- 7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].**

Commentary

As with the application process for a physical therapist, the application process for licensure or certification as a physical therapist assistant should be specified in rules.

Jurisdictions will need to determine whether to accept education as a physical therapist as a prerequisite to sit for the physical therapist assistant exam. At this time, there is minimal evidence to allow or deny an individual educated as a physical therapist the opportunity to become licensed as a physical therapist assistant. It may be argued that the knowledge and skills taught within the physical therapist assistant program represent a subset of the knowledge and skills that are taught within a physical therapist education program. There is no evidence to support the concern that graduates of a physical therapist program who become licensed as physical therapist assistants will knowingly or unknowingly use skills such as differential diagnosis, assessment of prognosis, and design plan of care; activities that they were taught in their physical therapist education program but are not within the scope of work of a physical therapist assistant.

Jurisdictions should specify in rules if any additional requirements have to be met prior to licensure of a graduate of a physical therapist program as a physical therapist assistant such as supervised clinical practice as a physical therapist assistant, working under a restricted license, education regarding the role of the physical therapist assistant, etc.

D. An applicant for a [certificate/license] as a physical therapist assistant who has been educated at a school that has not been accredited by an agency approved by the board-shall:

- 1. Complete the application process including payment of fees.**
- 2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapist assistants educated in an accredited entry-level program as determined by the board. Graduation outside the United States from an education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence**

of substantial equivalency. In all other instances, “substantially equivalent” means that an applicant for licensure educated at a school that has not been accredited by an agency approved by the board shall have:

- a. Graduated from a physical therapist assistant educational program that prepares the applicant to work as a physical therapist assistant;
 - b. Provided written proof that the applicant’s physical therapist assistant school is recognized by its own ministry of education or other appropriate recognition agency;
 - c. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - d. Completed any additional education as required by the board.
3. Pass a board-approved English proficiency examination as required by the board as further established by rule.
 4. Pass a national examination approved by the board.
 5. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.
 6. Submit to a criminal records check.
 7. Complete supervised clinical practice as defined by rules with a restricted license.
 8. Meet the requirements established by board rule if applicable.
 9. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

Commentary

Although the physical therapist assistant does not have the same level of standing as a professional healthcare provider with the U.S. Citizenship and Immigration Services, it has become necessary to regulate physical therapist assistants educated at a school that has not been accredited by an agency approved by the board. The Centers for Medicare and Medicaid Services published a regulation in 2008 (number CMS-138) regarding Medicare reimbursement. This CMS regulation requires a foreign-educated physical therapist assistant to show certification of education which is substantially equivalent to an entry-level physical therapist assistant’s education in the United States.

Additionally, physical therapist assistant education programs have been developed outside the United States and a tool exists to determine substantially equivalent education. The term “substantially equivalent,” as defined here in model statute, should be delineated specifically in rules. Rule language should contain, at minimum, the requirement that any credentials evaluation 1) utilize the appropriate edition of the *Coursework Tool for Foreign Educated Physical Therapist Assistants (PTA Tool 2007)* in order to determine educational equivalency at the date of graduation; 2) require that a physical therapist trained in credential reviewing participates in the evaluation; and 3) require that quality assurance standards be met by the credentials review agency.

Jurisdictions should require at minimum a credentials review, English proficiency examinations and determination of prior license or authority to practice in the country where the professional education was completed. Physical therapy licensing boards and their staff spend considerable time processing applications for licensure by applicants educated at a school that has not been accredited by an agency approved by the board. It is important that consistency occurs in the licensing standards from jurisdiction to jurisdiction and that the entire application process is sufficiently detailed both in statute and in rules.

The inclusion of supervised clinical practice for the foreign trained physical therapist assistant would provide the opportunity for integration and progression into the United States healthcare delivery system. With variations in healthcare delivery and culture, a supervised clinical experience would provide direct learning and ease of transition of the foreign trained physical therapy assistant.

- E. . An applicant for a [certificate/license] as a physical therapist assistant who has completed a United States Armed Services program of training not accredited by a national accreditation agency approved by the board shall:**
- 1. Complete the application process including payment of fees.**
 - 2. Provide satisfactory evidence that the applicant’s education is substantially equivalent to the education of physical therapist assistants educated in an accredited entry-level program as determined by the board. Successful completion of a United States Armed Services program of training accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, “substantially equivalent” means that an applicant for licensure who has completed a United States Armed Services program of training shall have:**
 - a. Completed a physical therapist assistant training program that prepares the applicant to work as a physical therapist assistant;**
 - b. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and**
 - c. Completed any additional education as required by the board.**
 - 3. Pass national examination approved by the board.**
 - 4. Pass additional examinations [e.g., jurisprudence examination] required by the board as further established by rule.**
 - 5. Submit to a criminal records check.**
 - 6. Meet the requirements established by board rule if applicable.**
 - 7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].**

Commentary

This section allows a military trained PTA to be evaluated for substantial equivalency.

3.03 Licensure [and Certification] by Endorsement

- A. The board shall issue a license to a physical therapist who has a current unrestricted license [certificate] from another jurisdiction of the United States if that person meets all qualifications prescribed in [Qualifications for Licensure and Certification, Article 3.02] at the time of the applicant's initial licensure.**

Commentary

Jurisdictions will confidently grant licensure by endorsement to physical therapists currently licensed in other jurisdictions when greater regulatory consistency is achieved from jurisdiction to jurisdiction. A phrase common in many practice acts in their endorsement or reciprocity sections is: “...having licensing requirements substantially similar to those prescribed in this [act] at the time the license was originally granted.” That language is closer to reciprocity than to endorsement. The qualifications for licensure of foreign-educated physical therapists in 3.02.B, combined with this qualification for endorsement, will ultimately help achieve uniformity and actual endorsement in this aspect of regulation.

Any other jurisdictional “requirements” for endorsement should be specified in the rules associated with an application for endorsement. These shall include submission of verification of a current license in the jurisdiction of previous residency, affidavit of previous practice within a specified period of time, absence of pending or current disciplinary action or restricted license, continuing competence history if mandatory for licensing requirements, or the requirement to take a jurisprudence examination.

Because of many challenges, FSBPT discourages boards from trying to reinterpret licensing test scores obtained prior to 1996. Many of the reinterpretation processes require jurisdictional boards to apply decision processes that are no longer within acceptable professional standards, such as basing a passing score on a prescribed number of standard deviations below the mean score on the test form. These processes have been abandoned because they can result in large differences in outcomes among similarly qualified candidates as a function of the test form, comparison group, and other factors. And because these processes require complex calculations of historical data, the decisions jurisdictional boards make based on the calculations take a long time and are often erroneous. It would be hard for a jurisdictional board to argue that a test score from more than two decades ago is a good indicator of a candidate's current ability to practice safely and effectively. A passing licensing test score in another jurisdiction, at the time of licensure, should be considered a passing score in any other jurisdiction absent any other concerns about the candidate's ability to practice safely and competently.

As the PT Compact and other legislative efforts such as universal recognition and allowing health care practitioners from out of state licensees provide services via telehealth without licensure, jurisdictions may consider evaluating their current endorsement requirements for applicants with a pre-1996 examination score or educated at a school that has not been accredited by an agency approved by the board. These individuals may be able to provide services in the jurisdiction (e.g., compact privilege), but find significant barriers to becoming licensed.

B. The board shall issue a license [certificate] to a physical therapist assistant who has a current unrestricted license [certificate] from another jurisdiction of the United States if that person meets all qualifications prescribed in [Qualifications for Licensure and Certification, Article 3.02] at the time of the applicant's initial licensure.

Commentary

Jurisdictions will confidently grant licensure by endorsement to physical therapists currently licensed in other jurisdictions when greater regulatory consistency is achieved from jurisdiction to jurisdiction. A phrase common in many practice acts in their endorsement or reciprocity sections is: "...having licensing requirements substantially similar to those prescribed in this [act] at the time the license was originally granted." That language is closer to reciprocity than to endorsement. The qualifications for licensure of foreign-educated physical therapists in 3.02.B, combined with this qualification for endorsement, will ultimately help achieve uniformity and actual endorsement in this aspect of regulation.

Any other jurisdictional "requirements" for endorsement should be specified in the rules associated with an application for endorsement. These shall include submission of verification of a current license in the jurisdiction of previous residency, affidavit of previous practice within a specified period of time, absence of pending or current disciplinary action or restricted license, continuing competence history if mandatory for licensing requirements, or the requirement to take a jurisprudence examination.

3.04 Exemptions from Licensure [or Certification]

A. This [act] does not restrict a person licensed or certified under any other law of this jurisdiction from engaging in the profession or practice for which that person is licensed if that person does not represent, imply or claim that he/she is a physical therapist, physical therapist assistant, or a provider of physical therapy as defined in Article 1, 1.02B.

Commentary

The importance of this model language is in not granting blanket exemption status to other healthcare professionals through language such as "Other licensed healthcare providers are exempt from the provisions of this [act]." Other professionals have occasionally attempted to exploit this language by interpreting it to mean that

they are completely exempt from all provisions of the physical therapy practice act, including title protection. This is something never intended in licensure laws.

This model language, combined with other language in the Model Practice Act under *Definitions*, Article 1.02, *Examination and Licensure*, Article 3, and *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02 provides clarification of physical therapy services and ensures public protection by providing a deterrent against misrepresentation and the illegal practice of physical therapy.

The Model Practice Act does not include and recommends against exempting other practitioners such as massage therapists, athletic trainers, chiropractors, etc., who shall be providing services with similar components to physical therapy.

B. The following persons are exempt from the licensure [certification] requirements of this [act] when engaged in the following activities:

1. A person in an entry-level professional education program approved by the board who is satisfying supervised clinical education requirements related to the person's physical therapist education while under onsite supervision of a physical therapist.
2. A person satisfying a clinical education experience under the onsite supervision of a physical therapist as required by the board.
3. A physical therapist who is practicing in the United States Armed Services, United States Public Health Service or Veterans Administration pursuant to federal regulations for jurisdiction licensure of healthcare providers. If such person, while federally employed as a physical therapist shall engage in the practice of physical therapy outside the course and scope of such federal employment, he/she shall then be required to obtain a license in accordance with this [act].
4. A physical therapist who is licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person is teaching, demonstrating or providing physical therapy services in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year.
5. A physical therapist who is licensed in another jurisdiction of the United States if that person is rendering advice or professional or expert opinion.
6. A physical therapist who is licensed in a jurisdiction of the United States or credentialed in another country, if that person by contract or employment is providing physical therapy to patients/clients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the jurisdiction for no more than 60 days in a calendar year.
7. A physical therapist who is licensed in a jurisdiction of the United States and who enters this jurisdiction to provide physical therapy during a declared local, jurisdictional or national disaster or emergency. This exemption applies for no longer than 60 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of their intent to practice.
8. A physical therapist licensed in a jurisdiction of the United States who is forced to leave his/her residence or place of employment due to a declared local, jurisdictional or national disaster or emergency and due to such displacement seeks to practice physical therapy. This exemption applies for no more than 60 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of their intent to practice.

C. A physical therapist assistant who is licensed [certified] in a jurisdiction of the United States and is assisting a physical therapist engaged specifically in activities related to [subparagraphs (B) 2, 3, 5, 6, 7, and 8 of this section] is exempt from the requirement of [licensure/certification] under this [act].

Commentary

The purpose of exemption from licensure is to allow a person who is practicing or working in physical therapy for a specific period of time in the state, due to compelling reasons, to provide physical therapy services without the

requirement of state licensure. The exemptions included in the Model Practice Act apply to physical therapist students and physical therapist assistant students in entry level programs or other persons satisfying clinical education requirements and physical therapists or physical therapist assistants who are licensed [certified] in other jurisdictions. The categories of persons who are exempt from state licensure should be limited.

Physical therapy students in clinical internships are exempt because they are in a physical therapy education program and they are under the direct, onsite supervision of a licensed physical therapist. While in clinical training they need the authority to practice the full scope of physical therapy. Physical therapist assistant students in clinical internships are exempt because they are in a physical therapist assistant education program and they are under the direct, onsite supervision of a licensed physical therapist. While in clinical training they need the authority to work within the full scope of a physical therapist assistant.

Applicants for a physical therapist or physical therapist assistant license [certification] that are not current students may be required to complete supervised clinical experience as a requirement for licensure. These individuals are exempt because they are under the direct, onsite supervision of a licensed physical therapist. While in supervised clinical training, physical therapist applicants need the authority to practice the full scope of physical therapy. Physical therapist assistant students in required supervised clinical work are exempt because they are under the direct, onsite supervision of a licensed physical therapist. While in clinical training they need the authority to work within the full scope of a physical therapist assistant.

Physical therapists in federal employment, such as in the Veterans Administration, U.S. Public Health Service, or the military services, have historically been exempt from licensure while practicing specifically in those governmental environments. The statute language above reflects changing federal regulations that now require federally employed healthcare professionals to be licensed in at least one jurisdiction, although not necessarily the jurisdiction where they are practicing. However, if the person chooses to practice outside of the confines of their federal employment while in a jurisdiction other than that of their licensure (i.e., employment outside of their normal business hours), they would be required to obtain licensure in the jurisdiction of practice.

Paragraph B.4 provides exemption for physical therapists participating either as instructors or as students in post-graduate education. Frequently these individuals are participating in offerings outside the jurisdiction where they are licensed, and occasionally patient contact and treatment may be part of their educational experience.

This exemption is for no more than 60 days in a calendar year. A longer period of time would constitute a fellowship or an advanced clinical residency and should require licensure in that jurisdiction. Physical therapists participating in a fellowship or residency shall hold a current license in good standing in any jurisdiction. If that fellowship or residency occurs in another jurisdiction and extends beyond 60 days, the therapist is expected to obtain licensure in the jurisdiction of the fellowship or residency.

Paragraph B.5 provides exemption for consultation. Exemption from licensure is provided specifically for consultation with another health professional who is licensed in another jurisdiction. This exemption extends only to consultation and does not extend to any other aspect of patient management, including treatment intervention.

Paragraph B.6 provides exemption for licensed physical therapists traveling with a sports team or performing arts company who enters the jurisdiction for a limited time to provide physical therapy to the members of the team or company. Practice under this exemption is authorized only for those individual licensees who are affiliated with the visiting organization since no public contact is anticipated.

Paragraphs B.7 and B.8 address large-scale natural disasters that induce licensed physical therapists to enter a jurisdiction temporarily to provide their services as part of disaster assistance, or where licensed physical therapists are temporarily displaced as a result of a natural disaster and wish to practice in another jurisdiction temporarily or until licensure is achieved by endorsement.

Paragraph C provides an exemption for a physical therapist assistant, licensed or certified in another jurisdiction, to assist a physical therapist in the situations described in *Exemptions from Licensure [or Certification]*, Article 3.04 (Paragraphs B.2, B.3, B.5, B.6 and B.7). This exemption is necessary because the physical therapist assistant shall be participating in patient treatment interventions in these specific situations that are typically restricted to persons licensed or certified by the jurisdiction. Subject to this exemption, a physical therapist assistant would still be under the supervision of a licensed physical therapist.

3.05 License [or Certificate] Renewal

A. A physical therapist applying for renewal of the license shall:

- 1. Complete a renewal application including payment of fees.**
- 2. Demonstrate evidence of continuing competence as defined by rule.**
- 3. Meet the requirements established by board rule if applicable.**
- 4. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].**

B. A physical therapist assistant applying for renewal of the license [certificate] shall:

- 1. Complete a renewal application including payment of fees.**
- 2. Demonstrate evidence of continuing competence as defined by rule.**
- 3. Meet the requirements established by board rule if applicable.**
- 4. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].**

Commentary

Although at this time, there is no specific model language for statute or regulation suggested for jurisdictions when shifting to a continuing competence model, there are some elements that are recommended. First, the language must state “continuing competence” activities rather than continuing education. Second, a minimum number of continuing competence units for re-licensure should be established. Third, an approval process of “continuing competence” activities should be established. Fourth, a determination must be made of the minimum standard continuing competence activities must meet in order to gain approval. Fifth, the jurisdiction must retain the ability to designate an outside body to do the approval of “continuing competence” activities. Finally, the jurisdiction should in some way require evidence of accomplishment by the participant of the required minimum standard.

Additionally, there are suggested principles to consider when implementing a continuing competence model which will need to be communicated:

- Continuing competence should be self-directed by the PT or PTA.
- Evaluation/assessment of current competence is critical for the PT or PTA. The results of an evaluation or assessment should be used by the PT or PTA to then select appropriate development activities.
- PTs and PTAs should have a wide variety of activities available to demonstrate their competence; there is not one “right” way to demonstrate competence.

Many jurisdictions have administrative code that applies to licensees of many different disciplines. Licensees [certificate holders] must meet these requirements in order to renew their license [certification].

3.06 Changes of Name, Address or Telephone Number

Each licensee [and certificate holder] is responsible for reporting a name change and changes in business and home address, email address and telephone numbers to the board within 30 days.

Commentary

Jurisdictions should specify in rules the terms of license and certification renewal and the exact renewal date. It should be stated clearly in rules that all licensees and certificate holders are responsible for keeping the board advised of their current home and practice addresses and telephone numbers. Failure to receive a renewal notification should not constitute an excuse for failure to renew on time. It should be further specified that failure to meet the renewal timeframe constitutes practicing without a license or certificate and will be treated as such under authority of *Unlawful Practice; Classification; Civil Penalties; Injunctive Relief*, Article 4.09. Timely renewal is the responsibility of the licensee or certificate holder even where an employer shall be funding the expense of renewal.

3.07 Reinstatement of License [or Certificate]

A. The board may reinstate a lapsed license [or certificate] upon completion of a reinstatement application including payment of fees, as defined by rule.

B. If a physical therapist's license has lapsed for a specified time period, as defined by rules, that person shall fulfill all requirements of [3.07 A] and demonstrate to the board's satisfaction competence to practice physical therapy by one or more of the following as determined by the board:

- 1. Complete supervised clinical practice as defined by rules with a restricted license.**
 - 2. Demonstrate or complete continued competence requirements, as defined by rule, required during lapsed licensure period.**
 - 3. Pass examination(s) approved by the board.**
 - 4. Provide proof of licensed practice in another jurisdiction.**
-

C. If a physical therapist assistant's [certificate/license] has lapsed for a specified time period, as defined by rule, that person shall fulfill all requirements of [3.07 A] and demonstrate to the board's satisfaction competence to work as a physical therapist assistant by one or more of the following as determined by the board:

- 1. Complete supervised clinical practice as defined by rules with a restricted license.**
 - 2. Demonstrate or complete continued competence requirements, as defined by rule, required during lapsed licensure [certification] period.**
 - 3. Pass examination(s) approved by the board.**
 - 4. Provide proof of licensed [certified] work as a physical therapist assistant in another jurisdiction.**
-

D. The board may reinstate a suspended or revoked physical therapist's license upon completion of the requirements in [3.07 A] and evidence of satisfactory completion of all requirements for reinstatement that were stipulated in a consent order at the time of discipline. The board may further require evidence of competence to practice physical therapy through the following activities:

- 1. Complete supervised clinical practice, as defined by rule, with a restricted license.**
 - 2. Demonstrate or complete continued competence requirements, defined by rule, required during the suspended or revoked licensure period.**
 - 3. Successfully complete assessment tool(s) and/or pass examination(s) approved by the board.**
-

E. The board may reinstate a suspended or revoked physical therapist assistant's [certificate/license] upon completion of the requirements in [3.07 A] and evidence of satisfactory completion of all requirements for reinstatement that were stipulated in a consent order at the time of discipline. The board may further require evidence of the physical therapist assistant's competence to work in the profession of physical therapy through the following activities.

- 1. Complete supervised clinical practice with a restricted license [certificate] under a qualified and approved supervisor.**
- 2. Demonstrate or complete continued competence requirements, defined by rule, required during the suspended or revoked licensure [certification] period.**
- 3. Successfully complete assessment tool(s) and/or pass examination(s) approved by the board.**

Commentary

When a license has been allowed to lapse for a lengthy period of time it shall be an indication of a break in continuity of practice and professional development, and potentially, a loss of ongoing competence. It is recommended that a four-year time period be used to determine when the further requirement of reapplication for licensure should be instituted. The board should have the discretion to assess continuing competence to practice physical therapy in the case of a lapse in practice of four or more years. Competence assessment shall include the options of 1) a supervised internship, 2) remedial or refresher coursework, and 3) retesting, or 4) any combination of these options. Further provisions for applicant interview by the board should be specified.

In cases where a licensee relocates and practices in another jurisdiction and subsequently returns and wishes to practice in the original jurisdiction of licensure, the requirement for successfully demonstrating competence, as stated in Paragraph B above, shall be satisfied by verification of licensure and practice in the other jurisdiction. Reinstatement is used rather than endorsement and granting a new license in order to retain a previous exam history, license number and, if applicable, disciplinary history.

During a period of remedial action prior to reinstatement of license without restrictions, the physical therapist's practice shall be with a restricted license as directed by the board. This type of remediation, outside of a disciplinary action, is an example of the appropriate use of a restricted license.

A lapse of a certificate disqualifies a physical therapist assistant from working as a physical therapist assistant until appropriate renewal and reinstatement requirements are met and fees are paid. As the physical therapist assistant resumes employment, the supervising physical therapist should direct appropriate remedial measures for a physical therapist assistant who lacks current experience or has inadequate skills.

Paragraphs D and E address important considerations if a revoked license or certificate shall someday be eligible for reinstatement. At the time of a revocation, the consent decree should stipulate the conditions, if any, under which the board would consider an application for reinstatement. The specific requirements shall be helpful to a later board when an application is considered. In this situation, a board would likely convene a hearing to review the application and evaluate the fitness of the applicant to, once again hold a license or certificate. All other requirements related to demonstration of continuing competence applicable to any other reinstatement situation would also apply in such a case. Reinstatement is also preferable in this situation to a new application license so that prior history is maintained through a single license number.

A restricted license does not notate merely a disciplinary action. Restricted licenses shall result from re-entry, etc.

[3.08 Fees]

This is optional statutory language for jurisdictions requiring maximum fee ceilings within their statutes.

The board shall establish and collect fees not to exceed:

1. _____ dollars for an application for an original license [or certificate]. This fee is nonrefundable.
2. _____ dollars for a certificate of renewal of a license [or certificate].
3. _____ dollars for an application for reinstatement of a license [or certificate].
4. _____ dollars for each duplicate license [or certificate].
5. _____ dollars for other administrative fees [e.g., criminal records report, pass through or processing fees]

Commentary

This is optional language to use if fee ceilings or ranges are required in statute rather than being addressed in rules. Using this model, a ceiling for fees would be established in statute, and the actual fees would be established in rules. The language here sets the same dollar amount for licenses and certificates in the different categories. The fees for licensees and certificate holders could easily be established at different amounts in rules for each of the categories.

Optional for PT Compact Members

6. _____ dollars for each compact privilege.

Article 4: Regulation of Physical Therapy

4.01 Ethics in the Physical Therapy Profession

A. A physical therapist shall adhere to the recognized standards of ethics of the physical therapy profession as established by rule.

Commentary

A profession's code of ethics encourages a higher standard of conduct; whereas jurisdiction laws establish minimum levels of acceptable conduct. Professional associations are recognized as the promulgators of a profession's code of ethics. This language establishes that ethical conduct in the jurisdiction is legally mandated as the minimum standard of lawful practice. Inclusion of this language empowers a board to be more than the "gatekeepers" or "hand-slappers", some feel is the historical and only duty of licensing boards. A similar clause is included in the model language under the *Grounds for Denial of a License [and Certificate], Disciplinary Action*, Article 4.04.

The model language is "generic" in that it does not specifically reference the American Physical Therapy Association's (APTA's) *Code of Ethics*, with its accompanying *Guide for Professional Conduct* (See *Appendix B*). This generic approach is preferred by many jurisdictions' legal counsel, in order to avoid mention in statute of professional associations and links to documents not under jurisdiction approval authority. The link can be specifically and appropriately made in rules by reference to a specific version of the APTA *Code of Ethics* and *Guide for Professional Conduct*.

B. A physical therapist assistant shall adhere to the recognized standards of ethical conduct of the physical therapy profession as established by rule.

Commentary

A profession's code of ethics encourages a higher standard of conduct; whereas jurisdiction laws establish minimum levels of acceptable conduct. Professional associations are recognized as the promulgators of a profession's code of ethics. This language establishes that ethical conduct in the jurisdiction is legally mandated as the minimum standard of lawful practice. Inclusion of this language empowers a board to be more than the "gatekeepers" or "hand-slappers;" some feel is the historical and only duty of licensing boards. A similar clause is included in the model language under the *Grounds for Denial of a License [and Certificate], Disciplinary Action*, Article 4.04.

The model language is "generic" in that it does not specifically reference the American Physical Therapy Association's (APTA's) *Standards of Ethical Conduct for the physical therapist assistant* (See *Appendix C*). This generic approach is preferred by many jurisdictions' legal counsel, in order to avoid mention in statute of professional associations and links to documents not under jurisdiction approval authority. The link can be specifically and appropriately made in rules by reference to a specific version of the APTA *Standards of Ethical Conduct for the Physical Therapist Assistant* and *Guide for Conduct of the Physical Therapist Assistant*.

4.02 Use of Titles and Terms; Restrictions; Classification of Violation

A. A physical therapist shall use the letters "PT" or the term "physical therapist" immediately following his or her name to designate licensure as a health care practitioner under this [act].

Commentary

Abbreviations or terms denoting educational degrees, certifications, or honorary status designations may follow, as applicable. These abbreviations should be used in all correspondence related to practice, including advertisements.

Optional for PT Compact Members

A physical therapist shall use the letters “PT” or the term “physical therapist” immediately following his or her name to designate licensure under this [act] or authorization to practice under a compact privilege.

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- B. A person or business entity, its employees, agents or representatives shall not use in connection with that person’s name or the name or activity of the business, the words “physical therapy,” “physical therapist,” “physiotherapy,” “physiotherapist,” “physio,” “registered physical therapist,” “doctor of physical therapy,” the letters “PT,” “DPT,” “LPT,” “RPT,” or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to this [act]. A person or business entity shall not advertise or otherwise promote another person as being a “physical therapist” or “physiotherapist” unless the individual so advertised or promoted is licensed as a physical therapist under this act. A person or business entity that offers, provides or bills any other person for services shall not characterize those services as “physical therapy” or “physiotherapy” unless the individual performing those services is a person licensed as a physical therapist under this [act].

Optional for PT Compact Members

A person or business entity, its employees, agents or representatives shall not use in connection with that person’s name or the name or activity of the business, the words “physical therapy,” “physical therapist,” “physiotherapy,” “physiotherapist,” “registered physical therapist,” “doctor of physical therapy,” the letters “PT,” “DPT,” “LPT,” “RPT,” or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to this [act] or authorized to practice under a compact privilege. A person or business entity shall not advertise or otherwise promote another person as being a “physical therapist” or “physiotherapist” unless the individual so advertised or promoted is licensed as a physical therapist under this act or authorized to practice under a compact privilege. A person or business entity that offers, provides or bills any other person for services shall not characterize those services as “physical therapy” or “physiotherapy” unless the individual performing those services is a person licensed as a physical therapist under this [act] or authorized to work under a compact privilege.

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- C. Physical therapists who have graduated from a DPT program may use the title "Doctor of Physical Therapy." A physical therapist holding a DPT or other doctoral degree shall not use the title "Doctor" without also clearly informing the public of his or her profession as a physical therapist. Use of the title shall be in accordance with jurisdictional law.

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- D. A physical therapist assistant shall use the letters “PTA” immediately following his or her name to designate [certification/ licensure] under this [act].

Commentary

Abbreviations or terms denoting educational degrees, certifications, or honorary status designations may follow, as applicable. These abbreviations should be used in all correspondence related to practice, including advertisements.

Optional for PT Compact Members

A physical therapist assistant shall use the letters “PTA” or the term “physical therapist assistant” immediately following his or her name to designate [certification/ licensure] under this [act] or authorization to work under a compact privilege.

- E. A person shall not use the title “physical therapist assistant,” the letters “PTA,” or any other words, abbreviations or insignia in connection with that person’s name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is [certified/ licensed] as a physical therapist assistant pursuant to this [act].**

Optional for PT Compact Members

A person shall not use the title “physical therapist assistant,” the letters “PTA,” or any other words, abbreviations or insignia in connection with that person’s name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is [certified/ licensed] as a physical therapist assistant pursuant to this [act] or authorized to work under a compact privilege.

F. A person or business entity that violates paragraphs (B) or (E) of this section is guilty of a [cite specific legal sanction]. The board shall have authority to impose a civil penalty, in an amount not to exceed [specify number of dollars] per violation, against any person or business entity that violates paragraphs (B) or (E). In addition, the board shall seek an injunction against conduct in violation of paragraphs (B) or (E) in any court of competent jurisdiction. For purposes of this [act], the board, in seeking an injunction, need only show that the defendant violated paragraphs (B) and (E) of this section to establish irreparable injury or a likelihood of a continuation of the violation.

Commentary

“PT” is the professional and regulatory designation required by practice acts and used by physical therapists in the United States. It should immediately follow the licensee’s name. The model statute language prohibits substituting but does not restrict adding other letter designations indicating an academic degree (e.g., MS, PhD), professional degree (e.g., DPT), certification (e.g., ATC), or honorary status (e.g., FAPTA). All these additional designations should follow the standard “PT” designation. For example, a board-certified orthopedic specialist with a doctoral degree in physical therapy would be appropriately designated as Jane Doe, PT, DPT, OCS.

The jurisdiction legislature grants scope of practice privileges and imposes certain restrictions on the use of titles and terms for public protection. The use of the title “physical therapist” connotes education and training in a unique body of knowledge and skills exclusive to physical therapists.

Title protection encompasses names and titles, as well as the letters and abbreviations that are associated with licensure. Paragraph B above addresses all such titles, designations and abbreviations applicable to physical therapy licensure, including archaic terms and some that shall be future terms.

Archaic designations such as RPT or LPT, while they should be protected, should not be used. Rules shall be considered that prohibit the use of these archaic designations protecting the term “physiotherapy,” which is a historically significant as well as current international title of the profession, prevents the misleading use of this term by other individuals or professionals. A claim that physical therapy or physiotherapy is a generic term is misleading, and any terms implying that physical therapy is being provided should be protected. This term protection is not against the use of various physical agents, modalities or procedures by others but rather is against the inappropriate labeling of those modalities and procedures as physical therapy. Any violation of this term protection paragraph would be addressed in paragraph A of Article 4.09.

Those therapists holding a DPT or any doctoral degree such as a PhD or EdD, are entitled to use "Dr" as a prefix to their name in honor of the professional degree they have earned. However, DPT or PhD are academic degrees, not a clinical designator. It is important that the public perceive the critical difference between the word "physician" and the use of the title "Dr." Therefore, in order to minimize confusion, physical therapists should identify themselves and their profession when first meeting a patient. A physical therapist may not use the title of "Dr." in a manner which would mislead a patient into assuming that he or she is anything other than a physical therapist.

Paragraphs D and E provide title protection for physical therapist assistants. In this instance, title protection is granted without a corresponding granting of a scope of practice. (See *Definitions*, Article 1.02.E; *Examination and Licensure*, Article 3.01-3.04; *Patient Care Management*, Article 4.03.)

4.03 Patient/Client Care Management

A. A physical therapist is fully responsible for managing all aspects of the physical therapy care of each patient/client. A physical therapist shall provide:

- 1. The initial evaluation, determination of diagnosis, prognosis, and plan of treatment intervention and documentation of each encounter of each patient/client;**
- 2. Periodic reevaluation and documentation of each patient/client;**
- 3. The documented discharge of the patient/client, including the patient's/client's response to treatment intervention at the time of discharge.**

Commentary

Physical therapists are professionally and legally responsible for the treatment interventions they personally render as well as those components of intervention rendered by personnel under the physical therapist's supervision. This responsibility is not diminished when persons assisting the physical therapist are licensed, certified or otherwise regulated. The practice of physical therapy includes examination, evaluation and testing for purposes of determining a diagnosis, a prognosis, a plan of treatment intervention, and an assessment of the ongoing effects of treatment. These responsibilities are evaluative in nature and can only be performed by a physical therapist.

The initial evaluation is essential to determine if physical therapy services are medically necessary, gather baseline data, establish a treatment plan, and develop goals based on the data. An evaluation is needed before implementing any physical therapy treatment. Evaluation begins with the administration of appropriate and relevant assessments using standardized assessments and tools. The evaluation shall include, but is not limited to:

- a) A history of current condition and treatment previously provided
- b) A relevant systems review
- c) Prior functional level
- d) Specific standardized and non-standardized tests, assessments, and tools
- e) Analytic interpretation and synthesis of all data, including a summary of the baseline findings in written or electronic report(s)
- f) Objective, measurable, and functional descriptions of a patient/client's deficits using comparable and consistent methods
- g) Summary of clinical reasoning and consideration of contextual factors with recommendations
- h) Plan of care with specific treatment techniques and/or activities to be used in treatment sessions that should be updated as the patient/client's condition changes
- i) Communication to the patient and /or others, as indicated, the prospective plan of treatment and outlined goals
- j) Frequency and duration of treatment plan
- k) Functional, measurable, and time-framed long-term and short-term goals based on appropriate and relevant evaluation data
- l) Rehabilitation prognosis

A reevaluation is indicated when there are new clinical findings, a rapid change in patient status, or failure to respond to physical therapy interventions. These include ongoing reassessments that are part of each skilled treatment session, progress reports, and discharge summaries and shall include modifications and renewal to the treatment plan of care.

Reevaluation is a more comprehensive assessment that includes some or all the components of the initial evaluation, such as:

- a) Data collection with *objective* measurements taken based on appropriate and relevant assessment tests and tools using comparable and consistent methods
- b) Making a judgment as to whether skilled care is still warranted
- c) Organizing the composite of current problem areas and deciding a priority/focus of treatment
- d) Identifying the appropriate intervention(s) for new or ongoing goal achievement
- e) Modification of intervention(s)
- f) Revision in plan of care if needed
- g) Correlation to meaningful change in function, and
- h) Deciphering effectiveness of intervention(s).

The physical therapist shall ensure that patients are provided appropriate treatment that is delivered in a reasonably safe manner, that, where known standards of practice exist, such treatment adheres to applicable standards, and that recognized standards of ethics, as established by rule or otherwise, are followed. In the event the evaluation or re-evaluation reveals a condition or suspected condition which is beyond the PT scope of practice, the therapist shall communicate these findings to the patient's primary care provider or make a referral to an appropriate provider of care.

Paragraphs A.1 through A.3 of the model statute require physical therapists to document the services they personally provide.

B. A physical therapist shall assure the qualifications of all physical therapist assistants and physical therapy aides under their direction and supervision.

Commentary

The use of personnel assisting the physical therapist is a patient care management decision made by each physical therapist. The physical therapist must determine whether personnel assisting the physical therapist are qualified to perform the designated activity, and their qualifications should be verified and documented. For the physical therapist assistant, this should at least include documentation of educational training and regulatory credentialing. For physical therapy aides, this should at least include written evidence of on-the-job training by the physical therapist.

C. For each patient/client on each date of service, a physical therapist shall provide all the treatment intervention that requires the education, skills and knowledge of a physical therapist and shall determine the use of physical therapist assistants or physical therapy aides to ensure that the delivery of care that is safe, effective, and efficient.

Commentary

This language requires the physical therapist to personally provide those services that require his or her expertise and to determine the appropriate tasks that shall be assigned to assisting personnel for each patient on every date of service. The physical therapist must ensure that the use of supervised personnel is an efficient use of resources and is based on patient safety and treatment efficacy.

There are limits to a physical therapist's capacity to fulfill the responsibilities of direct patient care as well as to fulfill a supervisory role over other personnel. Jurisdictions shall wish to adopt rules that specify a reasonable limit

on the number of physical therapist assistants, aides, and students that a physical therapist shall personally supervise.

- 1. A physical therapist assistant shall work under a physical therapist's supervision. A physical therapist assistant shall document the care they provide.**

Commentary

The language of this section provides authorization for the physical therapist assistant to work in an offsite setting and under the general supervision of a physical therapist. If a jurisdiction opts for a different supervision level it should be specified in this section. For example, a jurisdiction requiring onsite supervision of a physical therapist assistant could insert "onsite" prior to the word "supervision" in the first sentence. Any other supervisory limits or requirements and procedures related to communication and documentation should be specified here or clarified in rules.

- 2. A physical therapist may use physical therapy aides for designated routine tasks. A physical therapy aide shall work under the supervision of a physical therapist.**

Commentary

Jurisdictions are encouraged to adopt the basic language in Paragraph C.2 that limits the use of aides to working only under the supervision of a physical therapist or allowing use of an aide in an offsite setting only when directly helping a physical therapist assistant or performing tasks which are not patient-related. The phrase "designated routine tasks" in the model definition of a physical therapy aide is distinctly different from "selected components of intervention" as used in the model definition for physical therapist assistants. If a jurisdiction chooses to enact more explicit restrictions on the duties of a physical therapist aide, a more detailed definition of "designated routine tasks" should be included in rules.

There are many situations in extended care, home health or school settings, where physical therapists train others to carry out certain exercises or activities for the benefit of patients/clients. However, unless a physical therapist is onsite and providing supervision as an integral part of a physical therapy plan of care and treatment intervention these activities should not be represented as physical therapy services.

In this provision, as in 1.02.9, "direction" and "supervision" are functions that belong solely to the licensed physical therapist. The physical therapist assistant shall receive help from a physical therapy aide when performing certain tasks or procedures, but the physical therapist assistant does not assume the responsibility to "direct and supervise" the provision of care. That responsibility remains with the supervising physical therapist and, by law, cannot be relinquished to another.

D. The physical therapist shall communicate the plan of care with, and obtain informed consent from, the patient/client or the patient's legally authorized representative.

Commentary

Informed consent, at a minimum, occurs at the outset of physical therapy care and is updated when there are changes/modifications to the plan. Informed consent is not a passive, one-time, one-way push of information from the provider of physical therapy services to the patient/client (legally authorized representative). Instead, it is a process by which the patient/client is given an explanation of the treatment plan of care (or specific treatment being performed), the opportunity to ask questions and be made aware of any risks and ultimately decide whether or not to move forward with the proposed intervention. Informed consent is a two-way ongoing process

between the provider and the patient/client respecting the right of the patient/client to make decisions regarding their healthcare.

The nature of physical therapy treatments often requires close contact between PT/PTA and the patient/client, which may warrant more frequent communication to maximize patient/client understanding of the intent or necessity of the physical proximity. It is incumbent upon the provider to describe actions necessary to address the patient/client dysfunction while considering cultural, social, and personal boundary sensitivities of the patient/client.

Informed consent may be written or verbal, in-person or via electronic communications. The treatment setting may impact the format of informed consent and the provider should consider setting in the informed consent process. An independent outpatient receiving care may require a different approach to informed consent than the individual in an institutional setting in which a informed consent covers a broad range of inpatient services/care. In any setting, however, the patient/client has the right to receive a clear explanation of care and the opportunity to give or deny consent.

The provider should document informed consent was obtained from the patient/client. Written consent may be the most ideal format, however depending upon the environment or situation, verbal consent may be appropriate provided it is fully conveyed in the documentation.

E. A physical therapist's responsibility shall include accurate documentation and billing of the services provided.

Commentary

F. A physical therapist assistant's responsibility shall include accurate documentation and billing of the services provided.

Commentary

G. Nothing in this [Act] shall prohibit a licensee[certificate holder] from providing physical therapy to animals for which the licensee[certificate holder] has completed the education and training as further established by rule.

Commentary

The practice of physical therapy continues to evolve including the treatment of animals. While there is currently no consistent standard of specified education and training, it is appropriate to note that additional rule development in a jurisdiction may address minimum standards to demonstrate competency to provide physical therapy to animals.

4.04 Grounds for Denial of a License [and Certificate]; Disciplinary Action

A. The following are grounds for denial of a license [and certificate] or disciplinary action.

Commentary

The following language itemizes the various causes or grounds for which a physical therapist, and in many cases a physical therapist assistant, shall be denied a license or certificate or disciplined under the provisions of the law.

Others who practice physical therapy unlawfully come under the powers granted a licensing board in *Unlawful Practice; Classification; Civil Penalties; Injunctive Relief*, Article 4.09. In many practice acts, this list is referred to as “unprofessional conduct.” The term “grounds for denial of a license and disciplinary action” is more descriptive and is the recommended title for this section. This section needs to be comprehensive enough to cover all areas of potential violation.

1. Violating any provision of this [act], board rules or a written order of the board.

Commentary

This clause provides the broadest foundation for disciplinary action. It encompasses statutes, rules and written disciplinary orders.

2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.

Commentary

Individuals who do not meet licensure qualifications and requirements may resort to falsifying or omitting information when applying for licensure or certification. Examples would be when an applicant by endorsement withholds information of disciplinary action in another jurisdiction, or when an applicant for renewal falsely claims to have completed continuing competence requirements.

Optional for PT Compact Members

2. Obtaining or attempting to obtain a license [or certificate] or compact privilege by fraud or misrepresentation.

3. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, a violation of security and copyright provisions related to the national licensure exam, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions.

Commentary

Exam cheating and other forms of attempted cheating on the licensure examination are addressed in this model statute language. The Federation of State Boards of Physical Therapy is authorized under exam contract and under the express written approval of each examinee to take action against those who attempt to cheat on the examination. This paragraph empowers a jurisdictional board to take the necessary action prior to or after the licensing process if an applicant violates the integrity of the examination process.

4. Practicing or offering to practice beyond the scope of the practice of physical therapy.

Commentary

The determination of what constitutes practice “beyond the scope” of physical therapy is predominantly the responsibility of licensing board members. Scope of practice changes as contemporary practice evolves and boards need the latitude to determine the appropriateness of physical therapy procedures as they relate to both established and evolving scope of practice. The definition of “the practice of physical therapy” should also serve as a primary resource for determining violations of scope of practice.

5. Acting in a manner inconsistent with generally accepted standards of physical therapy practice, regardless of whether actual injury to the patient/client is established.

Commentary

There are a number of other authoritative sources for the board to consult in addition to statute and rules when determining “generally accepted standards of physical therapy practice.” These might include published standards of physical therapy practice, case law or other source documents. Injury does not need to be established when professional conduct is substandard or potentially injurious to a patient.

6. Failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rule.

Commentary

This clause empowers a licensing board to discipline licensees or certificate holders for unethical conduct as promulgated by rules. (See *Ethics in the Physical Therapy Profession*, Article 4.01 and *Commentary*.) There is clear legal precedence for jurisdiction regulatory boards utilizing the established ethical standards of the profession in disciplinary matters.

7. Failing to complete continuing competence requirements as established by rule.

Commentary

Authority to enact continuing competence requirements is contained under several paragraphs of the Model Practice Act (see *Legislative Intent*, Article 1.01, *Powers and Duties of the Board*, Article 2.02.8, *License [or Certificate] Renewal*, Article 3.05.A). This paragraph provides board authority to take disciplinary action if a physical therapist fails to meet the continuing competence standards established by law, including fulfilling any remedial requirements.

8. Failing to maintain adequate patient/client records. For the purposes of this paragraph, “adequate patient/client records” means legible records that contain at minimum sufficient information to identify the patient/client, an evaluation of objective findings, a diagnosis, a plan of care, a treatment record and a discharge plan.

Commentary

The importance of maintaining a thorough and timely written record of physical therapy services provided to every patient/client and patient response to treatment should be self-evident. It is the written record that ultimately supports the effectiveness and appropriateness of the physical therapist’s patient/client evaluation, plan of care and treatment intervention. This paragraph establishes a legally minimum standard for physical therapist patient documentation and allows the board to take disciplinary action against therapists who maintain faulty or incomplete patient records.

9. Failing to supervise physical therapist assistants, physical therapy aides, or a person in an entry-level professional education program approved by the board who is satisfying supervised clinical education requirements related to the person’s education in accordance with this [act] and board rules.

Commentary

A physical therapist remains responsible for the entire scope of patient management including the supervision of physical therapist assistants, physical therapy aides, and students completing clinical education experiences. The practice act and rules govern supervisory requirements. See *Definitions*, Article 1.02; *Patient Care Management*, Article 4.03; and *Guidelines for Rules*.

10. Failing to report to the board, where there is direct knowledge, any unprofessional, incompetent or illegal acts that appear to be in violation of this [act] or any rules established by the board.

Commentary

Regulatory boards, by means of the disciplinary process, bear the responsibility for the public’s expectation of qualified services from duly scrutinized practitioners. This responsibility is passed on to the licensed professionals by the requirement that they must bring to the Board’s attention direct knowledge of incompetent, unprofessional

or illegal practices. The reporting of these acts serves to protect the public from harm as a result. The paragraph authorizes disciplinary action against a licensee who fails to report 'direct knowledge' to the physical therapy board. A licensee or certificate-holder is not obligated to report hearsay when he or she has no direct knowledge of a possible violation.

11. Engaging in sexual misconduct. For the purpose of this paragraph sexual misconduct includes:

- a. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant-patient/client relationship exists.**
- b. Making advances, requesting favors or expressing thoughts, feelings, or making gestures that are sexual in nature, or that reasonably may be construed by a patient/client as sexual in nature, by any means including verbal, physical contact, or via electronic communications.**
- c. Intentionally viewing a completely or partially disrobed patient/client in the course of treatment if the viewing is not related to patient/client diagnosis or treatment under current practice standards.**

Commentary

To violate the provisions of this law, physical therapists or physical therapist assistants do not need to actually engage in sexual relations since even the solicitation of such a relationship is a violation. The violation is not excused even in the case of a consensual sexual relationship with a patient. Sexual misconduct also includes activities specified in Paragraph 11.B above that defines sexual harassment and includes inappropriate touching and violations of established boundaries. Paragraph 11.C expands sexual misconduct to inappropriate examination or treatment that exposes a patient unnecessarily or for improper motives. The patient provider relationship is therapeutic and not social or emotional. It inherently establishes boundaries and a power differential between the healthcare provider and the patient. Any conduct that exploits the vulnerability of the patient should clearly be a violation of law.

12. Sexual contact between a physical therapist and patient/client after termination of the physical therapist-patient/client Relationship may still constitute sexual misconduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from that relationship.

Commentary

Even after the termination of physical therapy services it is possible that a physical therapist may be culpable for a violation of this Act if the physical therapist demonstrates an abuse of their relationship with the patient/client in order to gain sexual contact with the patient/client. Boards should be able to liberally construe the timing and connection of the interactions and sexual contact between a physical therapist and patient/client even if the sexual contact occurs after the termination of physical therapy services, and not be bound by a definition that ends a physical therapists' responsibilities for their behavior or actions solely at the termination of services, especially if services are terminated for the purpose of sexual contact with a patient/client.

13. Sexual contact between a physical therapist assistant and patient/client after termination of the physical therapist assistant-patient/client relationship may still constitute sexual misconduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from that relationship.

Commentary

Even after the termination of physical therapy services it is possible that a physical therapist assistant may be culpable for a violation of this Act if the physical therapist assistant demonstrates an abuse of their relationship with the patient/client in order to gain sexual contact with the patient/client. Boards should be able to liberally construe the timing and connection of the interactions and sexual contact between a physical therapist assistant and patient/client even if the sexual contact occurs after the termination of physical therapy services, and not be bound by a definition that ends a physical therapist assistant's responsibilities for their behavior or actions solely at the termination of services, especially if services are terminated for the purpose of sexual contact with a patient/client.

14. Abusing the physical therapist-patient/client relationship to exert undue influence or exploiting persons over whom the licensee has supervisory, evaluative, or other authority

Commentary

Factors that can contribute to positional power imbalance include the physical therapist's knowledge of the evaluation and treatment of a diagnosis, the patient/client dependence on the physical therapist to address pain and decreased function and the vulnerability that can arise due to this pain and decreased function. A power imbalance can also exist as related to cultural background(s), socio-economic status, educational background, health literacy, mental and emotional status of others.

While the focus here in statute relates to the power imbalance the physical therapist may hold over the patient/client, it is worth noting that power imbalance may also work in the reverse such that a patient holds an imbalance of power, consider an older patient working with a younger or recent graduate where the patient/client has years of life-experience beyond that of the younger or recent graduate physical therapist.

15. Abusing the physical therapist assistant-patient/client relationship to exert undue influence or exploiting persons over whom the licensee [certificate holder] has supervisory or other authority

Commentary

Factors that can contribute to positional power include the patient/client dependence on the knowledge of the physical therapist assistant and the vulnerability that can arise due to pain and decreased function. A power imbalance can also exist as related to cultural background(s), socio-economic status, educational background, health literacy, mental and emotional status of others.

While the focus here in statute relates to the power imbalance the physical therapist assistant may hold over the patient/client, it is worth noting that power imbalance may also work in the reverse such that a patient holds an imbalance of power, consider an older patient working with a younger or recent graduate where the patient/client has years of life-experience beyond that of the younger or recent graduate physical therapist assistant.

16. Having had a license [or certificate] revoked or suspended, other disciplinary action taken, or an application for licensure [or certification] refused, revoked or suspended by the proper authorities of another jurisdiction, territory or country.

Commentary

This paragraph gives the board the authority to review any disciplinary action taken against a licensee or certificate holder by another jurisdiction when granting a license or certificate or in any subsequent disciplinary case. The board should consider the relationship between the risk to the public resulting in the disciplinary action taken by another jurisdiction, as well as the appropriate level of discipline for the circumstances that formed the basis of the action.

NOTE: In the specific instance where an investigative process or disciplinary action was initiated but not completed, and the licensee or certificate holder then applies in another jurisdiction, this should be addressed by the rules that specify the requirements of application or endorsement. Rules or application questions should address whether the applicant has any pending complaints or investigations from other jurisdictions. Failure to disclose and then subsequent discovery would be grounds for disciplinary action under Paragraph 4.04.2 of this section that describes attempting to obtain a license by fraud or misrepresentation.

Optional for PT Compact Members

12. Having had a license [or certificate] or compact privilege revoked or suspended, other disciplinary action taken, or an application for licensure [or certification] or compact privilege refused, revoked or suspended by the proper authorities of another jurisdiction, territory or country.

17. Having been convicted of or pled guilty to a felony with a nexus to the practice of a physical therapist or work of a physical therapist assistant in the courts of this jurisdiction or any other jurisdiction, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilt, an Alfred plea, or a plea of *nolo contendere*.

Commentary

Although this paragraph gives the board broad authority to review any felony conviction of a licensee/certificate holder, the board should consider the relationship or nexus between the felony to the practice of the physical therapist or work of a physical therapist assistant and the risk to the public's welfare and safety when determining whether and what level of disciplinary action is appropriate. Additional considerations may include but are not necessarily limited to the time since the felony conviction, mitigating/extenuating circumstances, and any additional infractions of the law.

18. Aiding and abetting the unlicensed practice of physical therapy.

Commentary

The most frequent use of this paragraph occurs when someone not licensed or certified is providing services represented as physical therapy without the legal and appropriate supervision of a physical therapist. An example might be a situation where a physical therapist performs only the initial evaluation of a patient and subsequent care is provided by other individuals without the involvement and supervision of the therapist but which is represented and billed as physical therapy. The therapist in this case could be held accountable for abetting this illegal practice by unlicensed personnel.

19. Directly or indirectly requesting, receiving or participating in the dividing, transferring, assigning, rebating or refunding of an unearned fee, or profiting by means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. This does not prohibit the members of any regularly and properly organized business entity recognized by law comprising physical therapists from dividing fees received for professional services among themselves as they determine necessary.

Commentary

This model language is fairly common statute language dealing with kickbacks, rebates and unearned fees. It does not directly address employment relationships with referral sources. Some jurisdictions have legislatively prohibited referral for profit relationships associated with employment of physical therapists by physicians by inserting the word "wages" into the language of this paragraph. While it is unlawful to pay or receive any remuneration to or from a referral source, it is lawful under this clause for physical therapist within a physical therapist-owned practice to divide profits among themselves.

20. Promoting any unnecessary device, treatment intervention or service resulting in the financial gain of the practitioner or of a third party.

21. Providing treatment intervention unwarranted by the condition of the patient or continuing treatment beyond the point of reasonable benefit.

Commentary

Professional practitioners have a fiduciary responsibility to place patient welfare above all other concerns when providing health or medical services. Physical therapist services and product recommendations should be entirely

based on patient need and benefit and uninfluenced by financial benefits the physical therapist might receive. This paragraph establishes that this ethical standard of fiduciary responsibility is also the legal standard of practice in the jurisdiction. These two sections prohibit the provision of unnecessary devices, unnecessary treatment intervention, or overutilization of services. Paragraph 20 focuses on motives of financial gain, whereas Paragraph 21 focuses on treatment effectiveness and appropriateness.

22. Participating in underutilization or overutilization of physical therapy services for personal or institutional financial gain.

Commentary

This paragraph establishes the legal obligation of the professional practitioner to maintain independent judgment and ensure patient benefit regardless of the limitations or opportunities presented by the prevailing healthcare environment or particular employment directives. Under a fee-for-service payment system an increase of intervention shall result in greater financial gain to the provider or employer. In a managed care system the denial or limitation of intervention shall result in greater financial gain to a provider or employer. These types of conflicts are inherent in either system of payment. This paragraph allows the board to take disciplinary action should patients be exploited by overutilization or underutilization of physical therapy services.

23. Charging fraudulent fees for services performed or not performed.

Commentary

This language empowers a licensing board to address circumstances involving the charging of fraudulent fees and billing practices. A board shall still need to wrestle with the issue of when or if a clearly unreasonable fee shall reach the proportion of being considered fraudulent.

24. Making misleading, deceptive, untrue or fraudulent representations in violation of this [act] or in the practice of the profession.

Commentary

Professional accountability encompasses integrity and truthfulness in the practice and promotion of physical therapy services. This language empowers a board to deny licensure or certification or to take disciplinary action against individuals who intentionally violate the public trust. Possible violations shall include private or public representations of one's ability to diagnose or provide treatment for conditions outside the scope of physical therapy practice, or false or misleading advertisement or promotion regarding one's services. The language is broad enough to apply to business operations, employment-related issues, billing practices or any other activity related to the operation of physical therapy services that shall be misleading, deceptive, untrue or fraudulent to the public. This clause is not intended in any way to restrict or limit legally appropriate advertisement or promotion.

25. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other habit-forming drugs, chemicals or alcohol, or by other causes.

Commentary

This paragraph grants the board authority to initiate and carry out disciplinary action when an individual's abilities shall be impaired by substance use. The safety and welfare of patients is of highest priority and is the focus of this statute language. The treatment of the impaired professional recognizes the need to pursue active rehabilitation in cases of substance abuse, as discussed in *Substance Abuse Recovery Program*, Article 4.11.

26. Practicing physical therapy with a mental or physical condition that impairs the ability of the licensee to practice with skill and safety.

Commentary

This paragraph grants a board the authority to impose restrictions on a licensee relating to a determination that the individual's ability to practice physical therapy with skill and safety is impaired by mental or physical conditions, whether temporary or permanent. Examples might be a physical therapist who is recovering from a closed-head injury, or an individual who suffers from a neurological condition that impairs his or her physical performance to practice physical therapy, or a licensee who is dealing with an episode of severe depression. The board could determine whether and for how long the licensee's practice should be restricted to ensure protection of the public. The Americans with Disabilities Act shall pose additional legal restraints when a board relies on this provision.

27. Practicing after having been adjudged mentally incompetent by a court of competent jurisdiction.

Commentary

Mental incompetence is a judgment made outside the scope of a physical therapy licensing board's responsibility. Concern for patient safety and concern that a patient receives appropriate care shall merit board action restricting or denying licensure in a situation where a court of law has made the determination of mental incompetence (see *Investigative Powers; Emergency Action; Hearing Officers*, Article 4.05, which authorizes and empowers the board to require a licensee to be examined for mental or physical ability to practice).

28. Interfering with an investigation or disciplinary proceeding by failure to cooperate, by willful misrepresentation of facts, or by the use of threats or harassment against any patient/client or witness to prevent that patient/client or witness from providing evidence in a disciplinary proceeding or any legal action.

Commentary

The board must have access to all relevant information to adequately protect the public and enforce this act. Any attempt to interfere with or cover up the facts of an investigation or disciplinary proceeding would be a violation of this statute, and potentially subject a licensee or certificate holder to further disciplinary action.

29. Failing to maintain patient/client confidentiality without documented authorization of the patient/client or unless otherwise required by law. All records used or resulting from a consultation by telehealth, as defined in [Definitions, Article 1.02], are part of a patient's/client's records and are subject to applicable confidentiality requirements.

Commentary

Patient/provider confidentiality is an inherent responsibility of professional practice. Initial patient registration information generally contains provisions for the proper and legal release of medical information upon written approval by the patient. This paragraph establishes that violation of this patient/provider trust will also be a violation of law. There shall be other federal or jurisdiction disclosure laws related to confidentiality that shall modify the provisions of this paragraph. There is additional language in the Model Practice Act that addresses provider/patient confidentiality under *Rights of Consumers*, Article 4.12.G.

4.05 Investigative Powers; Emergency Action; Hearing Officers

Commentary

Most jurisdictions have entire sections of administrative law known as an Administrative Procedures Act that directs the disciplinary process. Procedural aspects of discipline need to be delineated in rules if they are not addressed in a jurisdiction's Administrative Procedures Act. This section of the model statute addresses the board's authority to investigate complaints and discipline licensees and certificate holders, including:

- Initiation and handling of complaints
- Investigation
- Informal disposition of complaints

- Summons and complaint issued by the board
- Pre-hearing discovery
- Subpoena and injunctive authority
- Informal interviews or hearings
- Formal hearings
- Settlement, consent orders, disciplinary actions

A. To enforce this [act], the board is authorized to:

1. Receive complaints filed against licensees [or certificate holders] and conduct a timely investigation.

Commentary

Public access to the complaint process should be clearly established by the law. There should be a standard complaint form, allowing for complaints to be received verbally or in writing. The complainant must provide their name and address for follow-up contact. However, it should be specified that confidentiality will be maintained if the complainant so requests and within the limits of law. Jurisdiction confidentiality laws shall be a factor in drafting conforming rules. (See *Guidelines for Rules*.)

2. File complaints against licensees [or certificate holders] or individuals engaging in the unlawful or unlicensed practice of physical therapy and conduct a timely investigation.

Commentary

Board members may become aware of possible infractions of the laws and rules through multiple sources about the unlawful or unlicensed practice of physical therapy. This standard empowers the Board to file a complaint to report the unlawful or unlicensed practice of physical therapy. Some examples may include, but are not limited to, a physical therapist or physical therapist assistant practicing with an expired license or individuals purporting to provide physical therapy when they are not authorized to do so.

3. Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the board has reason to believe that there shall be a violation of this [act].

Commentary

Board members may become aware of possible infractions of the laws and rules through inquiries to board members or staff from physical therapists, the public or other sources about the legal appropriateness of a physical therapist's practices. As well, information may come to the board through the complaint investigation process that identifies other practitioners in possible illegal actions. Boards need the latitude to investigate these concerns without being required to wait for a formal complaint to be submitted. This standard allows more latitude than "probable cause" or "reasonable cause."

4. Issue subpoenas to compel the attendance of any witness or the production of any documentation relative to a case.

Commentary

A subpoena shall be used to access, review and obtain records in addition to compel the testimony of any witnesses in an investigation or disciplinary proceeding. The use of subpoenas in unannounced site investigations is occasionally a necessary part of investigating complaints. The issuance of subpoenas shall be dependent upon individual jurisdiction laws. Specific model language regarding the confidentiality of patient records is further recommended. (See *Rights of Consumers*, Article 4.12.H.)

5. Take emergency action ordering the summary suspension of a license [or certificate] or the restriction of a physical therapist's practice or a physical therapist assistant's work, pending proceedings by the board.

Commentary

This language grants a board the authority to respond quickly to a complaint having serious implications for public protection. Jurisdiction boards have sometimes been required to wait weeks or months before a hearing could be conducted, putting the public at risk. In the absence of an Administrative Procedures Act, conforming rules shall be necessary to specify parameters for the use of this authority, for example, how soon a hearing must be held and what type of conduct or imminent danger warrants use of this authority.

Optional for PT Compact Members

Take emergency action ordering the summary suspension of a license [or certificate] or compact privilege or the restriction of a physical therapist's practice or a physical therapist assistant's employment, pending proceedings by the board.

6. Appoint hearing officers authorized to conduct hearings. Hearing officers shall prepare and submit to the board findings of fact, conclusions of law and a recommendation for board action that shall be reviewed and voted on by the board.

Commentary

When the disciplinary process reaches the formal level, the preferred procedure is to use an independent hearing officer to conduct the hearing. Administrative Procedures Acts shall specify that hearing officers shall be administrative law judges. If that is the case, the reference to "administrative law judges" shall be more appropriate than "hearing officers." Hearing procedures should be specified in rules or referenced in a uniform Administrative Procedures Act.

7. Require a physical therapist to be examined in order to determine his or her mental or physical ability to practice physical therapy.

Commentary

There shall be times when a licensee or applicant's mental, physical or professional competence could impair their ability to practice physical therapy with skill and safety. This paragraph empowers a board to direct appropriate evaluations for such competence if the circumstances warrant. The Americans with Disabilities Act shall pose additional restraints. Paragraph 4.04.23 under *Grounds for Denial of a License [and Certificate] Disciplinary Action* authorizes the board to take action that shall limit or prevent practice determined by the board to be unsafe to the public.

8. Require a physical therapist assistant to be examined in order to determine his or her mental or physical ability to work in the profession of physical therapy.

Commentary

There shall be times when a licensee or applicant's mental, physical or professional competence could impair their ability to work in the profession of physical therapy with skill and safety. This paragraph empowers a board to direct appropriate evaluations for such competence if the circumstances warrant. The Americans with Disabilities Act shall pose additional restraints. Paragraph 4.04.23 under *Grounds for Denial of a License [and Certificate]; Disciplinary Action* authorizes the board to take action that shall limit or prevent practice determined by the board to be unsafe to the public.

B. If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a licensee [or certificate holder] it shall take one of the following actions:

1. Dismiss the complaint.

Commentary

A complaint is dismissed if there is no violation of the law or rules.

2. Issue an advisory letter to the licensee [or certificate holder]. An advisory letter is non-disciplinary and notifies a licensee [or certificate holder] that, while there is not evidence to merit disciplinary action, the board believes that the licensee [or certificate holder] should become educated about the requirements of this [act] and board rules.

Commentary

The Model Practice Act consistently advocates a broader role for licensing boards than merely punishing practitioners who violate the law. This paragraph grants a board the authority to address issues of conduct it believes shall be problematic but that do not rise to the level of a violation of law. This paragraph is pre-emptive in its approach by authorizing a board to give guidance in the spirit of public protection about a physical therapist's practices which shall avert future violation of law or potential risk to the public.

An advisory letter is instructive and not disciplinary or punitive. The advisory letter is not considered a disciplinary action and thus does not require reporting to HIPDB. Each jurisdiction will need to determine the limits of disclosure pursuant to their open records act. Other questions that might be addressed in rules include whether an advisory letter is retained in a licensee's file, for how long, and whether it can be used in any way in future disciplinary proceedings.

Optional for PT Compact Members

B. If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a licensee [or certificate holder] or compact privilege holder it shall take one of the following actions:

1. Dismiss the complaint.

Commentary

A complaint is dismissed if there is no violation of the law or rules.

2. Issue an advisory letter to the licensee [or certificate holder] or compact privilege holder. An advisory letter is non-disciplinary and notifies a licensee [or certificate holder] that, while there is not evidence to merit disciplinary action, the board believes that the licensee [or certificate holder] or compact privilege holder should become educated about the requirements of this [act] and board rules.

4.06 Hearings

[No model statute language is offered under this section heading. See *Commentary* for additional information.]

Commentary

At the very minimum, there should be a statute paragraph referring to the jurisdiction's Administrative Procedures Act. For jurisdictions that might have or feel that they have an inadequate Administrative Procedures Act, this statute section is appropriately placed at this point in the physical therapy practice act. Topics under this section may include:

- Authority to request hearings
- Authority to take disciplinary action after hearings
- Authority and procedure for notice of a formal hearing

- The right of anyone appearing before the board to be represented by counsel
- Authority to administer the oath to witnesses
- The right of a board to waive the technical rules of evidence in hearings
- The right to file a motion for rehearing or review of a board decision within a specified time period
- The right to appeal a disciplinary action

4.07 Disciplinary Actions; Penalties

Upon proof that any grounds prescribed in [*Grounds for Denial of a License [and Certificate]; Disciplinary Action, Article 4.04*], have been violated, the board shall take the following disciplinary actions singly or in combination.

Commentary

Discipline serves two essential purposes: to protect the health, safety and welfare of the public, and to provide corrective action for those individuals who have been disciplined. The board needs the discretion to take appropriate disciplinary action against a licensee or certificate holder who has violated any law or rule and to determine appropriate action on a case-by-case basis based on at least the following considerations:

- (a) The seriousness of the infraction,
- (b) The detriment to the health, safety and welfare of the public,
- (c) Past and pending disciplinary actions relating to the licensee or certificate holder,
- (d) The potential for remediation.

Based on these considerations, the options for action that a board may take include:

1. Issue a censure.

Commentary

A censure is the mildest form of discipline and shall be used where violations of the law or rules do not merit more serious disciplinary action. A censure shall include corrective actions, advice or admonitions from the board. A censure remains a part of the licensee or certificate holder's file and is considered disciplinary action reportable to a national disciplinary data base.

2. Restrict a license [or certificate]. The board shall require a licensee [or certificate holder] to report regularly to the board on matters related to the grounds for the restricted license [or certificate].

Commentary

Use of a restricted license or certificate can also be in combination with other disciplinary actions. Boards must have authority to place restrictions on a license or certificate relating to scope or place of practice, supervision of practice, types of patients serviced and the duration of the restrictions. Probation is not one of the options for discipline in this model act since probation is simply one form of a restricted license.

A restricted license, as presented in this model, is generally not intended to be used for purposes other than a disciplinary situation. For example, it should not be used to replace the lack of authority to issue a temporary license or interim permit. There are three exceptions for use of a restricted license other than for disciplinary actions: 1) with a voluntary substance abuse program, 2) with a professional re-entry after a lapse of a license for two or more renewal periods, and 3) supervised clinical practice for a foreign-educated applicants.

3. Suspend a license [or certificate] for a period prescribed by the board.

Commentary

Suspension is a disciplinary action that prohibits a physical therapist's ability to practice or a physical therapist assistant's ability to work for a specified, temporary period of time. *Investigative Powers; Emergency Action;*

Hearing Officers, Article 4.05, Paragraph A.4, grants the board the authority to take emergency action temporarily suspending a license or certificate during the investigative process when potential danger to the public requires immediate action. The conditions and process for when and how this action shall be imposed should be further clarified in rules. Reinstatement requirements should always be included in rules or in a final agency order.

4. Revoke a license [or certificate].

Commentary

The most severe penalty enacted by the board is the revocation of a license to practice physical therapy or a certificate allowing work as a physical therapist assistant. Licenses and certificates that are revoked *should never be automatically reinstated* and application for reinstatement should be necessary. The revocation order shall specify the conditions, if applicable, under which reinstatement will be considered. Rules should address the process whereby an individual shall have a revoked license or certificate restored. (See *Reapplication for Licensure after Revocation* in *Guidelines for Rules* under Article 4.07.)

Optional for PT Compact Members

4. Revoke a license [or certificate] or compact privilege.

5. Refuse to issue or renew a license [or certificate].

Commentary

There shall be circumstances, such as a fraudulent application, discipline imposed by another state, or current investigation, when a board shall refuse to issue or renew a license or certificate. This model language grants a board the authority to withhold licensure or certification based on serious illegal or unprofessional conduct that threatens the public safety or welfare. (See *Grounds for Denial of a License [and Certificate]*; *Disciplinary Action*, Article 4.04.)

6. Impose a civil penalty of at least _____ but not more than _____. (Include minimum and maximum dollar amounts of civil penalties.)

Commentary

Most jurisdictions have provisions for imposing fines or civil penalties associated with disciplinary decisions. Jurisdictions vary considerably on the use of these monetary penalties. Some jurisdictions use fines for punitive measures while others use fines to recover the cost of an investigation or disciplinary proceeding. It is recommended that the range of fines or penalties be specified either in statute or rules. The Model Practice Act, in *Fees*, Article 3.08, does not address fines or penalties, so these should be clarified under this section or in the rules.

7. Accept a voluntary surrendering of a license [or certificate] based on an order of consent from the board.

Commentary

This provision grants specific authority to accept a voluntary surrender of a license or certificate under circumstances when a licensee or certificate holder wishes to surrender the license or certificate in lieu of continuing a disciplinary proceeding. Acceptance of surrender of a license or certificate should be accompanied by findings and conclusions relating to violations of law and reported as disciplinary action. Such acceptance, in the consent order, shall jurisdiction that the voluntary surrender has the same effect as a revocation. This allows the public record to reflect the basis on which the license or certificate was surrendered. The board may decline to accept a voluntary surrender and proceed with an investigation and hearing based upon the particulars of the disciplinary situation.

4.08 Procedural Due Process

Actions of the board shall be taken subject to the right of notice, opportunity to be heard and the right of appeal in accordance with [specify the jurisdiction] law relating to administrative law and procedure.

Commentary

This provision ensures the licensee or certificate holder due process of law. Most jurisdictions have separate statutory provisions related to this right that should be referred to under this paragraph.

4.09 Unlawful Practice; Classification; Civil Penalties; Injunctive Relief

A. It is unlawful for any person or business entity, its employees, agents or representatives not licensed as a physical therapist under this [act] to engage in the practice of physical therapy. Any person who violates this paragraph [(A) or *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02], is guilty of [cite specific criminal sanction, e.g., class 1 misdemeanor] and subject to any other remedies specified in this [act].

Commentary

This section authorizes board action against persons who are not regulated providers of physical therapy but who falsely claim to provide, or attempt to provide, physical therapy services in violation of the practice act. The possible ways a person may make such a false claim are specified in *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02. Therefore, it is essential that 4.02 be cited in this paragraph and also included in a practice act in combination with this paragraph. The specific civil sanctions may vary from jurisdiction to jurisdiction but jurisdictions generally consider a first-time violation of this statute a misdemeanor. The jurisdiction attorney general's office, a county or a city attorney would be responsible for prosecuting unlawful practice, but these agencies may be reluctant to devote resources to pursue a violation unless injury to the public is evident. The threat of prosecution shall, in and of itself, impose an impediment to persons who would otherwise violate the provisions of this statute.

Optional for PT Compact Members

A. It is unlawful for any person or business entity, its employees, agents or representatives not licensed as a physical therapist under this [act] or holding a compact privilege to engage in the practice of physical therapy. Any person who violates this paragraph [(A) or *Use of Titles and Terms; Restrictions; Classification of Violation*, Article 4.02], is guilty of [cite specific criminal sanction, e.g., class 1 misdemeanor] and subject to any other remedies specified in this [act].

B. The board shall investigate any person or business entity to the extent necessary to determine whether the person or business entity is engaged in the unlawful practice of physical therapy. If an investigation indicates that a person or business entity is practicing physical therapy unlawfully, the board shall inform the person or the business entity of the alleged violation. The board may refer the matter for prosecution regardless of whether the person or business entity ceases the unlawful practice of physical therapy.

Commentary

Under *Investigative Powers; Emergency Action; Hearing Officers*, Article 4.05, the board is authorized to investigate, issue subpoenas and compel witnesses in any case involving someone regulated under the practice act. This section extends the board's authority of investigation to persons not regulated under the practice act. Where an investigation reveals this type of a violation, the board is empowered to inform the violator and request that he or she immediately cease and desist the unlawful behavior. The threat of the board referring the case for legal action if the violator does not stop the unlawful conduct shall be the main deterrent of this clause.

C. The board shall apply to any court of competent jurisdiction for an order enjoining any person or business entity from committing any violation of this [act]. Injunction proceedings under this paragraph shall be in addition to, and not in lieu of, all penalties and other remedies prescribed in this [act].

Commentary

In addition to the threat of action that an investigation and subsequent cease and desist letter shall pose, the board should be empowered to pursue a cessation of illegal action through the appropriate jurisdiction authority when necessary. This is the sole intent of an injunction. Subsequent violations of the injunction are considered contempt and handled by the court thereafter. Most often an injunction is obtained through the jurisdiction attorney general's office. An injunction does not preclude additional actions, penalties or remedies that may be imposed according to law.

D. If a person or business entity knowingly violates this [act] or board rules, fraudulently uses or permits the use of a license [or certificate] number, or knowingly aids or requires another person to violate this [act] or board rules, the board shall impose upon such person a civil penalty of not more than [dollar amount of penalty] for the first violation and not more than [dollar amount of penalty] for each subsequent violation.

Commentary

This paragraph applies to those outside the regulation of the physical therapy act, but could also include those regulated by the act: physical therapists and physical therapist assistants who participate in violations of the law. This is often the case where a physical therapist shall assist, condone or supposedly lend the authority of his or her license illegally to someone not regulated by the practice act. In such a case, in addition to the disciplinary provisions cited in *Unlawful Practice; Classification; Civil Penalties; Injunctive Relief*, Article 4.09, someone regulated under the act shall also be exposed to the monetary penalties stated above. This paragraph could be applied to a non-physical therapist employer or supervisor who shall exert influence on a licensee, requesting or requiring conduct in violation of the practice act.

Optional for PT Compact Members

D. If a person or business entity knowingly violates this [act] or board rules, fraudulently uses or permits the use of a license [or certificate] or compact privilege number, or knowingly aids or requires another person to violate this [act] or board rules, the board shall impose upon such person a civil penalty of not more than [dollar amount of penalty] for the first violation and not more than [dollar amount of penalty] for each subsequent violation.

[Optional Statute]

E. The board shall transmit all monies it collects from civil penalties pursuant to this [act] to the [specify the disposition of these funds if different from other funds].

Commentary

A jurisdiction shall make the determination that money received from civil penalties goes into the physical therapy fund or the operating funds of the board or whether the money goes into the general fund of the jurisdiction. Depositing civil penalties into the general fund is the customary procedure that provides a barrier against the temptation of using civil penalties to increase the funds of the board.

4.10. Reporting Violations; Immunity

A. A person, including but not limited to a licensee [or certificate holder], corporation, insurance company, healthcare organization or healthcare facility and jurisdiction or local governmental agencies, shall report to the board any conviction or determination by an agency or court that a licensee [or certificate holder] has committed an act that constitutes a violation of [Grounds for Denial of a License [and Certificate]; Disciplinary Action, Article 4.04].

Commentary

This paragraph provides board authority to directly solicit and require reporting by any individual or organization taking any action against a licensee, certificate holder or applicant related to *Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04. This reporting requirement requires a formal conviction,

determination or finding against the regulated individual so as to eliminate the possibility of imposing penalties for unconfirmed violations. This language also requires a licensee to report his or her own legal entanglements that resulted in conviction, determination or finding consistent with the violations contained in *Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04. When jurisdictions adopt these reporting standards they should communicate the reportable grounds to all agencies who shall have taken action against regulated individuals to enhance their understanding and cooperation with the reporting mandates of this section.

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- B. A person is immune from civil liability, whether direct or derivative, for reporting such facts as set forth in A above to the board in good faith and participating in the board's investigation and subsequent disciplinary process, if applicable.**

Commentary

This paragraph is a necessary companion to Paragraph A, above, to protect an individual who reports information or findings to the board as long as the reporting is in good faith. A person reporting a false or bad faith claim of "suspected" conduct would not be granted immunity from civil liability.

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- C. The board shall not disclose the identity of a person who provides information unless such information is essential to proceedings conducted pursuant to [Investigative Powers; Emergency Action; Hearing Officers and Hearings, Articles 4.05 and 4.06], or unless required by a court of law.**

Commentary

This paragraph gives the board authority to protect the identity of someone providing information that shall be used in a board decision. There are various disclosure laws that shall govern what a board shall and shall not disclose. Those laws generally focus on the right of an accused to face his or her accuser if an action comes to the point of formal discipline. Board legal counsel will be able to advise boards in these matters.

4.11. Substance Abuse Recovery Program

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- A. The board shall permit a licensee [or certificate holder] to actively participate in a board-approved substance abuse recovery program if:**

- 1. The board has evidence that the licensee [or certificate holder] is impaired.**
- 2. The licensee [or certificate holder] enters into a written agreement with the board for a restricted license [or certificate] and complies with all the terms of the agreement, including making satisfactory progress in the program and adhering to any limitations on his or her practice or employment imposed by the board to protect the public. Failure to enter into such an agreement shall activate an immediate investigation and disciplinary proceeding by the board.**
- 3. As part of the agreement established between the licensee [or certificate holder] and the board, the licensee [or certificate holder] signs a waiver allowing the substance abuse program to release information to the board if the licensee [or certificate holder] does not comply with the requirements of this section or is unable to practice or work with reasonable skill or safety.**

Commentary

This model language is placed here as opposed to *Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04 because entry and participation in a substance abuse recovery program shall be initiated in a way other than through the formal disciplinary process. A person regulated by this statute could (and should) report a substance abuse problem to the board. This self-reporting could be handled through voluntary participation in a recovery program monitored by the board in lieu of discipline. Successful recovery from substance abuse provides a benefit to society in general, to the profession's position of public trust and to the impaired practitioner. After a sufficient period of supervision and recovery, a physical therapist or physical therapist assistant who is otherwise free from actionable activities under the disciplinary provisions of a practice act shall be able to return to or maintain a productive career.

This section does not preclude disciplinary action against an impaired physical therapist or physical therapist assistant who declines to participate in voluntary recovery or who violates the conditions of an approved recovery program (see Paragraph 22 under *Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04). This section provides two options: the licensee or certificate holder shall either participate in the substance abuse program or face disciplinary proceedings. The public will be further protected by Paragraph 2 that requires the licensee or certificate holder to adhere to any limitations imposed by the board as a condition of participation in a recovery program.

This model language does not provide for confidential participation in a substance abuse recovery program. Entering into a written agreement requiring participation in such a program constitutes an official action by the board and would be part of the public record. Jurisdictions wishing to adopt a confidential program should seek local legal counsel.

4.12. Rights of Consumers

A. The public shall have access to the following information:

- 1. A list of licensees [and certificate holders] that includes license [or certificate] number, date of license [or certificate] expiration, status of license [or certificate], and employment information.**
- 2. A list of final adverse actions taken by the board.**
- 3. The address, website, email and phone number of the board.**

Commentary

This entire section contains clauses that have historically been scattered throughout various sections of practice acts. All of them have a common interest in consumer advocacy. A practice act, by its very nature, is focused on public protection, so this is a more natural grouping of similar topics giving greater focus to the board's role in advocating for the physical therapy patient.

Optional for PT Compact Members

A. The public shall have access to the following information:

- 1. A list of licensees [and certificate holders] that includes license [or certificate] number, date of license [or certificate] expiration and status of license [or certificate].**
 - 2. A list of final adverse actions taken by the board.**
 - 3. A list of compact privilege holders**
- 3. The address, website, email and phone number of the board.**

B. Each licensee [and certificate holder] shall display a copy of his or her license [or certificate] in a location accessible to public view or produce a copy immediately upon request.

Commentary

Patients need to know the names and qualifications of the persons providing their care. Posting licenses and certificates ensures that the public can identify the name and qualifications of the provider as well as their valid license or certificate status. In home health or community settings where the posting of a license shall not be feasible, this language allows the provider to produce a licensure upon request. As most jurisdictions have licensure information posted electronically, licensees [and certificate holders] may produce an electronic copy or verification of licensure upon demand. Other identification such as nametags with titles is discretionary according to the facility or agency standards or requirements, but when worn these identifiers should also include appropriate title and letter designations.

Optional for PT Compact Members

Each licensee [and certificate holder] and compact privilege shall display a copy of his or her license [or certificate] in a location accessible to public view or produce a copy immediately upon request.

C. Each licensee [and certificate holder] shall provide the public with information on how to file a complaint with the board against a licensee [or certificate holder].

Commentary

This section places the responsibility for consumer education about the complaint process upon the individual physical therapist and physical therapist assistant. The board is likewise directed to educate the public about the complaint process under *Powers and Duties of the Board*, Article 2.02, paragraph 13. Compliance could occur via posting of a notice containing the board address and telephone number with a brief statement of the right of consumers to file complaints.

Optional for PT Compact Members

Each licensee [and certificate holder] and compact privilege holder shall provide the public with information on how to file a complaint with the board against a licensee [or certificate holder] or compact privilege holder.

D. Any person may submit a complaint regarding any licensee, [certificate holder] or any other person potentially in violation of this [act]. Confidentiality shall be maintained subject to law.

Commentary

Most jurisdictions allow a confidential complaint, but not an anonymous complaint. This means that the name of the complainant will be held confidential as long as possible or as the law requires. With any complaint due process shall eventually require disclosure of the complainant in order for a licensee/certificate holder to fully defend their actions. The purpose of this paragraph is to remove barriers to the public's filing of complaints against those regulated by practice acts or others who shall be in violation of a practice act.

E. The home address, email address and home telephone numbers of physical therapists and physical therapist assistants are not public records and shall be kept confidential by the board unless they are the only addresses and telephone numbers of record.

Commentary

Some information required by a board and used in regulation of licensees is not necessarily public information. This paragraph clarifies which information is confidential and for board use only.

F. A patient/client has freedom of choice in selection of services and products.

Commentary

The rights of consumers of healthcare services include the *right to know* and the *right to choose*. In order for consumers to be able to "choose" effectively, there is an obligation on the part of providers to furnish accurate and sufficient information so that consumers can make informed choices. This model language emphasizes the responsibility that all physical therapists have to inform their patients about freedom of choice in all aspects of services being provided.

The patient should know that they may raise questions about procedures or even refuse treatment. These principles should apply at the time products or equipment is recommended. They shall also apply when a physical therapist recommends or refers a patient to a physician and should offer the patient at least two or three options, answering questions fairly about each physician they are recommending to the patient.

G. Information relating to the physical therapist-patient/client relationship is confidential and shall not be communicated to a third party who is not involved in that patient's/client's care without the written

authorization of the patient/client. The physical therapist-patient/client privilege does not extend to cases in which the physical therapist has a duty to report or disclose information as required by law.

- H. Information relating to the physical therapist assistant-patient/client relationship is confidential and shall not be communicated to a third party who is not involved in that patient's/client's care without the written authorization of the patient/client. The physical therapist assistant-patient/client privilege does not extend to cases in which the physical therapist assistant has a duty to report or disclose information as required by law.**

Commentary

This model language is similar to language used by other healthcare disciplines. Written authorization allows information to be communicated to a referring physician, insurance company and perhaps other family members. But the written authorization should be specific as to what information can be released. The last two sentences clarify that this privilege does not extend to withholding information that is required by law to be reported to the board concerning an investigation. Patient record confidentiality is further addressed in Paragraph I that follows. Boards have a further obligation regarding confidentiality of patient records when obtained by subpoena.

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- I. The board shall keep all information relating to the receipt and investigation of complaints filed against licensees [or certificate holders] confidential until the information is disclosed in the course of the investigation or any subsequent proceeding or until disclosure is required by law. Patient/client records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment of patients/clients, any information from which a patient/client or their family might be identified, or information received and records or reports kept by the board as a result of an investigation made pursuant to this [act] shall not be available to the public and shall be kept confidential by the board.**

Commentary

Disclosure of information related to a complaint investigation prior to official action or ruling of the board could disrupt the disciplinary process and have a detrimental and possibly irreversible influence on both the complainant and the individual being investigated. Once final disciplinary action is taken, further information becomes public knowledge and can be disclosed. The board has further reporting requirements under *Board of Physical Therapy*, Article 2.01, and *Powers and Duties of the Board*, Article 2.02, that relate to reporting to a national database and the publication of final disciplinary actions.

Patient/client records should be afforded a high level of protection. If patient records are obtained in an investigation and retained in an investigative file they remain confidential and are not accessible as public records.

Optional for PT Compact Members

Except as directed by the physical therapy compact, the board shall keep all information relating to the receipt and investigation of complaints filed against licensees [or certificate holders] or compact privilege holders confidential until the information is disclosed in the course of the investigation or any subsequent proceeding or until disclosure is required by law. Patient records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or his family might be identified, or information received and records or reports kept by the board as a result of an investigation made pursuant to this [act] shall not be available to the public and shall be kept confidential by the board.

Guidelines for Rules

Introduction

The Model Practice Act for Physical Therapy does not include recommended model language for administrative rules. When jurisdictions make regulatory changes to their practice acts using language from this model act, conforming rules will be required to complete the regulatory design. Individual jurisdictions are traditionally responsible for writing rules to accompany the statutory language adopted by the legislature.

One of the driving philosophies behind creating this Model Practice Act was to keep the statutory language as concise as possible and free of procedural activity or description. Rules are the place where procedural descriptions and processes are addressed. There will need to be some structure, policy and operational definitions to help make the administrative rules a functional and complementary part of a practice act. Some jurisdictions have relatively large statutory sections and small rule sections to their practice acts. Others are just the opposite. The Model Practice Act, in keeping with statutory recommendations, is concise and anticipates the “smaller statutes/larger rules” structure.

To provide assistance to jurisdictions as they work to revise practice acts, Guidelines for Rules examines each of the four Articles of the model practice act language and lists several conforming rules that should be developed. This is by no means an exhaustive list of potential rules. It follows the same order as the Articles, so it should be easy to coordinate the two. Regardless of the organizational structure of the rules adopted by each jurisdiction, there should be a system to facilitate correlation of the rules with the corresponding statutes.

The use of “board policies” is a way to organize procedural activities that are strictly internal and operational and have no effect on those regulated by the practice act or by any other external group or individual. An example might be a board policy on office supply and equipment purchases and the authorization for such acquisitions. This should not be confused with written board “positions” or “opinions” that serve to interpret or give guidance on how the board interprets the statutes or rules. Boards should not use policies as a means to avoid the admittedly more difficult task of changing a statute or adopting rules. If a topic or issue of concern directly affects those licensed or regulated under a practice act, and if it is not a matter of internal board or office procedure, it should be addressed through rules if not in the statutes.

ARTICLE 1: GENERAL PROVISIONS

1.01 Legislative Intent

Jurisdictions should add a statement of purpose or philosophy about administrative rules and cite the specific statute that grants authority to promulgate such rules. The authorizing statute in the model act is in Powers and Duties of the Board, Article 2.02. Here is an example of an opening paragraph loosely adapted from Hawaii’s rules section of a previous version of their practice act:

“The [name of jurisdiction] Board of Physical Therapy shall adopt rules pursuant to [citing the specific authority granted by statute in Article 2.02 Board of Physical Therapy to effectuate this [act] and its licensing laws, and to carry out its purpose of protecting the health, safety and welfare of consumers of services provided by or under the direction of a physical therapist licensed under this act. The enumeration of specific matters that shall properly be made the subject of rules shall not be construed to limit the board’s broad general power to make all rules necessary to fully effectuate the purpose of this chapter.”

1.02 Definitions

Physiotherapy/Physiotherapist Definition

There may be a need to have further operational definitions of terms not addressed in the Definitions section of the statutes. Statutory construction varies from jurisdiction to jurisdiction and frequently the definition of terms used in statute must be contained in the definition section, whereas definition of terms used in administrative

rules are contained in the rules definition section. The following definition of the terms “physiotherapy,” “physiotherapist,” and “physio” could be contained in either statute or rules:

“Physiotherapy,” “physiotherapist,” and “physio” are the international terms for physical therapy and physical therapist respectively. These terms are not used by physical therapists in the United States, but they are protected titles and terminology under [cite the specific Use of Titles statute for protected terms] and, therefore, are not to be used in any manner by any other person or organization that could mislead consumers of healthcare and induce the false belief that physical therapy or physiotherapy is being provided by any person not licensed under this [act].

Practice of physical therapy

Jurisdictions should consider adopting rules addressing the scope of certain procedures authorized under the practice act. For example, rules might define the scope of wound debridement to include sharp, enzymatic, selective, and pharmacological wound debridement. Other procedures that might be addressed in rules are whether physical therapists can use certain machines and perform procedures such as electroneuromyography, needle EMG, dry needling, etc. that are not specifically addressed in the statutory language. This provides licensees with guidance to their proper scope while providing jurisdictions with the flexibility to evaluate and determine whether certain procedures/machines are properly within the scope of physical therapy.

ARTICLE 2: BOARD OF PHYSICAL THERAPY

2.01 Board of Physical Therapy Board Appointments

Rules should be developed outlining the process of appointment to the board. The nomination process varies from jurisdiction to jurisdiction. In some jurisdictions, the statute or rules specify that appointments to the board must be made from a list supplied to the governor from the APTA state chapter. In other jurisdictions the board may use its own nomination process where a mail ballot determines the top five recommendations to pass on to the governor. A suggestion is to include in rules the following:

“The governor shall appoint any qualified person to the Board of Physical Therapy meeting the requirements outlined in [citing statute area] and in [citing rules outlining additional qualifications] herein. A list of qualified candidates shall be provided to the governor by the Physical Therapy Board or by any other interested group or individual. Any qualified person may also submit his or her own name to the governor for consideration.”

As discussed earlier, rules shall also include recommendations to the governor to consider geographic distribution, gender, ethnicity, diversity, and practice settings in the appointment process. (See rationale under Board of Physical Therapy Article 2.01.) The use of the phrase “as prescribed by law,” usually addresses other statutory requirements for appointment by the governor, such as senate confirmation of all appointments. Adopting a rule requesting that the governor consider geographic distribution, gender, ethnicity and practice settings in the selection process will have more of an influence on the organizations or individuals recommending individuals for appointment than on the governor when making the appointment.

Terms of Board Appointment

Rules should be developed delineating specific dates, or years of appointment, and the dates of staggered or overlapped terms of office. This facilitates smoother transitions so that only one or two members of a board are appointed in any year to avoid disruptions caused by multiple appointments in a single year.

Removal of Board Members

The entire process for removal of a board member for misconduct should be outlined in rules. This should include the specific grounds for removal, the options for correction of a problem prior to removal, and the procedures used to request removal of a board member by the governor.

Expense Reimbursement

Rules should include guidelines for reimbursement of board members' expenses, per diem, travel, etc., and reference any other applicable regulations or operational procedures addressing reimbursement.

2.02 Powers and Duties of the Board

Rule Development

The process for administrative rule development should be detailed. This includes proper notice, public hearings and final approval mechanisms of changes to, or adoption of, any existing or proposed rule based upon each jurisdiction's specific Administrative Procedures Act or authorizing statute.

Official Board Records

The maintenance of official records, confidentiality of certain records and of other discussion, and distribution of board minutes are necessary inclusions in rules, as is automatic distribution of minutes and to whom they should be sent.

Assessing Continuing Competence

Specific mechanisms for assessing continuing competence shall be included in this section or in License [or Certificate] Renewal, Article 3.05.

Election of Board Officers

The process for the election of board officers should be detailed in rules. This includes eligibility, the dates of elections and any other restrictions, e.g., concurrent terms in the same office.

Orientation

The process for orientation of new board members should be developed and outlined in rules. Proper orientation and training for board members should be a high priority of every licensing board.

Reporting to appropriate authorities

In order to protect the public, the Board should report findings of unlawful conduct that shall be in violation of other state or federal laws. In this section the board should outline the types of violations (e.g. criminal conduct) that will be referred and to which agencies. The Board should determine at what point in the disciplinary process the information should be referred to other agencies.

ARTICLE 3: EXAMINATION AND LICENSURE

3.01 Examination

Rules specifying the examination process, the procedure for applicants or licensees who subvert or undermine the examination process (including due process), the reporting of scores, etc., should be developed. The following language should be placed in rules to describe the kinds of behaviors that the Board considers to be subverting or undermining the integrity of the examination or examination process:

"Examples of conduct that subverts or undermines the examination or examination process shall include, without limitation, utilizing in any manner of communication, including copying, duplication, written notes or any electronic medium, recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, attempting to communicate with other examinees during the test, or copying and sharing examination questions or portions of questions. Any such violation shall be recorded in the official records of the board. Board action shall include the following: 1. Disqualify the applicant, permanently or for a specified period of time, from eligibility for the examination. 2. Disqualify the applicant who has failed the examination from eligibility to retake the examination. 3. Disqualify the applicant, permanently or for a specific period of time, from eligibility for licensure. 4. Revoke, suspend or impose probationary conditions on any license [or certificate] issued to such applicant."

Failing the Examination

Rules may specify the number of times the applicant can re-take the national examination. If limitations are specified, any requirements for reapplication, submitting additional fees, or other requirements for retaking the examination. It should be specified in rules that if an applicant completely a supervised clinical experience prior to attempting the national examination and subsequently fails the national examination the assumption of competence is deemed void and no approval for continued clinical practice should be extended, even under supervision, until competence is demonstrated by successful passing of the national examination.

3.02 Qualifications for Licensure [and Certification]

Qualifications for licensures describe the basic preparation necessary to "qualify" for practice or work in physical therapy, i.e. graduation from an appropriate school, passage of an entry examination, completion of the application process. These qualifications are the same from jurisdiction to jurisdiction. In addition to these basic qualifications, many jurisdictions establish additional requirements that applicants must fulfill prior to licensure or certification, i.e. passage of a jurisprudence exam, submission of letters of recommendation, passage of English proficiency examinations. Requirements for licensure differ from jurisdiction to jurisdiction and need to be detailed in rule.

Application Procedures

All procedures for making application for original licensure or certification, for licensure of physical therapist graduates of programs from non-approved accredited agencies, for endorsement, for renewal, for re-licensure after a lapse, etc., should be included in detail within rules. This includes reference to various application forms (application forms themselves should not be included in rules), various application fees, and any other supporting documentation required under the application procedures. Some jurisdictions require that the specific questions asked of applicants for original licensure/certification or renewal must be delineated in rules.

Disciplinary Database

A rule should be developed requiring the board to check the Federation of State Boards of Physical Therapy's database for any previous disciplinary actions taken against any applicant. A score transfer report from the Federation would be an acceptable check of an applicant's license. This should occur with anyone applying for licensure by endorsement, or for certification, where the applicant was previously regulated in another state. This should also include a requirement that the applicant report all previous jurisdictions of licensure or certification, not just the one of previous residence.

Credential Review Agencies

A list of board-approved educational credential review agencies should be included in rules, and with a description of the process by which an agency becomes board-approved. A list of the kinds of information that must be submitted to the credential review agency should be noted. The jurisdiction's requirement to use the applicable FSBPT Coursework Tool for Foreign Educated Physical Therapists and/or FSBPT Coursework Tool for Foreign Educated Physical Therapist Assistants could also be specified in rules.

English Proficiency Examinations

Rules should specify the exact English proficiency examinations and scores required for licensure.

Waiving Requirements for Applicants Educated at a School that has not been Accredited by an Agency Approved by the Board

Under Qualifications for Licensure [and Certification], Article 3.02, when an applicant educated outside of the United States graduates but from a program accredited by an agency approved by the board then several of the requirements under this section may be waived by the board. Rules should be formulated that address whether or not there are instances when these requirements should be waived.

Rule language should contain, at minimum, the requirement that any credentials evaluation 1) utilize the appropriate edition of the FSBPT Coursework Tool for Foreign Educated Physical Therapists or Physical Therapist Assistants in order to determine educational equivalency at the date of graduation; 2) require that a physical therapist trained in credential reviewing participates in the evaluation; and 3) require that quality assurance standards be met by the credentials review agency.

All procedures for making application for original licensure or certification, for licensure of physical therapists or physical therapist assistants educated at a school that has not been accredited by an agency approved by the board, for endorsement, for renewal, for re-licensure after a lapse, etc., should be included in detail within rules. This includes reference to various application forms (application forms themselves should not be included in rules), various application fees, and any other supporting documentation required under the application procedures. Some jurisdictions require that the specific questions asked of applicants for original licensure/certification or renewal must be delineated in rules.

3.03 Licensure [and Certification] by Endorsement

Rules should clearly state the process for obtaining endorsement. Any requirements beyond the completed application process, proof of graduation and score transfers should be clarified, such as verification of licensure in good standing. Rules should be written for specifically and separately for applicants that have/have not been educated at a school accredited by a board approved agency.

These requirements might include submission of verification of a current license in the state of previous residency, affidavit of previous practice within three years, absence of pending or current disciplinary action or restricted license, continuing education history if mandatory for licensing requirements, specific continuing education required such as in HIV or MRSA continuing education, or the requirement to take a jurisprudence examination.

3.04 Exemptions from Licensure [or Certification] Declared State or National Emergencies

Jurisdictions should consider including in rules the discretion to modify requirements for licensure renewal and endorsement under declared county, state, and/or national emergency situations. For example, in situations such as natural disasters, armed forces reserve call-ups or overseas military duty, the board should be granted flexibility in the area of license or certificate issuance or renewal. Jurisdictions might want to seek an executive order to authorize licensure renewal extensions in order to prevent unlawful practice with a lapsed license for licensees impacted by state, national, or local disasters.

Professional Education Registering

A rule could be included for “registering” physical therapists or physical therapist assistants who provide or participate in continuing education courses in a state and who are not licensed in that state. When clinical education courses involve actual patient contact, or when participants practice procedures upon each other, it shall be desirable to enact a registration process to ensure that the exemption granted to instructors and participants in these continuing education offerings is specifically restricted to short-term courses never extending past 60 days. Physical therapists or physical therapist assistants traveling with bona fide sports teams or performing arts organizations would also need an exemption with a time limit, such as the 60 days noted previously. If this time limit were exceeded, licensure would be required. The board shall choose to only require registration for those courses exceeding, for example, 30 days.

3.05 License [or Certificate] Renewal

Rules should address licensure and certificate renewal in a timely manner and should specify the information required for renewal. It is appropriate here to include the requirement and responsibility of those regulated to provide the board with current business or other mailing addresses. Rules should state that failure to have a current address on file with the board is not sufficient reason for the licensee’s or certificate holder’s failure to renew in a timely manner.

Continuing Competence

Criteria that the board uses for determining continuing competence requirements associated with licensure or certification renewal should be clearly outlined in rules. Refer to discussion under Powers and Duties of the Board, Article 2.02.

3.06 Changes of Name, Address or Telephone Number

It should be stated clearly in rules that all licensees and certificate holders are responsible for keeping the board advised of their current home and practice addresses telephone numbers, and electronic contact information, if available. Failure to receive a renewal notification should not constitute an excuse for failure to renew on time. It should be further specified that failure to meet the renewal timeframe constitutes practicing without a license or certificate and will be treated as such under authority of Unlawful Practice; Classification; Civil Penalties; Injunctive Relief, Article 4.09.

3.07 Reinstatement of License [or Certificate]

Rules should address the process for reinstatement of lapsed licenses or certificates.

Professional Reentry

An appropriate use of a restricted license would be for persons reentering the profession after an absence from practice or work in the profession. Rules shall be needed to address the specific requirements for reentering the profession in such circumstances.

Restricted License or Certificate

The model statute language specifies the existence of restricted licenses and certificates. Rules should be developed providing further clarification to the processes and procedures for such restrictions, e.g., criteria stating under what circumstances and for whom restricted licenses or certificates can be imposed; the procedures for imposing restrictions, for determining the extent of the restrictions, and for lifting the restrictions. For example, it is important to include a statement in rules to the effect that, in addition to disciplinary actions, a restricted license can also be used with physical therapists or physical therapist assistants in professional reentry programs or physical therapists or physical therapist assistants in voluntary substance abuse programs. Where a restricted license is imposed as part of discipline, reinstatement of an unrestricted license should not be automatic but should always be associated with an appearance or re-hearing of the licensee or certificate holder before the board. Any supervision requirements for someone under restriction should be addressed in rules.

3.08 Fees

A section of rules should list all fees and types of fees that are imposed by the board upon persons regulated by this [act]. Penalties for late or lapsed licenses or certificates are also “fees” and should be included in the same area as other fees. Rules should state that there will be additional testing fees associated with computerized testing (fees paid directly to a testing center for use of its facility, equipment, etc.) that are not part of the board fees, but are acknowledged and authorized.

ARTICLE 4: REGULATION OF PHYSICAL THERAPY

4.01 Ethics in the Physical Therapy Profession

Recognized Standards of Ethics

Ethics in the Physical Therapy Profession, Article 4.01 is the requirement to adhere to the recognized standards of ethics of the physical therapy profession. An operational definition of the standards of ethics of the profession is strongly suggested. It could be included either in this area of rules or later under rules associated with Grounds for Denial of a License [and Certificate]; Disciplinary Action, Article 4.04. Jurisdictions may choose to author their own code of ethics or use the American Physical Therapy Association’s. An example using APTA’s would be as follows:

“The recognized standards of ethics” of the physical therapy profession shall be the American Physical Therapy Association (APTA) Code of Ethics and the accompanying Guide for Professional Conduct.

“The recognized standards of ethical conduct” for the physical therapist assistant shall be the American Physical Therapy Association (APTA) Standards of Ethical Conduct for the Physical Therapist Assistant and the accompanying Guide for Professional Conduct for the Physical Therapist Assistant.

Jurisdictions should review their Administrative Procedures Act on how to properly incorporate documents by reference or consider itemizing ethical standards in rules.

4.02 Use of Titles and Terms; Restrictions; Classification of Violation

“RPT,” “LPT,” and “LPTA” Prohibited

The only rule suggested under Use of Titles and Terms; Restrictions; Classification of Violation, Article 4.02, is a rule prohibiting the use of the letters “RPT” and “LPT” by licensed physical therapists. Even though these are “protected terms” under the restricted use of titles, they are archaic terms and don’t reflect the level of professionalism of contemporary physical therapy practitioners. An example of rule language would be:

“RPT” and “LPT” are archaic letter designations for the physical therapist. While they remain protected designations under Use of Titles and Terms; Restrictions; Classification of Violation, Article 4.02, they are not to be used by physical therapists or any other persons. The proper letter designation of a licensed physical therapist is “PT.” Improper use of this designation shall result in disciplinary action.

“LPTA” is an archaic letter designation for the physical therapist assistants. While they remain protected designations under Use of Titles and Terms; Restrictions; Classification of Violation, Article 4.02, they are not to be used by physical therapist assistants or any other persons. The proper letter designation of a licensed physical therapist assistant is “PTA.” Improper use of this designation shall result in disciplinary action.

4.03 Patient Care Management

This section of rules should contain any conditions or specifications relating to patient care management within the specific jurisdiction, including qualifications and/or conditions of supervisions of other personnel including communication and documentation requirements.

4.05 Investigative Powers; Emergency Action; Hearing Officers

Receiving Complaints

Rules should specify how complaints against licensees or certificate holders can be submitted. A complaint form could be used, whether completed by the complainant or by board staff if telephone or electronic complaints are permitted. Overly burdensome requirements place further obstacles and extends the response time in dealing with consumer complaints. Rules should include what information must be included in a complaint (e.g., name of physical therapist, date of service, allegation, etc.). The rule should also include timeframes for board processing of complaints to provide assurance to complainants that all complaints are taken seriously and processed accordingly.

4.07 Disciplinary Actions; Penalties Administrative Procedures Act

In addition to the practice act and other laws, all jurisdictions have an Administrative Procedures Act (APA), or similar law, that governs the processes by which government agencies take action against individuals regulated by the jurisdiction. Jurisdictions should consult their APA prior to developing rules.

Censure

Rules should be developed that address the scope, duration and procedures for the issuance of a censure.

Restricted License [or Certificate]

Rules should be developed giving further clarification to the processes and procedures for such restrictions, e.g., criteria stating under what circumstances and for whom restricted licenses or certificates could be imposed; the procedures for imposing restrictions, for determining the extent of the restrictions, and for lifting the restrictions.

A restricted license can also be used with for re-entry or in voluntary substance abuse programs. Where a restricted license is imposed as part of formal discipline, reinstatement of an unrestricted license should not be automatic, but should always be associated with an appearance or rehearing of the licensee or certificate holder before the board. The supervision required of a licensee under such restriction should be addressed in rules.

Reapplication for License [or Certificate] after Revocation

Rules should include the process for reapplication for license or certificate after revocation. A license is usually revoked with no mention of timeframe for potential reapplication. It is appropriate to consider establishing an amount of time, such as one year, which must pass before a person can reapply for licensure and what requirements will apply.

Voluntary Surrender of a License [or Certificate]

Rules should require that acceptance of surrender of a license or certificate should be accompanied by admissions or findings of fact and conclusions of law relating to violations of law and reported as disciplinary action. Rules should reflect that a voluntary surrender has the full force and effect of a revocation for reporting purposes.

3.11 Substance Abuse Recovery Program

Voluntary Substance Abuse Program

Rules should outline the process for a licensee who is allowed by the board to participate in a voluntary substance abuse program. Criteria for board authorization of substance abuse programs should be established as well as reporting requirements for licensees who participate in a substance abuse program.

Appendix A: Model Statute Language Changes

The following are the changes in the model statute language made from the Sixth to the Seventh Edition of the Model Practice Act. The following formatting allows for review of all substantive changes made; most formatting changes or simple edits are not included here. ~~Strike-through~~ is deleted language from the Sixth Edition. Underline is new language in the Seventh Edition. The *Model Statutes with Commentary* section provides explanations for these changes.

Physical Therapy Practice Act

[Include proper numerical statute reference, e.g., Chapter # and/or Title #]

Article 1: General Provisions

1.01 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. 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 as authorized by this [act]. This [act] shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

1.02 Definitions

As specifically used in this [act], the following terms have the meanings set forth below, unless the context requires otherwise.

1. "Board" means the [specify the jurisdiction] board of physical therapy.
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 ~~by telehealth~~" means that a physical therapist seeking assistance from, or renderings professional or expert opinion or advice to another physical therapist or professional healthcare provider via electronic communications, telehealth, or in-person ~~computer technology from a distant location~~.
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. "Examination" means a national examination approved by the board for the licensure of a physical therapist or the [certification/licensure] of a physical therapist assistant.
7. "Jurisdiction of the United States" means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.
8. "Nexus to practice" means the criminal act of the applicant or licensee [certificant] posing a risk to the public's welfare and safety relative to the practice of physical therapy.

9. "Onsite supervision" means supervision provided by a physical therapist who is continuously onsite and present in the department or facility where services are provided. The supervising therapist is immediately available to the person being supervised and maintains continued involvement in the necessary aspects of patient/client care.
10. "Patient/client" means any individual receiving physical therapy from a licensee [or certificate holder] under this Act.
11. "Physical therapist assistant" means a person who is [certified/licensed] pursuant to this [act] and who assists the physical therapist in selected components of the physical therapy treatment intervention.
12. "Physical therapist assistant-patient/client relationship" means the formal or inferred relationship entered into by mutual consent between a licensed [certified] physical therapist assistant and a patient/client or their legally authorized representative established once the physical therapist assistant assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged or treatment is formally transferred to another practitioner or as further defined by rule.
13. "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].
14. "Physical therapist-patient/client relationship" means the formal or inferred relationship entered into by mutual consent between a licensed physical therapist and a patient/client or their legally authorized representative established once the physical therapist assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged or treatment is formally transferred to another healthcare practitioner or as further defined by rule.
15. "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].
16. "Physical therapy aide" means a person trained by or under the direction of a physical therapist who performs designated and supervised routine tasks related to physical therapy services.
17. "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, functional limitations and disabilities; promoting health; and preventing disease by designing, implementing and modifying treatment interventions that may include, but are 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;; therapeutic massage, prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment, airway clearance techniques, integumentary protection and repair techniques, debridement and wound care, physical agents or modalities, mechanical and electrotherapeutic modalities, and patient-related instruction. Functional training 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. Referring a patient/client to healthcare providers and facilities for services and testing to inform the physical therapist plan of care.

~~De~~. Engaging in administration, consultation, education, and research.

18. “Restricted [certificate/license]” for a physical therapist assistant means a [certificate/license] on ~~patient~~ which the board has placed any restrictions and/or condition as to scope of work, place of work, duration of certified or licensed status, or type or condition of patient/client to whom the certificate holder or licensee may provide services.
19. “Restricted license” for a physical therapist means a license on which the board has placed any restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of individual to whom the licensee may provide services.
20. Supervision” means the process by which a physical therapist oversees and directs safe and effective delivery of patient care through appropriate verbal, written, or electronic communication. This may be accomplished with the physical therapist located onsite or remotely as deemed appropriate based on the patient/client needs.
21. “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.
22. “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.

Article 2: Board of Physical Therapy

The Board shall have all of the duties, powers, and authority specifically granted by or necessary for the enforcement of this Act, as well as such other duties, powers, and authority as it may be granted from time to time by applicable law.

2.01 Board of Physical Therapy

- A. The board of physical therapy shall consist of [seven] members appointed by the Ggovernor. [Four] members shall be physical therapists who are residents of this jurisdiction, possess unrestricted licenses to practice physical therapy in this jurisdiction and have been practicing in this jurisdiction for no less than five years before their appointments. [One] member shall be a physical therapist assistant who is a resident of this jurisdiction and possesses an unrestricted [certificate/license]. The Governor shall also appoint [two] public members who shall be residents of this jurisdiction and who are not affiliated with, nor have a financial interest in, any healthcare profession and who have an interest in consumer rights. The Governor shall, to the greatest extent possible, appoint individuals to achieve diversity on the board.
- B. Board members shall serve staggered four-year terms. Board members shall serve no more than two successive four-year terms or for more than ten consecutive years. By approval of the majority of the board, the service of a member may be extended at the completion of a four-year term until a new member is appointed or the current member is reappointed.

- C. ~~If requested by the board, The board may request~~ the Governor ~~may~~ remove any member of the board for misconduct, incompetence, or neglect of duty.
- D. Board members are eligible for [compensation and/or] reimbursement of necessary expenses pursuant to [cite applicable statute relating to [compensation and/or] reimbursement] ~~to cover necessary expenses~~ for attending each board meeting or ~~for~~ representing the board in an official board-approved activity.
- E. A board member who acts within the scope of board duties, without malice and in the reasonable belief that the member's action is warranted by law, is immune from civil liability.

2.02 Powers and Duties of the Board

The board shall:

1. Evaluate the qualifications of applicants for licensure [and certification].
2. Provide for the examination of physical therapists and physical therapist assistants.
3. Issue licenses [or certificates] to persons who meet the qualifications of this [act].
4. Regulate the practice of physical therapy by interpreting and enforcing this [act].
5. ~~Issue advisory opinions upon request regarding this [act].~~ Have the authority to establish committees, advisory panels, and task forces to further the work of the board.
6. Adopt and revise rules consistent with this [act]. Such rules, when lawfully adopted, shall have the effect of law.
7. Meet at least once each quarter in compliance with the open meeting requirements of [cite applicable statute]. A majority of filled board members ~~positions~~ shall constitute a quorum for the transaction of business. The board shall keep an official record of its meetings.
8. Establish mechanisms for assessing the continuing competence of physical therapists to practice physical therapy.
9. Establish mechanisms for assessing the continuing competence of physical therapist assistants to work in the profession of physical therapy.
10. Establish and collect fees for sustaining the necessary operation and expenses of the board.
11. Elect officers from its members necessary for the operations and obligations of the board. Terms of office shall be one year.
12. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this [act], and board rules, policies and procedures.
13. Maintain a current list of all persons regulated under this [act]. This information includes the person's name, current business and residential address, email address, telephone numbers, and license [or certificate] number.
14. Provide information to the public regarding the complaint process.

15. Employ necessary personnel to carry out the administrative work of the board. Board personnel are eligible to receive compensation pursuant to [cite specific statute].
16. Enter into contracts for services necessary for enforcement of this [act].
17. Report final disciplinary action taken against a licensee [or certificate holder] to a national disciplinary database recognized by the board or as required by law.
18. Report information of alleged unlawful conduct by licensees [or certificate holders], unlicensed individuals, other healthcare providers, and entities to the appropriate county, jurisdiction, or federal authority.
19. Publish, at least annually, final adverse action taken against a licensee [or certificate holder].
20. Publish at least annually, board rulings, opinions, and interpretations of statutes or rules in order to guide persons regulated pursuant to this [act].
21. Participate in or conduct performance audits.
22. Have the authority to fully participate in a national Exam, Licensure, and Disciplinary Database as defined by rule.
23. Have the authority to obtain biometric-based information from every physical therapist or physical therapist assistant applicant for licensure[certification] and submit this information to the Federal Bureau of Investigation for a criminal background check.
24. Have the authority to determine and collect, at the time of new licensure [or certification] and licensure [or certification] renewal, a core set of data elements deemed necessary for the purpose of workforce assessment and planning. The data elements shall be used to create and maintain a healthcare workforce database. The Board may enter into agreements with a private or public entity to establish and maintain the database, perform data analysis, and/or prepare reports concerning the physical therapy workforce. The Board shall promulgate rules to perform duties pursuant to this [act].
25. Have the authority to require a licensee [certificate holder] to complete educational activities.

2.03 Disposition of Funds

(No model language is offered under this section heading. See *Commentary* for further information.)

Article 3: Examination and Licensure

3.01 National Examination

- A. The board shall provide for a national examination within the jurisdiction. ~~In order to be eligible to sit for the examination, the candidate must meet nationally recognized requirements that support the integrity of the examination and are further defined in rule.~~
- B. To be eligible to sit for the national examination, the candidate must meet nationally recognized requirements that support the integrity of the examination and are further defined by rule.
 1. The physical therapist examination is a national examination that tests entry-level competence related to physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention and consultation.

2. The physical therapist assistant examination is a national examination that tests for requisite knowledge and skills in the technical application of physical therapy services.

~~CD. Licensure applicants~~ Candidates must agree to abide by security and copyright provisions related to the national licensure examination. If the board determines that an applicant has violated any of these provisions or engaged in or attempted to engage in any other conduct that subverts or undermines the integrity of the examination process or validity of examination results, the board may disqualify the applicant from taking or retaking the examination permanently or for a specified period of time.

DE. Any violation of security and copyright provisions related to the national licensure examination, subversion or attempts to subvert the national examination shall be reported by the board to the Federation of State Boards of Physical Therapy.

~~EF.~~ If the board determines that an applicant has engaged or has attempted to engage in conduct that subverts or undermines the integrity of the examination process, including a violation of security and copyright provisions related to the national licensure examination, the board may disqualify the applicant from taking or retaking the examination permanently or for a specified period of time.

3.02 Qualifications for Licensure [and Certification]

A. An applicant for a license as a physical therapist shall:

1. Complete the application process including payment of fees.
2. Submit proof of graduation from a professional physical therapy education program accredited by a national accreditation agency approved by the board.
3. Pass ~~a national~~ examination approved by the board.
4. Pass additional examinations [e.g. jurisprudence examination] required by the board as further established by rule.
5. Submit to a criminal records check.
6. Meet the requirements established by board rule if applicable.
7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

B. An applicant for a license as a physical therapist who has been educated at a school that has not been accredited by an agency approved by the board ~~educated outside of the United States~~ shall:

1. Complete the application process including payment of fees.
2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited entry-level program as determined by the board. Graduation outside the United States from a professional education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure educated at a school that has not been accredited by an agency approved by the board ~~educated outside of the United States~~ shall have:
 - a. Graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy;
 - b. Provided written proof that the applicant's school of physical therapy is recognized by its own ministry of education or other appropriate recognition agency;
 - c. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - d. Completed any additional education as required by the board.
3. Pass a board-approved English proficiency examination as required by the board as further established by rule.
4. Pass ~~a national~~ examination approved by the board.

5. Pass additional examinations [e.g. jurisprudence examination] required by the board as further established by rule.
6. Submit to a criminal records check.
7. Complete supervised clinical practice as defined by rules with a restricted license.
8. Meet the requirements established by board rule if applicable.
9. Meet other statutory and regulatory requirements applicable to individuals licensed under this [Act].

C. An applicant for a [certificate/license] as a physical therapist assistant shall:

1. Complete the application process including payment of fees.
2. Submit proof of graduation from a physical therapist assistant education program accredited by a national accreditation agency approved by the board.
3. Pass ~~an~~ national examination approved by the board.
4. Pass additional examinations [e.g. jurisprudence examination] required by the board as further established by rule.
5. Submit to a criminal records check.
6. Meet the requirements established by board rule if applicable.
7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

D. An applicant for a [certificate/license] as a physical therapist assistant who has been educated at a school that has not been accredited by an agency approved by the board ~~educated outside of the United States~~ shall:

1. Complete the application process including payment of fees.
2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapist assistants educated in an accredited entry-level program as determined by the board. Graduation outside the United States from an education program accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure ~~educated outside of the United States~~ educated at a school that has not been accredited by an agency approved by the board shall have:
 - a. Graduated from a physical therapist assistant educational program that prepares the applicant to work as a physical therapist assistant;
 - b. Provided written proof that the applicant's physical therapist assistant school is recognized by its own ministry of education or other appropriate recognition agency;
 - c. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - d. Completed any additional education as required by the board.
3. Pass a board-approved English proficiency examination as required by the board as further established by rule.
4. Pass ~~an~~ national examination approved by the board.
5. Pass additional examinations [e.g. jurisprudence examination] required by the board as further established by rule.
6. Submit to a criminal records ~~background~~ check.
7. Complete supervised clinical practice as defined by rules with a restricted license.
8. Meet the requirements established by board rule if applicable.
9. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

E. . An applicant for a [certificate/license] as a physical therapist assistant who has completed a United States Armed Services program of training not accredited by a national accreditation agency approved by the board shall:

1. Complete the application process including payment of fees.

2. Provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapist assistants educated in an accredited entry-level program as determined by the board. Successful completion of a United States Armed Services program of training accredited by the same accrediting agency that the board approves for programs within the United States constitutes evidence of substantial equivalency. In all other instances, "substantially equivalent" means that an applicant for licensure who has completed a United States Armed Services program of training shall have:
 - a. Completed a physical therapist assistant training program that prepares the applicant to work as a physical therapist assistant;
 - b. Undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule; and
 - c. Completed any additional education as required by the board.
3. Pass ~~the~~ a national examination approved by the board.
4. Pass additional examinations [e.g. jurisprudence examination] required by the board as further established by rule.
5. Submit to a criminal records check.
6. Meet the requirements established by board rule if applicable.
7. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

3.03 Licensure [and Certification] by Endorsement

~~A. The board shall issue a license to a physical therapist or a license [certificate] to a physical therapist assistant who has a current unrestricted license [certificate] from another jurisdiction of the United States if that person meets all qualifications prescribed in [Qualifications for Licensure and Certification, Article 3.02] at the time of the applicant's initial licensure.~~

B. The board shall issue a license [certificate] to a physical therapist assistant who has a current unrestricted license [certificate] from another jurisdiction of the United States if that person meets all qualifications prescribed in [Qualifications for Licensure and Certification, Article 3.02] at the time of the applicant's initial licensure.

3.04 Exemptions from Licensure [or Certification]

- A. This [act] does not restrict a person licensed or certified under any other law of this jurisdiction from engaging in the profession or practice for which that person is licensed if that person does not represent, imply or claim that he/she is a physical therapist, physical therapist assistant, or a provider of physical therapy as defined in Article 1, 1.02B.
- B. The following persons are exempt from the licensure [certification] requirements of this [act] when engaged in the following activities:
1. A person in an entry-level professional education program approved by the board who is satisfying supervised clinical education requirements related to the person's physical therapist education while under onsite supervision of a physical therapist.
 2. A person satisfying a clinical education experience under the onsite supervision of a physical therapist as required by the board.
 3. A physical therapist who is practicing in the United States Armed Services, United States Public Health Service or Veterans Administration pursuant to federal regulations for jurisdiction licensure of healthcare providers. If such person, while federally employed as a physical therapist, shall engage in the practice of physical therapy outside the course and scope of such federal employment, he/she shall then be required to obtain a license in accordance with this [act].
 4. A physical therapist who is licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person is teaching, demonstrating or providing physical therapy services in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year.

5. A physical therapist who is licensed in another jurisdiction of the United States if that person is rendering advice or professional or expert opinion providing consultation by telehealth, as defined in [Definitions, Article 1.02], to a physical therapist licensed healthcare practitioner in this jurisdiction under this [act].
 6. A physical therapist who is licensed in a jurisdiction of the United States or credentialed in another country, if that person by contract or employment is providing physical therapy to patients/clients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the jurisdiction for no more than 60 days in a calendar year.
 7. A physical therapist who is licensed in a jurisdiction of the United States and who enters this jurisdiction to provide physical therapy during a declared local, jurisdictional or national disaster or emergency. This exemption applies for no longer than 60 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of their intent to practice.
 8. A physical therapist licensed in a jurisdiction of the United States who is forced to leave his/her residence or place of employment due to a declared local, jurisdictional or national disaster or emergency and due to such displacement seeks to practice physical therapy. This exemption applies for no more than 60 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of their intent to practice.
- C. A physical therapist assistant who is [certified/licensed] in a jurisdiction of the United States and is assisting a physical therapist engaged specifically in activities related to [subparagraphs (B) 2, 3, 5, 6 and 7 of this section] is exempt from the requirement of [certification/licensure] under this [act].

3.05 License [or Certificate] Renewal

- A. A physical therapist applying for renewal of the license shall:
1. Complete a renewal application including payment of fees.
 2. Demonstrate evidence of continuing competence as defined by rule.
 3. Meet the requirements established by board rule if applicable.
 4. Meet other statutory and regulatory requirements applicable to individuals licensed under this [Act].
- B. A physical therapist assistant applying for renewal of the license [certificate] shall:
1. Complete a renewal application including payment of fees.
 2. Demonstrate evidence of continuing competence as defined by rule.
 3. Meet the requirements established by board rule if applicable.
 4. Meet other statutory and regulatory requirements applicable to individuals licensed [certified] under this [Act].

3.06 Changes of Name, Address or Telephone Number

Each licensee [and certificate holder] is responsible for reporting a name change and changes in business and home address, email address and telephone numbers to the board within 30 days.

3.07 Reinstatement of License [or Certificate]

- A. The board may reinstate a lapsed license [or certificate] upon completion of a reinstatement application including payment of fees, as defined by rule.
- B. If a physical therapist's license has lapsed for a specified time period, as defined by rules, that person shall fulfill all requirements of [3.07 A] and demonstrate to the board's satisfaction competence to practice physical therapy by one or more of the following as determined by the board:
1. Complete supervised clinical practice as defined by rule with a restricted license.
 2. Demonstrate or complete continued competence requirements, as defined by rule, required during lapsed licensure period.
 3. Pass examination(s) approved by the board.
 4. Provide proof of licensed practice in another jurisdiction.

- C. If a physical therapist assistant's [certificate/ license] has lapsed for a specified time period, as defined by rule, that person shall fulfill all requirements of [3.07 A] and demonstrate to the board's satisfaction competence to work as a physical therapist assistant by one or more of the following as determined by the board:
1. Complete supervised clinical practice as defined by rules with a restricted license.
 2. Demonstrate or complete continued competence requirements, as defined by rule, required during lapsed licensure [certification] period.
 3. Pass examination(s) approved by the board.
 4. Provide proof of licensed [certified] work as a physical therapist assistant in another jurisdiction.
- D. The board may reinstate a suspended or revoked physical therapist's license upon completion of the requirements in [3.07 A] and evidence of satisfactory completion of all requirements for reinstatement that were stipulated in a consent order at the time of discipline. The board may further require evidence of competence to practice physical therapy through the following activities:
1. Complete supervised clinical practice, as defined by rule, with a restricted license.
 2. Demonstrate or complete continued competence requirements, defined by rule, required during the suspended or revoked licensure period.
 3. Successfully complete ~~examinations or~~ assessment tool(s) and/or pass examination(s) approved by the board.
- E. The board may reinstate a suspended or revoked physical therapist assistant's [certificate/license] upon completion of the requirements in [3.07 A] and evidence of satisfactory completion of all requirements for reinstatement that were stipulated in a consent order at the time of discipline. The board may further require evidence of the physical therapist assistant's competence to work in the profession of physical therapy through the following activities.
1. Complete supervised clinical practice with a restricted license under a qualified and approved supervisor.
 2. Demonstrate or complete continued competence requirements, defined by rule, required during the suspended or revoked licensure period.
 3. Successfully complete ~~examinations or~~ assessment tool(s) and/or pass examination(s) approved by the board.

[3.08 Fees]

(This is optional statute language for states requiring maximum fee ceilings within their statutes.)

- A. The board shall establish and collect fees not to exceed:
1. _____ dollars for an application for an original license [or certificate]. This fee is nonrefundable.
 2. _____ dollars for a certificate of renewal of a license [or certificate].
 3. _____ dollars for an application for reinstatement of a license [or certificate].
 4. _____ dollars for each duplicate license [or certificate].
 5. _____ dollars for other administrative fees [e.g. criminal records report, pass through or processing fees]

Article 4: Regulation of Physical Therapy

4.01 Ethics in the Physical Therapy Profession

- A. A physical therapist shall adhere to the recognized standards of ethics of the physical therapy profession as established by rule.
- B. A physical therapist assistant shall adhere to the recognized standards of ~~ethic~~ethical conduct of the physical therapy profession as established by rule.

4.02 Use of Titles and Terms; Restrictions; Classification of Violation

- A. A physical therapist shall use the letters "PT" or the term "physical therapist" immediately following their ~~his or her~~ name to designate licensure as a healthcare practitioner under this [act].
- B. A person or business entity, its employees, agents or representatives shall not use in connection with that person's name or the name or activity of the business, the words "physical therapy," "physical therapist,"

“physiotherapy,” “physiotherapist,” “physio,” “registered physical therapist,” “doctor of physical therapy,” the letters “PT,” “DPT,” “LPT,” “RPT,” or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to this [act]. A person or business entity shall not advertise or otherwise promote another person as being a “physical therapist” or “physiotherapist” unless the individual so advertised or promoted is licensed as a physical therapist under this act. A person or business entity that offers, provides, or bills any other person for services shall not characterize those services as “physical therapy” or “physiotherapy” unless the individual performing those services is a person licensed as a physical therapist under this [act].

- C. Physical therapists who have graduated from a DPT program may use the title Doctor of Physical Therapy. A physical therapist holding a DPT or other doctoral degree shall not use the title Doctor without also clearly informing the public of his or her profession as a physical therapist. Use of the title shall be in accordance with jurisdictional law.
- D. A physical therapist assistant shall use the letters “PTA” immediately following his or her name to designate [certification/licensure] under this [act].
- E. A person shall not use the title “physical therapist assistant,” the letters “PTA,” or any other words, abbreviations, or insignia in connection with that person’s name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is [certified/licensed] as a physical therapist assistant pursuant to this [act].
- F. A person or business entity that violates paragraphs (B) or (E) of this section is guilty of a [cite specific legal sanction]. The board shall have authority to impose a civil penalty, in an amount not to exceed [specify number of dollars] per violation, against any person or business entity that violates paragraphs (B) or (E). In addition, the board shall seek an injunction against conduct in violation of paragraphs (B) or (E) in any court of competent jurisdiction. For purposes of this [act], the board, in seeking an injunction, need only show that the defendant violated paragraphs (B) and (E) of this section to establish irreparable injury or a likelihood of a continuation of the violation.

4.03 Patient/Client Care Management

- A. A physical therapist is fully responsible for managing all aspects of the physical therapy care of each patient/client. A physical therapist shall provide:
 - 1. The initial evaluation, determination of diagnosis, prognosis, and plan of treatment intervention and documentation of each encounter with each patient/client;
 - 2. Periodic reevaluation and documentation of each patient/client;
 - 3. The documented discharge of the patient/client, including the patient’s/client’s response to treatment intervention at the time of discharge.
- B. A physical therapist shall assure the qualifications of all physical therapist assistants and physical therapy aides under ~~his or her~~ their direction and supervision.
- C. For each patient/client on each date of service, a physical therapist shall provide all ~~of~~ the treatment intervention that requires the education, skills, and knowledge of a physical therapist and shall determine the use of physical therapist assistants or physical therapy aides to ensure that the delivery of care that is safe, effective, and efficient.
 - 1. A physical therapist assistant shall work under a physical therapist’s supervision. A physical therapist assistant shall document the care ~~he/she~~ they provides.
 - 2. A physical therapist may use physical therapy aides for designated routine tasks. A physical therapy aide shall work under the supervision of a physical therapist.

D. The physical therapist shall communicate the ~~overall~~ plan of care with, and obtain informed consent from, the patient/client or their ~~patient's~~ legally authorized representative.

E. A physical therapist's responsibility shall include accurate documentation and billing of the services provided.

F. A physical therapist assistant's responsibility shall include accurate documentation and billing of the services provided.

G. Nothing in this [Act] shall prohibit a licensee[certificate holder] from providing physical therapy to animals for which the licensee[certificate holder] has completed the education and training as further established by rule.

4.04 Grounds for Denial of a License [and Certificate]; Disciplinary Action

A. The following are grounds for denial of a license [and certificate] or disciplinary action:

1. Violating any provision of this [act], board rules or a written order of the board.
2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.
3. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, a violation of security and copyright provisions related to the national licensure exam, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions.
4. Practicing or offering to practice beyond the scope of the practice of physical therapy.
5. Acting in a manner inconsistent with generally accepted standards of physical therapy practice, regardless of whether actual injury to the patient/client is established.
6. Failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rule.
7. Failing to complete continuing competence requirements as established by rule.
8. Failing to maintain adequate patient/client records. For the purposes of this paragraph, "adequate patient/client records" means legible records that contain at minimum sufficient information to identify the patient/client, an evaluation of objective findings, a diagnosis, a plan of care, a treatment record and a discharge plan.
9. Failing to supervise physical therapist assistants, ~~or physical therapy aides,~~ a person in an entry-level professional education program approved by the board who is satisfying supervised clinical education requirements related to the person's education, or a person satisfying a supervised clinical practice in accordance with this [act] and board rules.
10. Failing to report to the board, where there is direct knowledge, any unprofessional, incompetent, or illegal acts that appear to be in violation of this [act] or any rules established by the board.
11. Engaging in sexual misconduct. For the purpose of this paragraph sexual misconduct includes:
 - a. Engaging in or soliciting romantic or sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant-patient/client relationship exists.
 - ~~b. Making sexual advances, requesting sexual favors or expressing thoughts, feelings, or making gestures that are sexual in nature, or that reasonably may be construed by a patient/client as sexual in nature, by any means including engaging in other verbal conduct or physical contact, of a sexual nature or via electronic communications. with patients or clients which may~~
 - c. Intentionally viewing a completely or partially disrobed patient/client in the course of treatment if the viewing is not related to patient/client diagnosis or treatment under current practice standards.
12. Sexual contact between a physical therapist and patient/client after termination of the physical therapist-patient/client relationship may still constitute sexual misconduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from that relationship.

13. Sexual contact between a physical therapist assistant and patient/client after termination of the physical therapist assistant-patient/client relationship may still constitute sexual misconduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from that relationship.
14. Abusing the physical therapist-patient/client relationship to exert undue influence or exploiting persons over whom the licensee has supervisory, evaluative, or other authority.
15. Abusing the physical therapist assistant-patient/client relationship to exert undue influence or exploiting persons over whom the licensee [certificate holder] has supervisory or other authority.
16. Having had a license [or certificate] revoked or suspended, other disciplinary action taken, or an application for licensure [or certification] refused, revoked or suspended by the proper authorities of another jurisdiction, territory, or country.
17. Having been convicted of or pled guilty to a felony with a nexus to the practice of a physical therapist or work of a physical therapist assistant in the courts of this jurisdiction or any other jurisdiction, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilt, an Alford plea, or a plea of *nolo contendere*.
18. Aiding and abetting the unlicensed practice of physical therapy.
19. Directly or indirectly requesting, receiving or participating in the dividing, transferring, assigning, rebating or refunding of an unearned fee, or profiting by means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. This does not prohibit the members of any regularly and properly organized business entity recognized by law and comprising physical therapists from dividing fees received for professional services among themselves as they determine necessary.
20. Promoting any unnecessary device, treatment intervention, or service resulting in the financial gain of the practitioner or of a third party.
21. Providing treatment intervention unwarranted by the condition of the patient/client or continuing treatment beyond the point of reasonable benefit.
22. Participating in underutilization or overutilization of physical therapy services for personal or institutional financial gain.
23. Charging fraudulent fees for services performed or not performed.
24. Making misleading, deceptive, untrue or fraudulent representations in violation of this [act] or in the practice of the profession.
25. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other habit-forming drugs, chemicals or alcohol, or by other causes.
26. Practicing physical therapy with a mental or physical condition that impairs the ability of the licensee to practice with skill and safety.
27. Practicing after having been adjudged mentally incompetent by a court of competent jurisdiction.
28. Interfering with an investigation or disciplinary proceeding by failure to cooperate, by ~~willful~~ misrepresentation of facts, or by the use of threats or harassment against any patient/client or witness to prevent that patient/client or witness from providing evidence in a disciplinary proceeding or any legal action.
29. Failing to maintain patient/client confidentiality without documented authorization of the patient/client or unless otherwise required by law. All records used or resulting from a consultation by telehealth, as defined in [Definitions, Article 1.02], are part of a patient's/client's records and are subject to applicable confidentiality requirements.

4.05 Investigative Powers; Emergency Action; Hearing Officers

A. To enforce this [act], the board is authorized to:

1. Receive complaints filed against licensees [or certificate holders] and conduct a timely investigation.
2. File complaints against licensees [or certificate holders] or individuals engaging in the unlawful or unlicensed practice of physical therapy and conduct timely investigations.
3. Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the board has reason to believe that there may be a violation of this [act].

4. Issue subpoenas to compel the attendance of any witness or the production of any documentation relative to a case.
5. Take emergency action ordering the summary suspension of a license [or certificate] or the restriction of a physical therapist's practice or a physical therapist assistant's ~~employment~~ work pending proceedings by the board.
6. Appoint hearing officers authorized to conduct hearings. Hearing officers shall prepare and submit to the board findings of fact, conclusions of law and a recommendation for ~~B~~board action that shall be reviewed and voted on by the board.
7. Require a physical therapist to be examined in order to determine his or her mental or physical ability to practice physical therapy.
8. Require a physical therapist assistant to be examined in order to determine his or her mental or physical ability to work in the profession of physical therapy.

B. If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a licensee [or certificate holder] it may take one of the following actions:

1. Dismiss the complaint.
2. Issue an advisory letter to the licensee [or certificate holder]. An advisory letter is non-disciplinary and notifies a licensee [or certificate holder] that, while there is no evidence to merit disciplinary action, the board believes that the licensee [or certificate holder] should become educated about the requirements of this [act] and board rules.

4.06 Hearings

(No model statute language is offered under this section heading. See *Commentary* for additional information.)

4.07 Disciplinary Actions; Penalties

Upon proof that any grounds prescribed in section [*Grounds for Denial of License [and Certificate]; Disciplinary Action*, Article 4.04], have been violated, the board may take the following disciplinary actions singly or in combination.

1. Issue a censure.
2. Restrict a license [or certificate]. The board may require a licensee [or certificate holder] to report regularly to the board on matters related to the grounds for the restricted license [or certificate].
3. Suspend a license [or certificate] for a period prescribed by the board.
4. Revoke a license [or certificate].
5. Refuse to issue or renew a license [or certificate].
6. Impose a civil penalty of at least _____ but not more than _____. (Include minimum and maximum dollar amounts of civil penalties.)
7. Accept a voluntary surrendering of a license [or certificate] based on an order of consent from the board.

4.08 Procedural Due Process

Actions of the board shall be taken subject to the right of notice, opportunity to be heard, and the right of appeal in accordance with [specify the jurisdiction] law relating to administrative law and procedure.

4.09 Unlawful Practice; Classification; Civil Penalties; Injunctive Relief

- A. It is unlawful for any person or business entity, its employees, agents, or representatives not licensed as a physical therapist under this [act] to engage in the practice of physical therapy. Any person who violates this paragraph [(A) or *Use of Titles and Terms, Restrictions; Classification of Violation*, Article 4.02], is guilty of [cite specific criminal sanction, e.g., class 1 misdemeanor] and subject to any other remedies specified in this [act].
- B. The board shall investigate any person or business entity to the extent necessary to determine whether the person or business entity is engaged in the unlawful practice of physical therapy. If an investigation indicates that a person or business entity is practicing physical therapy unlawfully, the board shall inform the person or

the business entity of the alleged violation. The board may refer the matter for prosecution regardless of whether the person or business entity ceases the unlawful practice of physical therapy.

- C. The board shall apply to any court of competent jurisdiction for an order enjoining any person or business entity from committing any violation of this [act]. Injunction proceedings under this paragraph shall be in addition to, and not in lieu of, all penalties and other remedies prescribed in this [act].
- D. If a person or business entity knowingly violates this [act] or board rules, fraudulently uses or permits the use of a license [or certificate] number, or knowingly aids or requires another person to violate this [act] or board rules, the board may impose upon such person a civil penalty of not more than [dollar amount of penalty] for the first violation and not more than [dollar amount of penalty] for each subsequent violation.

[Optional Statute]

- E. The board shall transmit all monies it collects from civil penalties pursuant to this [act] to the [specify the disposition of these funds if different from other funds].

4.10 Reporting Violations; Immunity

- A. A person, including but not limited to a licensee [or certificate holder], corporation, insurance company, healthcare organization or healthcare facility and jurisdiction or local governmental agencies, shall report to the board any conviction or determination by an agency or court that a licensee [or certificate holder] has committed an act that constitutes a violation of [*Grounds for Denial of a License [and Certificate]; Disciplinary Action*, Article 4.04].
- B. A person is immune from civil liability, whether direct or derivative, for reporting such facts as set forth in "A" above to the board in good faith and participating in the board's investigation and subsequent disciplinary process, if applicable.
- C. The board shall not disclose the identity of a person who provides information unless such information is essential to proceedings conducted pursuant to [*Investigative Powers; Emergency Action; Hearing Officers and Hearings*, Articles 4.05 and 4.06], or unless required by a court of law.

4.11 Substance Abuse Recovery Program

- A. The board may permit a licensee [or certificate holder] to actively participate in a board-approved substance abuse recovery program if:
 - 1. The board has evidence that the licensee [or certificate holder] is impaired.
 - 2. The licensee [or certificate holder] enters into a written agreement with the board for a restricted license [or certificate] and complies with all the terms of the agreement, including making satisfactory progress in the program and adhering to any limitations on his or her practice or employment imposed by the board to protect the public. Failure to enter into such an agreement shall activate an immediate investigation and disciplinary proceeding by the board.
 - 3. As part of the agreement established between the licensee [or certificate holder] and the board, the licensee [or certificate holder] signs a waiver allowing the substance abuse program to release information to the board if the licensee [or certificate holder] does not comply with the requirements of this section or is unable to practice or work with reasonable skill or safety.

4.12 Rights of Consumers

- A. The public shall have access to the following information:
 - 1. A list of licensees [and certificate holders] that includes ~~place of employment, address and telephone number of record,~~ license [or certificate] number, date of license [or certificate] expiration, ~~and status of license [or certificate], and employment information.~~
 - 2. A list of final adverse actions taken by the board.
 - 3. The address, website, email and phone number of the board.

- B. Each licensee [and certificate holder] shall display a copy of his or her license [or certificate] in a location accessible to public view or produce a copy immediately upon request.
- C. Each licensee [and certificate holder] shall provide the public with information on how to file a complaint with the board against a licensee [or certificate holder].
- D. Any person may submit a complaint regarding any licensee, [certificate holder] or any other person potentially in violation of this [act]. Confidentiality shall be maintained subject to law.
- E. The home address, email address and home telephone numbers of physical therapists and physical therapist assistants are not public records and shall be kept confidential by the board unless they are the only addresses and telephone numbers of record.
- F. A patient/client has freedom of choice in selection of services and products.
- G. Information relating to the physical therapist-patient/client relationship is confidential and shall not be communicated to a third party who is not involved in that patient's/client's care without the written authorization of the patient/client. The physical therapist-patient/client privilege does not extend to cases in which the physical therapist has a duty to report or disclose information as required by law.
- H. Information relating to the physical therapist assistant-patient/client relationship is confidential and shall not be communicated to a third party who is not involved in that patient's/client's care without the written authorization of the patient/client. The physical therapist assistant-patient/client privilege does not extend to cases in which the physical therapist assistant has a duty to report or disclose information as required by law.
- I~~H~~. The board shall keep all information relating to the receipt and investigation of complaints filed against licensees [or certificate holders] confidential until the information is disclosed in the course of the investigation or any subsequent proceeding or until disclosure is required by law. Patient/Client records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment of patients/clients, any information from which a patient/client or ~~his~~ their family might be identified, or information received and records or reports kept by the board as a result of an investigation made pursuant to this [act] shall not be available to the public and shall be kept confidential by the board.

Appendix B: Code of Ethics for the Physical Therapist and Guide for Professional Conduct

Code of Ethics for the Physical Therapist

HOD S06-20-28-25 [Amended HOD S06-19-47-67; HOD S06-09-07-12; HOD S06-00-12-23; HOD 06-91-05-05; HOD 06-87-11-17; HOD 06-81-06-18; HOD 06-78-06-08; HOD 06-78-06-07; HOD 06-77-18-30; HOD 06-77-17-27; Initial HOD 06-73-13-24] [Standard]

Preamble

The Code of Ethics for the Physical Therapist (Code of Ethics) delineates the ethical obligations of all physical therapists as determined by the House of Delegates of the American Physical Therapy Association (APTA). The purposes of this Code of Ethics are to:

1. Define the ethical principles that form the foundation of physical therapist practice in patient and client management, consultation, education, research, and administration.
2. Provide standards of behavior and performance that form the basis of professional accountability to the public.
3. Provide guidance for physical therapists facing ethical challenges, regardless of their professional roles and responsibilities.
4. Educate physical therapists, students, other health care professionals, regulators, and the public regarding the core values, ethical principles, and standards that guide the professional conduct of the physical therapist.
5. Establish the standards by which the American Physical Therapy Association can determine if a physical therapist has engaged in unethical conduct.

No code of ethics is exhaustive nor can it address every situation. Physical therapists are encouraged to seek additional advice or consultation in instances where the guidance of the Code of Ethics may not be definitive. The APTA Guide for Professional Conduct and Core Values for the Physical Therapist and Physical Therapist Assistant provide additional guidance.

This Code of Ethics describes the desired behavior of physical therapists in their multiple roles(eg, management of patients/clients, consultation, education, research, and administration), addresses multiple aspects of ethical action (individual, organizational, and societal) and reflects the core values of the physical therapist (accountability, altruism, collaboration, compassion and caring, duty, excellence, integrity, and social responsibility). Throughout the document the primary core values that support specific principles are indicated in parentheses. Unless a specific role is indicated in the principle, the duties and obligations being delineated pertain to the five roles of the physical therapist. Fundamental to the Code of Ethics is the special obligation of physical therapists to empower, educate, and enable those with impairments, activity limitations, participation restrictions, and disabilities to facilitate greater independence, health, wellness, and enhanced quality of life.

Principles

Principle #1: Physical therapists shall respect the inherent dignity and rights of all individuals.(Core Values: Compassion and Caring, Integrity)

- 1A. Physical therapists shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.
- 1B. Physical therapists shall recognize their personal biases and shall not discriminate against others in physical therapist practice, consultation, education, research, and administration.

Principle #2: Physical therapists shall be trustworthy and compassionate in addressing the rights and needs of patients/clients. (Core Values: Altruism, Collaboration, Compassion and Caring, Duty)

- 2A. Physical therapists shall adhere to the core values of the profession and shall act in the best interests of patients and clients over the interests of the physical therapist.
- 2B. Physical therapists shall provide physical therapist services with compassionate and caring behaviors that incorporate the individual and cultural differences of patients and clients.
- 2C. Physical therapists shall provide the information necessary to allow patients or their surrogates to make informed decisions about physical therapist care or participation in clinical research.
- 2D. Physical therapists shall collaborate with patients and clients to empower them in decisions about their health care.
- 2E. Physical therapists shall protect confidential patient and client information and may disclose confidential information to appropriate authorities only when allowed or as required by law.

Principle #3: Physical therapists shall be accountable for making sound professional judgments. (Core Values: Collaboration, Duty, Excellence, Integrity)

- 3A. Physical therapists shall demonstrate independent and objective professional judgment in the patient's or client's best interest in all practice settings.
- 3B. Physical therapists shall demonstrate professional judgment informed by professional standards, evidence (including current literature and established best practice), practitioner experience, and patient and client values.
- 3C. Physical therapists shall make judgments within their scope of practice and level of expertise and shall communicate with, collaborate with, or refer to peers or other health care professionals when necessary.
- 3D. Physical therapists shall not engage in conflicts of interest that interfere with professional judgment.
- 3E. Physical therapists shall provide appropriate direction of and communication with physical therapist assistants and support personnel.

Principle #4: Physical therapists shall demonstrate integrity in their relationships with patients and clients, families, colleagues, students, research participants, other health care providers, employers, payers, and the public. (Core Value: Integrity)

- 4A. Physical therapists shall provide truthful, accurate, and relevant information and shall not make misleading representations.
- 4B. Physical therapists shall not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients/clients, students, supervisees, research participants, or employees).
- 4C. Physical therapists shall not engage in any sexual relationship with any of their patients and clients, supervisees, or students.
- 4D. Physical therapists shall not harass anyone verbally, physically, emotionally, or sexually.
- 4E. Physical therapists shall discourage misconduct by physical therapists, physical therapist assistants, and other health care professionals and, when appropriate, report illegal or unethical acts, including verbal, physical, emotional, or sexual harassment, to an appropriate authority with jurisdiction over the conduct.
- 4F. Physical therapists shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.

Principle #5: Physical therapists shall fulfill their legal and professional obligations. (Core Values: Accountability, Duty, Social Responsibility)

- 5A. Physical therapists shall comply with applicable local, state, and federal laws and regulations.
- 5B. Physical therapists shall have primary responsibility for supervision of physical therapist assistants and support personnel.
- 5C. Physical therapists involved in research shall abide by accepted standards governing protection of research participants.

- 5D. Physical therapists shall encourage colleagues with physical, psychological, or substance-related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.
- 5E. Physical therapists who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.
- 5F. Physical therapists shall provide notice and information about alternatives for obtaining care in the event the physical therapist terminates the provider relationship while the patient or client continues to need physical therapy services.

Principle #6: Physical therapists shall enhance their expertise through the lifelong acquisition and refinement of knowledge, skills, abilities, and professional behaviors. (Core Value: Excellence)

- 6A. Physical therapists shall achieve and maintain professional competence.
- 6B. Physical therapists shall take responsibility for their professional development based on critical self-assessment and reflection on changes in physical therapist practice, education, health care delivery, and technology.
- 6C. Physical therapists shall evaluate the strength of evidence and applicability of content presented during professional development activities before integrating the content or techniques into practice.
- 6D. Physical therapists shall cultivate practice environments that support professional development, lifelong learning, and excellence.

Principle #7: Physical therapists shall promote organizational behaviors and business practices that benefit patients/clients and society. (Core Values: Integrity, Accountability)

- 7A. Physical therapists shall promote practice environments that support autonomous and accountable professional judgments.
- 7B. Physical therapists shall seek remuneration as is deserved and reasonable for physical therapist services.
- 7C. Physical therapists shall not accept gifts or other considerations that influence or give an appearance of influencing their professional judgment.
- 7D. Physical therapists shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.
- 7E. Physical therapists shall be aware of charges and shall ensure that documentation and coding for physical therapy services accurately reflect the nature and extent of the services provided.
- 7F. Physical therapists shall refrain from employment arrangements, or other arrangements, that prevent physical therapists from fulfilling professional obligations to patients/clients.

Principle #8: Physical therapists shall participate in efforts to meet the health needs of people locally, nationally, or globally. (Core Value: Social Responsibility)

- 8A. Physical therapists shall provide pro bono physical therapy services or support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.
- 8B. Physical therapists shall advocate to reduce health disparities and health care inequities, improve access to health care services, and address the health, wellness, and preventive health care needs of people.
- 8C. Physical therapists shall be responsible stewards of health care resources and shall avoid overutilization or underutilization of physical therapy services.
- 8D. Physical therapists shall educate members of the public about the benefits of physical therapy and the unique role of the physical therapist.

Guide for Professional Conduct

Purpose

This Guide for Professional Conduct (Guide) is intended to serve physical therapists in interpreting the Code of Ethics for the Physical Therapist (Code) of the American Physical Therapy Association (APTA) in matters of professional conduct. The APTA House of Delegates in June of 2009 adopted a revised Code, which became effective on July 1, 2010.

The Guide provides a framework by which physical therapists may determine the propriety of their conduct. It is also intended to guide the professional development of physical therapist students. The Code and the Guide apply to all physical therapists. These guidelines are subject to change as the dynamics of the profession change and as new patterns of health care delivery are developed and accepted by the professional community and the public.

Interpreting Ethical Principles

The interpretations expressed in this Guide reflect the opinions, decisions, and advice of the Ethics and Judicial Committee (EJC). The interpretations are set forth according to topic. These interpretations are intended to assist a physical therapist in applying general ethical principles to specific situations. They address some but not all topics addressed in the Principles and should not be considered inclusive of all situations that could evolve.

This Guide is subject to change, and the Ethics and Judicial Committee will monitor and timely revise the Guide to address additional topics and Principles when necessary and as needed.

Preamble to the Code

The Preamble states as follows:

The Code of Ethics for the Physical Therapist (Code of Ethics) delineates the ethical obligations of all physical therapists as determined by the House of Delegates of the American Physical Therapy Association (APTA). The purposes of this Code of Ethics are to:

1. Define the ethical principles that form the foundation of physical therapist practice in patient and client management, consultation, education, research, and administration.
2. Provide standards of behavior and performance that form the basis of professional accountability to the public.
3. Provide guidance for physical therapists facing ethical challenges, regardless of their professional roles and responsibilities.
4. Educate physical therapists, students, other health care professionals, regulators, and the public regarding the core values, ethical principles, and standards that guide the professional conduct of the physical therapist.
5. Establish the standards by which the American Physical Therapy Association can determine if a physical therapist has engaged in unethical conduct.

No code of ethics is exhaustive nor can it address every situation. Physical therapists are encouraged to seek additional advice or consultation in instances where the guidance of the Code of Ethics may not be definitive.

This Code of Ethics is built upon the five roles of the physical therapist (management of patients/clients, consultation, education, research, and administration), the core values of the profession, and the multiple realms of ethical action (individual, organizational, and societal). Physical therapist practice is guided by a set of seven core values: accountability, altruism, compassion/caring, excellence, integrity, duty, and social responsibility. Throughout the document the primary core values that support specific principles are indicated in parentheses. Unless a specific role is indicated in the principle, the duties and obligations being delineated pertain to the five roles of the physical therapist. Fundamental to the Code of Ethics is the special obligation of physical therapists to empower, educate, and enable those with impairments, activity limitations, participation restrictions, and disabilities to facilitate greater independence, health, wellness, and enhanced quality of life.

Interpretation: Upon the Code of Ethics for the Physical Therapist being amended effective July 1, 2010, all the

lettered principles in the Code contain the word “shall” and are mandatory ethical obligations. The language contained in the Code is intended to better explain and further clarify existing ethical obligations. These ethical obligations predate the revised Code. Although various words have changed, many of the obligations are the same. Consequently, the addition of the word “shall” serves to reinforce and clarify existing ethical obligations. A significant reason that the Code was revised was to provide physical therapists with a document that was clear enough such that they can read it standing alone without the need to seek extensive additional interpretation.

The Preamble states that “[n]o Code of Ethics is exhaustive nor can it address every situation.” The Preamble also states that physical therapists “are encouraged to seek additional advice or consultation in instances in which the guidance of the Code may not be definitive.” Potential sources for advice and counsel include third parties and the myriad resources available on the APTA Web site. Inherent in a physical therapist’s ethical decision-making process is the examination of his or her unique set of facts relative to the Code.

Topics

Respect

Principle 1A states as follows:

1A. Physical therapists shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.

Interpretation: Principle 1A addresses the display of respect toward others. Unfortunately, there is no universal consensus about what respect looks like in every situation. For example, direct eye contact is viewed as respectful and courteous in some cultures and inappropriate in others. It is up to the individual to assess the appropriateness of behavior in various situations.

Altruism

Principle 2A states as follows:

2A. Physical therapists shall adhere to the core values of the profession and shall act in the best interests of patients/clients over the interests of the physical therapist.

Interpretation: Principle 2A reminds physical therapists to adhere to the profession’s core values and act in the best interest of patients/clients over the interests of the physical therapist. Often this is done without thought, but sometimes, especially at the end of the day when the physical therapist is fatigued and ready to go home, it is a conscious decision. For example, the physical therapist may need to make a decision between leaving on time and staying at work longer to see a patient who was 15 minutes late for an appointment.

Patient Autonomy

Principle 2C states as follows:

2C. Physical therapists shall provide the information necessary to allow patients or their surrogates to make informed decisions about physical therapy care or participation in clinical research.

Interpretation: The underlying purpose of Principle 2C is to require a physical therapist to respect patient autonomy. In order to do so, a physical therapist shall communicate to the patient and client the findings of his/her examination, evaluation, diagnosis, and prognosis. A physical therapist shall use sound professional judgment in informing the patient and client of any substantial risks of the recommended examination and intervention and shall collaborate with the patient and client to establish the goals of treatment and the plan of care. Ultimately, a physical therapist shall respect the patient’s/client’s right to make decisions regarding the recommended plan of care, including consent, modification, or refusal.

Professional Judgment

Principles 3, 3A, and 3B state as follows:

3: Physical therapists shall be accountable for making sound professional judgments. (Core Values: Excellence, Integrity)

3A. Physical therapists shall demonstrate independent and objective professional judgment in the patient's/client's best interest in all practice settings.

3B. Physical therapists shall demonstrate professional judgment informed by professional standards, evidence (including current literature and established best practice), practitioner experience, and patient and client values.

Interpretation: Principles 3, 3A, and 3B state that it is the physical therapist's obligation to exercise sound professional judgment, based upon his/her knowledge, skill, training, and experience. Principle 3B further describes the physical therapist's judgment as being informed by three elements of evidence-based practice.

With regard to the patient and client management role, once a physical therapist accepts an individual for physical therapy services he/she shall be responsible for: the examination, evaluation, and diagnosis of that individual; the prognosis and intervention; re-examination and modification of the plan of care; and the maintenance of adequate records, including progress reports. A physical therapist shall establish the plan of care and shall provide and/or supervise and direct the appropriate interventions. Regardless of practice setting, a physical therapist has primary responsibility for the physical therapy care of a patient and shall make independent judgments regarding that care consistent with accepted professional standards.

If the diagnostic process reveals findings that are outside the scope of the physical therapist's knowledge, experience, or expertise or that indicate the need for care outside the scope of physical therapy, the physical therapist shall so inform the patient and client and shall refer the patient and client to an appropriate practitioner.

A physical therapist shall determine when a patient and client will no longer benefit from physical therapy services. When a physical therapist's judgment is that a patient will receive negligible benefit from physical therapy services, the physical therapist shall not provide or continue to provide such services if the primary reason for doing so is to further the financial self-interest of the physical therapist or his/her employer. A physical therapist shall avoid overutilization of physical therapy services. See Principle 8C.

Supervision

Principle 3E states as follows:

3E. Physical therapists shall provide appropriate direction of and communication with physical therapist assistants and support personnel.

Interpretation: Principle 3E describes an additional circumstance in which sound professional judgment is required; namely, through the appropriate direction of and communication with physical therapist assistants and support personnel. Further information on supervision via applicable local, state, and federal laws and regulations (including state practice acts and administrative codes) is available. Information on supervision via APTA policies and resources is also available on the APTA Web site. See Principles 5A and 5B.

Integrity in Relationships

Principle 4 states as follows:

4: Physical therapists shall demonstrate integrity in their relationships with patients/clients, families, colleagues, students, research participants, other health care providers, employers, payers, and the public. (Core Value: Integrity)

Interpretation: Principle 4 addresses the need for integrity in relationships. This is not limited to relationships with patients/clients, but includes everyone physical therapists come into contact with professionally. For example, demonstrating integrity could encompass working collaboratively with the health care team and taking responsibility for one's role as a member of that team.

Reporting

Principle 4C states as follows:

4C. Physical therapists shall discourage misconduct by healthcare professionals and report illegal or unethical acts to the relevant authority, when appropriate.

Interpretation: When considering the application of “when appropriate” under Principle 4C, keep in mind that not all allegedly illegal or unethical acts should be reported immediately to an agency/authority. The determination of when to do so depends upon each situation’s unique set of facts, applicable laws, regulations, and policies. Depending upon those facts, it might be appropriate to communicate with the individuals involved. Consider whether the action has been corrected, and in that case, not reporting may be the most appropriate action. Note, however, that when an agency/authority does examine a potential ethical issue, fact finding will be its first step. The determination of ethicality requires an understanding of all of the relevant facts, but may still be subject to interpretation.

The EJC Opinion titled: Topic: Preserving Confidences; Physical Therapist's Reporting Obligation With Respect to Unethical, Incompetent, or Illegal Acts provides further information on the complexities of reporting.

Exploitation

Principle 4E states as follows:

4E. Physical therapists shall not engage in any sexual relationship with any of their patient and clients, supervisees or students.

Interpretation: The statement is fairly clear – sexual relationships with their patients/clients, supervisees or students are prohibited. This component of Principle 4 is consistent with Principle 4B, which states: Physical therapists shall not exploit persons over whom they have supervisory, evaluative or other authority (e.g. patients/clients, students, supervisees, research participants, or employees). Next, consider this excerpt from the EJC Opinion titled Topic: Sexual Relationships With Patients/Former Patients: A physical therapist stands in a relationship of trust to each patient and has an ethical obligation to act in the patient's best interest and to avoid any exploitation or abuse of the patient. Thus, if a physical therapist has natural feelings of attraction toward a patient, he/she must sublimate those feelings in order to avoid sexual exploitation of the patient. One’s ethical decision making process should focus on whether the patient and client, supervisee or student is being exploited. In this context, questions have been asked about whether one can have a sexual relationship once the patient and client relationship ends. To this question, the EJC has opined as follows: The Committee does not believe it feasible to establish any bright-line rule for when, if ever, initiation of a romantic/sexual relationship with a former patient would be ethically permissible. The Committee imagines that in some cases a romantic/sexual relationship would not offend ... if initiated with a former patient soon after the termination of treatment, while in others such a relationship might never be appropriate.

Colleague Impairment

Principle 5D and 5E state as follows:

5D. Physical therapists shall encourage colleagues with physical, psychological, or substance-related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.

5E. Physical therapists who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report the information to the appropriate authority.

Interpretation: The central tenet of Principles 5D and 5E is that inaction is not an option for a physical therapist when faced with the circumstances described. Principle 5D states that a physical therapist shall encourage colleagues to seek assistance or counsel while Principle 5E addresses reporting information to the appropriate authority. 5D and 5E both require a factual determination on your part. This may be challenging in the sense that you might not know or it might be difficult for you to determine whether someone in fact has a physical, psychological, or substance-related impairment. In addition, it might be difficult to determine whether such impairment may be adversely affecting his or her professional responsibilities.

Moreover, once you do make these determinations, the obligation under 5D centers not on reporting, but on encouraging the colleague to seek assistance. However, the obligation under 5E does focus on reporting. But note that 5E discusses reporting when a colleague is unable to perform, whereas 5D discusses encouraging colleagues to seek assistance when the impairment may adversely affect his or her professional responsibilities. So, 5D

discusses something that may be affecting performance, whereas 5E addresses a situation in which someone is clearly unable to perform. The 2 situations are distinct. In addition, it is important to note that 5E does not mandate to whom you report; it gives you discretion to determine the appropriate authority. The EJC Opinion titled: Topic: Preserving Confidences; Physical Therapist's Reporting Obligation With Respect to Unethical, Incompetent, or Illegal Acts provides further information on the complexities of reporting.

Professional Competence

Principle 6A states as follows:

6A. Physical therapists shall achieve and maintain professional competence.

Interpretation: 6A requires a physical therapist to maintain professional competence within one's scope of practice throughout one's career. Maintaining competence is an ongoing process of self-assessment, identification of strengths and weaknesses, acquisition of knowledge and skills based on that assessment, and reflection on and reassessment of performance, knowledge and skills. Numerous factors including practice setting, types of patients/clients, personal interests and the addition of new evidence to practice will influence the depth and breadth of professional competence in a given area of practice. Additional resources on Continuing Competence are available on the APTA Web site.

Professional Growth

Principle 6D states as follows:

6D. Physical therapists shall cultivate practice environments that support professional development, life-long learning, and excellence.

Interpretation: 6D elaborates on the physical therapist's obligations to foster an environment conducive to professional growth, even when not supported by the organization. The essential idea is that this is the physical therapist's responsibility, whether or not the employer provides support.

Charges and Coding

Principle 7E states as follows:

7E. Physical therapists shall be aware of charges and shall ensure that documentation and coding for physical therapy services accurately reflect the nature and extent of the services provided.⁹

Interpretation: Principle 7E provides that the physical therapist must make sure that the process of documentation and coding accurately captures the charges for services performed. In this context, where charges cannot be determined because of payment methodology, physical therapists may review the House of Delegates policy titled Professional Fees for Physical Therapy Services. Additional resources on documentation and coding include the House of Delegates policy titled Documentation Authority for Physical Therapy Services and the Documentation and Coding and Billing information on the APTA Web site.

Pro Bono Services

Principle 8A states as follows:

8A. Physical therapists shall provide pro bono physical therapy services or support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.

Interpretation: The key word in Principle 8A is "or". If a physical therapist is unable to provide pro bono services he or she can fulfill ethical obligations by supporting organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured. In addition, physical therapists may review the House of Delegates guidelines titled Guidelines: Pro Bono Physical Therapy Services. Additional resources on pro bono physical therapy services are available on the APTA Web site.

8A also addresses supporting organizations to meet health needs. In terms of supporting organizations, the principle does not specify the type of support that is required. Physical therapists may express support through

volunteerism, financial contributions, advocacy, education, or simply promoting their work in conversations with colleagues.

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Contact: eic@apta.org

Appendix C: Standards of Ethical Conduct for the Physical Therapist Assistant & Guide for Conduct

Standards of Ethical Conduct for the Physical Therapist Assistant

HOD S06-09-20-18 [Amended HOD S06-00-13-24; HOD 06-91-06-07; Initial HOD 06-82-04-08] [Standard]

Preamble

The Standards of Ethical Conduct for the Physical Therapist Assistant (Standards of Ethical Conduct) delineate the ethical obligations of all physical therapist assistants as determined by the House of Delegates of the American Physical Therapy Association (APTA). The Standards of Ethical Conduct provide a foundation for conduct to which all physical therapist assistants shall adhere. Physical therapist assistants are guided by a set of core values (accountability, altruism, collaboration, compassion and caring, duty, excellence, integrity, and social responsibility). Throughout the document the primary core values that support specific principles are indicated in parenthesis. Fundamental to the Standards of Ethical Conduct is the special obligation of physical therapist assistants to enable patients/clients to achieve greater independence, health and wellness, and enhanced quality of life.

No document that delineates ethical standards can address every situation. Physical therapist assistants are encouraged to seek additional advice or consultation in instances where the guidance of the Standards of Ethical Conduct may not be definitive. The APTA Guide for Conduct of the Physical Therapist Assistant and Core Values for the Physical Therapist and Physical Therapist Assistant provide additional guidance.

Standards

Standard #1: Physical therapist assistants shall respect the inherent dignity, and rights, of all individuals.
(Core Values: Compassion and Caring, Integrity)

- 1A. Physical therapist assistants shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.
- 1B. Physical therapist assistants shall recognize their personal biases and shall not discriminate against others in the provision of physical therapy services.

Standard #2: Physical therapist assistants shall be trustworthy and compassionate in addressing the rights and needs of patients/clients.
(Core Values: Altruism, Collaboration, Compassion and Caring, Duty)

- 2A. Physical therapist assistants shall act in the best interests of patients/clients over the interests of the physical therapist assistant.
- 2B. Physical therapist assistants shall provide physical therapy interventions with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.
- 2C. Physical therapist assistants shall provide patients/clients with information regarding the interventions they provide.
- 2D. Physical therapist assistants shall protect confidential patient and client information and, in collaboration with the physical therapist, may disclose confidential information to appropriate authorities only when allowed or as required by law.

Standard #3: Physical therapist assistants shall make sound decisions in collaboration with the physical therapist and within the boundaries established by laws and regulations.
(Core Values: Collaboration, Duty, Excellence, Integrity)

- 3A. Physical therapist assistants shall make objective decisions in the patient's or client's best interest in all practice settings.

- 3B. Physical therapist assistants shall be guided by information about best practice regarding physical therapist interventions.
- 3C. Physical therapist assistants shall make decisions based upon their level of competence and consistent with patient and client values.
- 3D. Physical therapist assistants shall not engage in conflicts of interest that interfere with making sound decisions.
- 3E. Physical therapist assistants shall provide physical therapy services under the direction and supervision of a physical therapist and shall communicate with the physical therapist when patient or client status requires modifications to the established plan of care.

Standard #4: Physical therapist assistants shall demonstrate integrity in their relationships with patients/ clients, families, colleagues, students, other health care providers, employers, payers, and the public.
(Core Value: Integrity)

- 4A. Physical therapist assistants shall provide truthful, accurate, and relevant information and shall not make misleading representations.
- 4B. Physical therapist assistants shall not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients and clients, students, supervisees, research participants, or employees).
- 4C. Physical therapist assistants shall not engage in any sexual relationship with any of their patients and clients, supervisees, or students.
- 4D. Physical therapist assistants shall not harass anyone verbally, physically, emotionally, or sexually.
- 4E. Physical therapist assistants shall discourage misconduct by physical therapists, physical therapist assistants, and other health care professionals and, when appropriate, report illegal or unethical acts, including verbal, physical, emotional, or sexual harassment, to an appropriate authority with jurisdiction over the conduct.
- 4F. Physical therapist assistants shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.

Standard #5: Physical therapist assistants shall fulfill their legal and ethical obligations.
(Core Values: Accountability, Duty, Social Responsibility)

- 5A. Physical therapist assistants shall comply with applicable local, state, and federal laws and regulations.
- 5B. Physical therapist assistants shall support the supervisory role of the physical therapist to ensure quality care and promote patient and client safety.
- 5C. Physical therapist assistants involved in research shall abide by accepted standards governing protection of research participants.
- 5D. Physical therapist assistants shall encourage colleagues with physical, psychological, or substance related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.
- 5E. Physical therapist assistants who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.

Standard #6: Physical therapist assistants shall enhance their competence through the lifelong acquisition and refinement of knowledge, skills, and abilities.
(Core Value: Excellence)

- 6A. Physical therapist assistants shall achieve and maintain clinical competence.
- 6B. Physical therapist assistants shall engage in lifelong learning consistent with changes in their roles and responsibilities and advances in the practice of physical therapy.
- 6C. Physical therapist assistants shall support practice environments that support career development and lifelong learning.

Standard #7: Physical therapist assistants shall support organizational behaviors and business practices that benefit patients/clients and society.
(core Values: Integrity, Accountability)

- 7A. Physical therapist assistants shall promote work environments that support ethical and accountable decision-making.
- 7B. Physical therapist assistants shall not accept gifts or other considerations that influence or give an appearance of influencing their decisions.
- 7C. Physical therapist assistants shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.
- 7D. Physical therapist assistants shall ensure that documentation for their interventions accurately reflects the nature and extent of the services provided.
- 7E. Physical therapist assistants shall refrain from employment arrangements, or other arrangements, that prevent physical therapist assistants from fulfilling ethical obligations to patients/clients

Standard #8: Physical therapist assistants shall participate in efforts to meet the health needs of people locally, nationally, or globally.

(Core Value: Social Responsibility)

- 8A. Physical therapist assistants shall support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.
- 8B. Physical therapist assistants shall advocate for people with impairments, activity limitations, participation restrictions, and disabilities in order to promote their participation in community and society.
- 8C. Physical therapist assistants shall be responsible stewards of health care resources by collaborating with physical therapists in order to avoid overutilization or underutilization of physical therapy services.
- 8D. Physical therapist assistants shall educate members of the public about the benefits of physical therapy.

APTA Guide for Conduct of the Physical Therapist Assistant

Purpose

This Guide for Conduct of the Physical Therapist Assistant (Guide) is intended to serve physical therapist assistants in interpreting the Standards of Ethical Conduct for the Physical Therapist Assistant (Standards) of the American Physical Therapy Association (APTA). The APTA House of Delegates in June of 2009 adopted the revised Standards, which became effective on July 1, 2010.

The Guide provides a framework by which physical therapist assistants may determine the propriety of their conduct. It is also intended to guide the development of physical therapist assistant students. The Standards and the Guide apply to all physical therapist assistants. These guidelines are subject to change as the dynamics of the profession change and as new patterns of health care delivery are developed and accepted by the professional community and the public.

Interpreting Ethical Standards

The interpretations expressed in this Guide reflect the opinions, decisions, and advice of the Ethics and Judicial Committee (EJC). The interpretations are set forth according to topic. These interpretations are intended to assist a physical therapist assistant in applying general ethical standards to specific situations. They address some but not all topics addressed in the Standards and should not be considered inclusive of all situations that could evolve.

This Guide is subject to change, and the Ethics and Judicial Committee will monitor and timely revise the Guide to address additional topics and Standards when necessary and as needed.

Preamble to the Standards

The Preamble states as follows:

The Standards of Ethical Conduct for the Physical Therapist Assistant (Standards of Ethical Conduct) delineate the ethical obligations of all physical therapist assistants as determined by the House of Delegates of the American

Physical Therapy Association (PTA). The Standards of Ethical Conduct provide a foundation for conduct to which all physical therapist assistants shall adhere. Fundamental to the Standards of Ethical Conduct is the special obligation of physical therapist assistants to enable patients/clients to achieve greater independence, health and wellness, and enhanced quality of life.

No document that delineates ethical standards can address every situation. Physical therapist assistants are encouraged to seek additional advice or consultation in instances where the guidance of the Standards of Ethical Conduct may not be definitive.

Interpretation: Upon the Standards of Ethical Conduct for the Physical Therapist Assistant being amended effective July 1, 2010, all the lettered standards contain the word “shall” and are mandatory ethical obligations. The language contained in the Standards is intended to better explain and further clarify existing ethical obligations. These ethical obligations predate the revised Standards. Although various words have changed, many of the obligations are the same. Consequently, the addition of the word “shall” serves to reinforce and clarify existing ethical obligations. A significant reason that the Standards were revised was to provide physical therapist assistants with a document that was clear enough such that they can read it standing alone without the need to seek extensive additional interpretation.

The Preamble states that “[n]o document that delineates ethical standards can address every situation.” The Preamble also states that physical therapist assistants “are encouraged to seek additional advice or consultation in instances where the guidance of the Standards of Ethical Conduct may not be definitive.” Potential sources for advice or counsel include third parties and the myriad resources available on the PTA Web site. Inherent in a physical therapist assistant’s ethical decision-making process is the examination of his or her unique set of facts relative to the Standards.

Standards

Respect

Standard 1A states as follows:

1A. Physical therapist assistants shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.

Interpretation: Standard 1A addresses the display of respect toward others. Unfortunately, there is no universal consensus about what respect looks like in every situation. For example, direct eye contact is viewed as respectful and courteous in some cultures and inappropriate in others. It is up to the individual to assess the appropriateness of behavior in various situations.³

Altruism

Standard 2A states as follows:

2A. Physical therapist assistants shall act in the best interests of patients/clients over the interests of the physical therapist assistant.

Interpretation: Standard 2A addresses acting in the best interest of patients/clients over the interests of the physical therapist assistant. Often this is done without thought, but sometimes, especially at the end of the day when the clinician is fatigued and ready to go home, it is a conscious decision. For example, the physical therapist assistant may need to make a decision between leaving on time and staying at work longer to see a patient who was 15 minutes late for an appointment.

Sound Decisions

Standard 3C states as follows:

3C. Physical therapist assistants shall make decisions based upon their level of competence and consistent with patient and client values.

Interpretation: To fulfill 3C, the physical therapist assistant must be knowledgeable about his or her legal scope of work as well as level of competence. As a physical therapist assistant gains experience and additional knowledge,

there may be areas of physical therapy interventions in which he or she displays advanced skills. At the same time, other previously gained knowledge and skill may be lost due to lack of use. To make sound decisions, the physical therapist assistant must be able to self-reflect on his or her current level of competence.

Supervision

Standard 3E states as follows:

3E. Physical therapist assistants shall provide physical therapy services under the direction and supervision of a physical therapist and shall communicate with the physical therapist when patient and client status requires modifications to the established plan of care.

Interpretation: Standard 3E goes beyond simply stating that the physical therapist assistant operates under the supervision of the physical therapist. Although a physical therapist retains responsibility for the patient and client throughout the episode of care, this standard requires the physical therapist assistant to take action by communicating with the supervising physical therapist when changes in the patient and client status indicate that modifications to the plan of care may be needed. Further information on supervision via APTA policies and resources is available on the APTA Web site.

Integrity in Relationships

Standard 4 states as follows:

4: Physical therapist assistants shall demonstrate integrity in their relationships with patients/clients, families, colleagues, students, other health care providers, employers, payers, and the public.

Interpretation: Standard 4 addresses the need for integrity in relationships. This is not limited to relationships with patients/clients, but includes everyone physical therapist assistants come into contact with in the normal provision of physical therapy services. For example, demonstrating integrity could encompass working collaboratively with the health care team and taking responsibility for one's role as a member of that team.

Reporting

Standard 4C states as follows:

4C. Physical therapist assistants shall discourage misconduct by health care professionals and report illegal or unethical acts to the relevant authority, when appropriate.

Interpretation: When considering the application of "when appropriate" under Standard 4C, keep in mind that not all allegedly illegal or unethical acts should be reported immediately to an agency/authority. The determination of when to do so depends upon each situation's unique set of facts, applicable laws, regulations, and policies.

Depending upon those facts, it might be appropriate to communicate with the individuals involved. Consider whether the action has been corrected, and in that case, not reporting may be the most appropriate action. Note, however, that when an agency/authority does examine a potential ethical issue, fact finding will be its first step. The determination of ethicality requires an understanding of all of the relevant facts, but may still be subject to interpretation. The EJC Opinion titled: Topic: Preserving Confidences; Physical Therapist's Reporting Obligation With Respect to Unethical, Incompetent, or Illegal Acts provides further information on the complexities of reporting.

Exploitation

Standard 4E states as follows:

4E. Physical therapist assistants shall not engage in any sexual relationship with any of their patients/clients, supervisees, or students.

Interpretation: The statement is fairly clear – sexual relationships with their patients/clients, supervisees or students are prohibited. This component of Standard 4 is consistent with Standard 4B, which states:

4B. Physical therapist assistants shall not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients/clients, students, supervisees, research participants, or employees).

Next, consider this excerpt from the EJC Opinion titled Topic: Sexual Relationships With Patients/Former Patients (modified for physical therapist assistants):

A physical therapist [assistant] stands in a relationship of trust to each patient and has an ethical obligation to act in the patient's best interest and to avoid any exploitation or abuse of the patient. Thus, if a physical therapist [assistant] has natural feelings of attraction toward a patient, he/she must sublimate those feelings in order to avoid sexual exploitation of the patient.

One's ethical decision making process should focus on whether the patient and client, supervisee or student is being exploited. In this context, questions have been asked about whether one can have a sexual relationship once the patient and client relationship ends. To this question, the EJC has opined as follows: The Committee does not believe it feasible to establish any bright-line rule for when, if ever, initiation of a romantic/sexual relationship with a former patient would be ethically permissible. The Committee imagines that in some cases a romantic/sexual relationship would not offend ... if initiated with a former patient soon after the termination of treatment, while in others such a relationship might never be appropriate.

Colleague Impairment

Standard 5D and 5E state as follows:

5D. Physical therapist assistants shall encourage colleagues with physical, psychological, or substance-related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.

5E. Physical therapist assistants who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.

Interpretation: The central tenet of Standard 5D and 5E is that inaction is not an option for a physical therapist assistant when faced with the circumstances described. Standard 5D states that a physical therapist assistant shall encourage colleagues to seek assistance or counsel while Standard 5E addresses reporting information to the appropriate authority.

5D and 5E both require a factual determination on the physical therapist assistant's part. This may be challenging in the sense that you might not know or it might be difficult for you to determine whether someone in fact has a physical, psychological, or substance-related impairment. In addition, it might be difficult to determine whether such impairment may be adversely affecting someone's work responsibilities.

Moreover, once you do make these determinations, the obligation under 5D centers not on reporting, but on encouraging the colleague to seek assistance. However, the obligation under 5E does focus on reporting. But note that 5E discusses reporting when a colleague is unable to perform, whereas 5D discusses encouraging colleagues to seek assistance when the impairment may adversely affect his or her professional responsibilities. So, 5D discusses something that may be affecting performance, whereas 5E addresses a situation in which someone is clearly unable to perform. The 2 situations are distinct. In addition, it is important to note that 5E does not mandate to whom you report; it gives you discretion to determine the appropriate authority. The EJC Opinion titled Topic: Preserving Confidences; Physical Therapist's Reporting Obligation With Respect to Unethical, Incompetent, or Illegal Acts provides further information on the complexities of reporting.

Clinical Competence

Standard 6A states as follows:

6A. Physical therapist assistants shall achieve and maintain clinical competence.

Interpretation: 6A should cause physical therapist assistants to reflect on their current level of clinical competence, to identify and address gaps in clinical competence, and to commit to the maintenance of clinical

competence throughout their career. The supervising physical therapist can be a valuable partner in identifying areas of knowledge and skill that the physical therapist assistant needs for clinical competence and to meet the needs of the individual physical therapist, which may vary according to areas of interest and expertise. Further, the physical therapist assistant may request that the physical therapist serve as a mentor to assist him or her in acquiring the needed knowledge and skills. Additional resources on Continuing Competence are available on the APTA Web site.

Lifelong Learning

Standard 6C states as follows:

6C. Physical therapist assistants shall support practice environments that support career development and lifelong learning.

Interpretation: 6C points out the physical therapist assistant's obligation to support an environment conducive to career development and learning. The essential idea here is that the physical therapist assistant encourage and contribute to the career development and lifelong learning of himself or herself and others, whether or not the employer provides support.

Organizational and Business Practices

Standard 7 states as follows:

7. Physical therapist assistants shall support organizational behaviors and business practices that benefit patients/clients and society.

Interpretation: Standard 7 reflects a shift in the Standards. One criticism of the former version was that it addressed primarily face-to-face clinical practice settings. Accordingly, Standard 7 addresses ethical obligations in organizational and business practices on a patient and client and societal level.

Documenting Interventions

Standard 7D states as follows:

7D. Physical therapist assistants shall ensure that documentation for their interventions accurately reflects the nature and extent of the services provided.

Interpretation: 7D addresses the need for physical therapist assistants to make sure that they thoroughly and accurately document the interventions they provide to patients/clients and document related data collected from the patient and client. The focus of this Standard is on ensuring documentation of the services rendered, including the nature and extent of such services.

Support - Health Needs

Standard 8A states as follows:

8A. Physical therapist assistants shall support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.

Interpretation: 8A addresses the issue of support for those least likely to be able to afford physical therapy services. The Standard does not specify the type of support that is required. Physical therapist assistants may express support through volunteerism, financial contributions, advocacy, education, or simply promoting their work in conversations with colleagues. When providing such services, including pro bono services, physical therapist assistants must comply with applicable laws, and as such work under the direction and supervision of a physical therapist. Additional resources on pro bono physical therapy services are available on the APTA Web site.

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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.