

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By

AMEND House Amendment No. _____ to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 106, Page 7, Line 15, by deleting said line and inserting in lieu thereof the following:

"legal guardian's child's records."

334.100. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

Action Taken _____ Date _____

1 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or
2 nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for
3 any offense reasonably related to the qualifications, functions or duties of any profession licensed or
4 regulated pursuant to this chapter, for any offense involving fraud, dishonesty or an act of violence,
5 or for any offense involving moral turpitude, whether or not sentence is imposed;

6 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
7 registration or authority, permit or license issued pursuant to this chapter or in obtaining permission
8 to take any examination given or required pursuant to this chapter;

9 (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional
10 conduct in the performance of the functions or duties of any profession licensed or regulated by this
11 chapter, including, but not limited to, the following:

12 (a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
13 fraud, deception or misrepresentation; willfully and continually overcharging or overtreating
14 patients; or charging for visits to the physician's office which did not occur unless the services were
15 contracted for in advance, or for services which were not rendered or documented in the patient's
16 records;

17 (b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to
18 obtain or retain a patient or discourage the use of a second opinion or consultation;

19 (c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic
20 tests or medical or surgical services;

21 (d) Delegating professional responsibilities to a person who is not qualified by training,
22 skill, competency, age, experience or licensure to perform such responsibilities;

23 (e) Misrepresenting that any disease, ailment or infirmity can be cured by a method,
24 procedure, treatment, medicine or device;

25 (f) Performing or prescribing medical services which have been declared by board rule to be
26 of no medical or osteopathic value;

27 (g) Final disciplinary action by any professional medical or osteopathic association or
28 society or licensed hospital or medical staff of such hospital in this or any other state or territory,
29 whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,
30 limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such
31 privileges or license for cause, or other final disciplinary action, if the action was in any way related
32 to unprofessional conduct, professional incompetence, malpractice or any other violation of any
33 provision of this chapter;

34 (h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise
35 distributing any drug, controlled substance or other treatment without sufficient examination
36 including failing to establish a valid physician-patient relationship pursuant to section 334.108, or
37 for other than medically accepted therapeutic or experimental or investigative purposes duly
38 authorized by a state or federal agency, or not in the course of professional practice, or not in good

1 faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as
2 authorized in section 334.104;

3 (i) Exercising influence within a physician-patient relationship for purposes of engaging a
4 patient in sexual activity;

5 (j) Being listed on any state or federal sexual offender registry;

6 (k) Terminating the medical care of a patient without adequate notice or without making
7 other arrangements for the continued care of the patient;

8 (l) Failing to furnish details of a patient's medical records to other treating physicians or
9 hospitals upon proper request; or failing to comply with any other law relating to medical records;

10 (m) Failure of any applicant or licensee to cooperate with the board during any
11 investigation;

12 (n) Failure to comply with any subpoena or subpoena duces tecum from the board or an
13 order of the board;

14 (o) Failure to timely pay license renewal fees specified in this chapter;

15 (p) Violating a probation agreement, order, or other settlement agreement with this board or
16 any other licensing agency;

17 (q) Failing to inform the board of the physician's current residence and business address;

18 (r) Advertising by an applicant or licensee which is false or misleading, or which violates
19 any rule of the board, or which claims without substantiation the positive cure of any disease, or
20 professional superiority to or greater skill than that possessed by any other physician. An applicant
21 or licensee shall also be in violation of this provision if the applicant or licensee has a financial
22 interest in any organization, corporation or association which issues or conducts such advertising;

23 (s) Any other conduct that is unethical or unprofessional involving a minor;

24 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or
25 physical health of a patient or the public; or incompetency, gross negligence or repeated negligence
26 in the performance of the functions or duties of any profession licensed or regulated by this chapter.
27 For the purposes of this subdivision, "repeated negligence" means the failure, on more than one
28 occasion, to use that degree of skill and learning ordinarily used under the same or similar
29 circumstances by the member of the applicant's or licensee's profession;

30 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any
31 person to violate, any provision of this chapter or chapter 324, or of any lawful rule or regulation
32 adopted pursuant to this chapter or chapter 324;

33 (7) Impersonation of any person holding a certificate of registration or authority, permit or
34 license or allowing any person to use his or her certificate of registration or authority, permit, license
35 or diploma from any school;

36 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,
37 censure, probation or other final disciplinary action against the holder of or applicant for a license or
38 other right to practice any profession regulated by this chapter by another state, territory, federal
39 agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but

1 not limited to, the denial of licensure, surrender of the license, allowing the license to expire or
2 lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while
3 actually under investigation by any licensing authority, medical facility, branch of the Armed Forces
4 of the United States of America, insurance company, court, agency of the state or federal
5 government, or employer;

6 (9) A person is finally adjudged incapacitated or disabled by a court of competent
7 jurisdiction;

8 (10) Assisting or enabling any person to practice or offer to practice any profession licensed
9 or regulated by this chapter who is not registered and currently eligible to practice pursuant to this
10 chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or
11 encourages any person to practice medicine who is not registered and currently eligible to practice
12 pursuant to this chapter. A physician who works in accordance with standing orders or protocols or
13 in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

14 (11) Issuance of a certificate of registration or authority, permit or license based upon a
15 material mistake of fact;

16 (12) Failure to display a valid certificate or license if so required by this chapter or any rule
17 promulgated pursuant to this chapter;

18 (13) Violation of the drug laws or rules and regulations of this state, including but not
19 limited to any provision of chapter 195, any other state, or the federal government;

20 (14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a
21 false statement in any birth, death or other certificate or document executed in connection with the
22 practice of the person's profession;

23 (15) Knowingly making a false statement, orally or in writing to the board;

24 (16) Soliciting patronage in person or by agents or representatives, or by any other means or
25 manner, under the person's own name or under the name of another person or concern, actual or
26 pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity
27 for or appropriateness of health care services for all patients, or the qualifications of an individual
28 person or persons to diagnose, render, or perform health care services;

29 (17) Using, or permitting the use of, the person's name under the designation of "Doctor",
30 "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation
31 of any goods, wares or merchandise;

32 (18) Knowingly making or causing to be made a false statement or misrepresentation of a
33 material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or
34 chapter 630 or for payment from Title XVIII or Title XIX of the Social Security Act;

35 (19) Failure or refusal to properly guard against contagious, infectious or communicable
36 diseases or the spread thereof; maintaining an unsanitary office or performing professional services
37 under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office
38 of a physician or in any health care facility to the board, in writing, within thirty days after the
39 discovery thereof;

(20) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or~~], notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an advanced practice registered nurse under chapter 335, or any licensed and registered physician, dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose license is in good standing]~~ evaluating or treating a patient in a manner inconsistent with section 334.506;

(21) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

(22) Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

(23) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

(24) Habitual intoxication or dependence on alcohol, evidence of which may include more than one alcohol-related enforcement contact as defined by section 302.525;

(25) Failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement or licensee's professional health program;

(26) Revocation, suspension, limitation, probation, or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not, or voluntary termination of a controlled substance authority while under investigation;

(27) For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such facility has failed to obtain or renew a license as an ambulatory surgical center.

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by

the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

8. The act of lawfully dispensing, prescribing, administering, or otherwise distributing ivermectin tablets or hydroxychloroquine sulfate tablets for human use shall not be grounds for denial, suspension, revocation, or other disciplinary action by the board.

334.506. 1. As used in this section, the following terms mean:

(1) "Approved health care provider" ~~[means]~~, a person holding a current and active license as a physician and surgeon under this chapter, a chiropractor under chapter 331, a dentist under chapter 332, a podiatrist under chapter 330, a physician assistant under this chapter, an advanced practice registered nurse under chapter 335, or any licensed and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction whose license is in good standing;

(2) "Consult" or "consultation", communication by telephone, by fax, in writing, or in person with the patient's personally approved licensed health care provider or a licensed health care provider of the patient's designation.

2. A physical therapist ~~[shall not]~~ may evaluate and initiate treatment ~~[for a new injury or illness]~~ on a patient without a prescription or referral from an approved health care provider.

1 provided that the physical therapist has a doctorate of physical therapy degree or has five years of
2 clinical practice as a physical therapist.

3 3. A physical therapist may provide educational resources and training, develop fitness or
4 wellness programs ~~[for asymptomatic persons]~~, or provide screening or consultative services within
5 the scope of physical therapy practice without ~~[the] a~~ prescription ~~[and direction of]~~ or referral from
6 an approved health care provider.

7 4. ~~[A physical therapist may examine and treat without the prescription and direction of an~~
8 ~~approved health care provider any person with a recurring self-limited injury within one year of~~
9 ~~diagnosis by an approved health care provider or a chronic illness that has been previously~~
10 ~~diagnosed by an approved health care provider. The physical therapist shall:]~~

11 (1) ~~[Contact the patient's current approved health care provider within seven days of~~
12 ~~initiating physical therapy services under this subsection;]~~ A physical therapist shall refer to an
13 approved health care provider any patient whose condition at the time of evaluation or treatment is
14 determined to be beyond the scope of practice of physical therapy. The physical therapist shall not
15 provide physical therapy services or treatment after this referral has been made.

16 (2) ~~[Not change an existing physical therapy referral available to the physical therapist~~
17 ~~without approval of the patient's current approved health care provider;]~~ A physical therapist shall
18 refer to an approved health care provider any patient who does not demonstrate measurable or
19 functional improvement after ten visits or thirty days, whichever occurs first. The physical therapist
20 shall not provide further therapy services or treatment after this referral has been made.

21 (3) ~~[Refer to an approved health care provider any patient whose medical condition at the~~
22 ~~time of examination or treatment is determined to be beyond the scope of practice of physical~~
23 ~~therapy;~~

24 (4) ~~Refer to an approved health care provider any patient whose condition for which~~
25 ~~physical therapy services are rendered under this subsection has not been documented to be~~
26 ~~progressing toward documented treatment goals after six visits or fourteen days, whichever first~~
27 ~~occurs;~~

28 (5) ~~Notify the patient's current approved health care provider prior to the continuation of~~
29 ~~treatment if treatment rendered under this subsection is to continue beyond thirty days. The~~
30 ~~physical therapist shall provide such notification for each successive period of thirty days.-]~~ (a) A
31 physical therapist shall consult with an approved health care provider if, after every ten visits or
32 thirty days, whichever occurs first, the patient has demonstrated measurable or functional
33 improvement from the course of physical therapy services or treatment provided and the physical
34 therapist believes that continuation of the course of physical therapy services or treatment is
35 reasonable and necessary based on the physical therapist's evaluation of the patient. The physical
36 therapist shall not provide further physical therapy services or treatment until the consultation has
37 occurred.

38 (b) The consultation with the approved health care provider shall include information
39 concerning:

- 1 a. The patient's condition for which physical therapy services or treatments were provided;
- 2 b. The basis for the course of services or treatment indicated, as determined from the
- 3 physical therapy evaluation of the patient;
- 4 c. The physical therapy services or treatment provided before the date of the consultation;
- 5 d. The patient's demonstrated measurable or functional improvement from the services or
- 6 treatment provided before the date of the consultation;
- 7 e. The continuing physical therapy services or treatment proposed to be provided following
- 8 the consultation; and
- 9 f. The professional physical therapy basis for the continued physical therapy services or
- 10 treatment to be provided.

11 (c) Continued physical therapy services or treatment following the consultation with and
 12 approval by an approved health care provider shall proceed in accordance with any feedback,
 13 advice, opinion, or direction of the approved health care provider. The physical therapist shall
 14 notify the consulting approved health care provider of continuing physical therapy services or
 15 treatment and the patient's progress at least every ten visits or thirty days after the initial
 16 consultation unless the consulting approved health care provider directs otherwise.

17 (d) The provisions of this subdivision shall not apply to physical therapy services performed
 18 within a primary or secondary school for individuals within ages not in excess of twenty-one years.

19 5. The provision of physical therapy services of evaluation and screening pursuant to this
 20 section shall be limited to a physical therapist, and any authority for evaluation and screening
 21 granted within this section may not be delegated. Upon each reinitiation of physical therapy
 22 services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation
 23 of physical therapy treatment. ~~[Physical therapy treatment provided pursuant to the provisions of~~
 24 ~~subsection 4 of this section may be delegated by physical therapists to physical therapist assistants~~
 25 ~~only if the patient's current approved health care provider has been so informed as part of the~~
 26 ~~physical therapist's seven-day notification upon reinitiation of physical therapy services as required~~
 27 ~~in subsection 4 of this section.]~~ Nothing in this subsection shall be construed as to limit the ability
 28 of physical therapists or physical therapist assistants to provide physical therapy services in
 29 accordance with the provisions of this chapter, and upon the referral of an approved health care
 30 provider. Nothing in this subsection shall prohibit an approved health care provider from acting
 31 within the scope of their practice as defined by the applicable chapters of RSMo.

32 6. No person licensed to practice, or applicant for licensure, as a physical therapist or
 33 physical therapist assistant shall make a medical diagnosis.

34 7. A physical therapist shall only delegate physical therapy treatment to a physical therapist
 35 assistant or to a person in an entry level of a professional education program approved by the
 36 Commission on Accreditation in Physical Therapy Education (CAPTE) who satisfies supervised
 37 clinical education requirements related to the person's physical therapist or physical therapist
 38 assistant education. The entry-level person shall be under the supervision of a physical therapist.

1 334.613. 1. The board may refuse to issue or renew a license to practice as a physical
2 therapist or physical therapist assistant for one or any combination of causes stated in subsection 2
3 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall
4 advise the applicant of the applicant's right to file a complaint with the administrative hearing
5 commission as provided by chapter 621. As an alternative to a refusal to issue or renew a license to
6 practice as a physical therapist or physical therapist assistant, the board may, at its discretion, issue a
7 license which is subject to probation, restriction, or limitation to an applicant for licensure for any
8 one or any combination of causes stated in subsection 2 of this section. The board's order of
9 probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis
10 therefor, the date such action shall become effective, and a statement that the applicant has thirty
11 days to request in writing a hearing before the administrative hearing commission. If the board
12 issues a probationary, limited, or restricted license to an applicant for licensure, either party may file
13 a written petition with the administrative hearing commission within thirty days of the effective date
14 of the probationary, limited, or restricted license seeking review of the board's determination. If no
15 written request for a hearing is received by the administrative hearing commission within the thirty-
16 day period, the right to seek review of the board's decision shall be considered as waived.

17 2. The board may cause a complaint to be filed with the administrative hearing commission
18 as provided by chapter 621 against any holder of a license to practice as a physical therapist or
19 physical therapist assistant who has failed to renew or has surrendered his or her license for any one
20 or any combination of the following causes:

21 (1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an
22 extent that such use impairs a person's ability to perform the work of a physical therapist or physical
23 therapist assistant;

24 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or
25 nolo contendere, in a criminal prosecution under the laws of any state, of the United States, or of
26 any country, for any offense directly related to the duties and responsibilities of the occupation, as
27 set forth in section 324.012, regardless of whether or not sentence is imposed;

28 (3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of
29 registration or authority, permit, or license issued under this chapter or in obtaining permission to
30 take any examination given or required under this chapter;

31 (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional
32 conduct in the performance of the functions or duties of a physical therapist or physical therapist
33 assistant, including but not limited to the following:

34 (a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by
35 fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating
36 patients; or charging for sessions of physical therapy which did not occur unless the services were
37 contracted for in advance, or for services which were not rendered or documented in the patient's
38 records;

- 1 (b) Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to
2 obtain or retain a patient or discourage the use of a second opinion or consultation;
- 3 (c) Willfully and continually performing inappropriate or unnecessary treatment or services;
- 4 (d) Delegating professional responsibilities to a person who is not qualified by training,
5 skill, competency, age, experience, or licensure to perform such responsibilities;
- 6 (e) Misrepresenting that any disease, ailment, or infirmity can be cured by a method,
7 procedure, treatment, medicine, or device;
- 8 (f) Performing services which have been declared by board rule to be of no physical therapy
9 value;
- 10 (g) Final disciplinary action by any professional association, professional society, licensed
11 hospital or medical staff of the hospital, or physical therapy facility in this or any other state or
12 territory, whether agreed to voluntarily or not, and including but not limited to any removal,
13 suspension, limitation, or restriction of the person's professional employment, malpractice, or any
14 other violation of any provision of this chapter;
- 15 (h) Administering treatment without sufficient examination, or for other than medically
16 accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal
17 agency, or not in the course of professional physical therapy practice;
- 18 (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual,
19 while a physical therapist or physical therapist assistant/patient relationship exists; making sexual
20 advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a
21 sexual nature with patients or clients;
- 22 (j) Terminating the care of a patient without adequate notice or without making other
23 arrangements for the continued care of the patient;
- 24 (k) Failing to furnish details of a patient's physical therapy records to treating physicians,
25 other physical therapists, or hospitals upon proper request; or failing to comply with any other law
26 relating to physical therapy records;
- 27 (l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to
28 cooperate with the board during any investigation;
- 29 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or an
30 order of the board;
- 31 (n) Failure to timely pay license renewal fees specified in this chapter;
- 32 (o) Violating a probation agreement with this board or any other licensing agency;
- 33 (p) Failing to inform the board of the physical therapist's or physical therapist assistant's
34 current telephone number, residence, and business address;
- 35 (q) Advertising by an applicant or licensee which is false or misleading, or which violates
36 any rule of the board, or which claims without substantiation the positive cure of any disease, or
37 professional superiority to or greater skill than that possessed by any other physical therapist or
38 physical therapist assistant. An applicant or licensee shall also be in violation of this provision if the

1 applicant or licensee has a financial interest in any organization, corporation, or association which
2 issues or conducts such advertising;

3 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or
4 physical health of a patient or the public; or incompetency, gross negligence, or repeated negligence
5 in the performance of the functions or duties of a physical therapist or physical therapist assistant.
6 For the purposes of this subdivision, "repeated negligence" means the failure, on more than one
7 occasion, to use that degree of skill and learning ordinarily used under the same or similar
8 circumstances by the member of the applicant's or licensee's profession;

9 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any
10 person to violate, any provision of this chapter, or of any lawful rule adopted under this chapter;

11 (7) Impersonation of any person licensed as a physical therapist or physical therapist
12 assistant or allowing any person to use his or her license or diploma from any school;

13 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,
14 censure, probation, or other final disciplinary action against a physical therapist or physical therapist
15 assistant for a license or other right to practice as a physical therapist or physical therapist assistant
16 by another state, territory, federal agency or country, whether or not voluntarily agreed to by the
17 licensee or applicant, including but not limited to the denial of licensure, surrender of the license,
18 allowing the license to expire or lapse, or discontinuing or limiting the practice of physical therapy
19 while subject to an investigation or while actually under investigation by any licensing authority,
20 medical facility, branch of the Armed Forces of the United States of America, insurance company,
21 court, agency of the state or federal government, or employer;

22 (9) A person is finally adjudged incapacitated or disabled by a court of competent
23 jurisdiction;

24 (10) Assisting or enabling any person to practice or offer to practice who is not licensed and
25 currently eligible to practice under this chapter; or knowingly performing any act which in any way
26 aids, assists, procures, advises, or encourages any person to practice physical therapy who is not
27 licensed and currently eligible to practice under this chapter;

28 (11) Issuance of a license to practice as a physical therapist or physical therapist assistant
29 based upon a material mistake of fact;

30 (12) Failure to display a valid license pursuant to practice as a physical therapist or physical
31 therapist assistant;

32 (13) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a
33 false statement in any document executed in connection with the practice of physical therapy;

34 (14) Soliciting patronage in person or by agents or representatives, or by any other means or
35 manner, under the person's own name or under the name of another person or concern, actual or
36 pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity
37 for or appropriateness of physical therapy services for all patients, or the qualifications of an
38 individual person or persons to render, or perform physical therapy services;

(15) Using, or permitting the use of, the person's name under the designation of "physical therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(16) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment under chapter 208 or chapter 630 or for payment from Title XVIII or Title XIX of the Social Security Act;

(17) Failure or refusal to properly guard against contagious, infectious, or communicable diseases or the spread thereof; maintaining an unsanitary facility or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in any physical therapy facility to the board, in writing, within thirty days after the discovery thereof;

(18) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant paying or offering to pay a referral fee or ~~or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor under chapter 331, as a dentist under chapter 332, as a podiatrist under chapter 330, as an advanced practice registered nurse under chapter 335, or any licensed and registered physician, chiropractor, dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose license is in good standing~~ evaluating or treating a patient in a manner inconsistent with section 334.506;

(19) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.685;

(20) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a physician who is authorized by law to do so;

(21) Failing to maintain adequate patient records under section 334.602;

(22) Attempting to engage in conduct that subverts or undermines the integrity of the licensing examination or the licensing examination process, including but not limited to utilizing in any manner recalled or memorized licensing examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with any other examinees during the test, or copying or sharing licensing examination questions or portions of questions;

(23) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant who requests, receives, participates or engages directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or profits by means of a credit or other valuable consideration such as wages, an unearned commission, discount or gratuity with any person who referred a patient, or with any relative or business associate of the referring person;

1 (24) Being unable to practice as a physical therapist or physical therapist assistant with
2 reasonable skill and safety to patients by reasons of incompetency, or because of illness,
3 drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical
4 condition. The following shall apply to this subdivision:

5 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding
6 of probable cause, require a physical therapist or physical therapist assistant to submit to a
7 reexamination for the purpose of establishing his or her competency to practice as a physical
8 therapist or physical therapist assistant conducted in accordance with rules adopted for this purpose
9 by the board, including rules to allow the examination of the pattern and practice of such physical
10 therapist's or physical therapist assistant's professional conduct, or to submit to a mental or physical
11 examination or combination thereof by a facility or professional approved by the board;

12 (b) For the purpose of this subdivision, every physical therapist and physical therapist
13 assistant licensed under this chapter is deemed to have consented to submit to a mental or physical
14 examination when directed in writing by the board;

15 (c) In addition to ordering a physical or mental examination to determine competency, the
16 board may, notwithstanding any other law limiting access to medical or other health data, obtain
17 medical data and health records relating to a physical therapist, physical therapist assistant or
18 applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

19 (d) Written notice of the reexamination or the physical or mental examination shall be sent
20 to the physical therapist or physical therapist assistant, by registered mail, addressed to the physical
21 therapist or physical therapist assistant at the physical therapist's or physical therapist assistant's last
22 known address. Failure of a physical therapist or physical therapist assistant to submit to the
23 examination when directed shall constitute an admission of the allegations against the physical
24 therapist or physical therapist assistant, in which case the board may enter a final order without the
25 presentation of evidence, unless the failure was due to circumstances beyond the physical therapist's
26 or physical therapist assistant's control. A physical therapist or physical therapist assistant whose
27 right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded
28 an opportunity to demonstrate that the physical therapist or physical therapist assistant can resume
29 the competent practice as a physical therapist or physical therapist assistant with reasonable skill
30 and safety to patients;

31 (e) In any proceeding under this subdivision neither the record of proceedings nor the orders
32 entered by the board shall be used against a physical therapist or physical therapist assistant in any
33 other proceeding. Proceedings under this subdivision shall be conducted by the board without the
34 filing of a complaint with the administrative hearing commission;

35 (f) When the board finds any person unqualified because of any of the grounds set forth in
36 this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in
37 subsection 3 of this section.

38 3. After the filing of such complaint before the administrative hearing commission, the
39 proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by

1 the administrative hearing commission that the grounds provided in subsection 2 of this section for
2 disciplinary action are met, the board may, singly or in combination:

3 (1) Warn, censure or place the physical therapist or physical therapist assistant named in the
4 complaint on probation on such terms and conditions as the board deems appropriate for a period
5 not to exceed ten years;

6 (2) Suspend the physical therapist's or physical therapist assistant's license for a period not
7 to exceed three years;

8 (3) Restrict or limit the physical therapist's or physical therapist assistant's license for an
9 indefinite period of time;

10 (4) Revoke the physical therapist's or physical therapist assistant's license;

11 (5) Administer a public or private reprimand;

12 (6) Deny the physical therapist's or physical therapist assistant's application for a license;

13 (7) Permanently withhold issuance of a license;

14 (8) Require the physical therapist or physical therapist assistant to submit to the care,
15 counseling or treatment of physicians designated by the board at the expense of the physical
16 therapist or physical therapist assistant to be examined;

17 (9) Require the physical therapist or physical therapist assistant to attend such continuing
18 educational courses and pass such examinations as the board may direct.

19 4. In any order of revocation, the board may provide that the physical therapist or physical
20 therapist assistant shall not apply for reinstatement of the physical therapist's or physical therapist
21 assistant's license for a period of time ranging from two to seven years following the date of the
22 order of revocation. All stay orders shall toll this time period.

23 5. Before restoring to good standing a license issued under this chapter which has been in a
24 revoked, suspended, or inactive state for any cause for more than two years, the board may require
25 the applicant to attend such continuing medical education courses and pass such examinations as the
26 board may direct.

27 6. In any investigation, hearing or other proceeding to determine a physical therapist's,
28 physical therapist assistant's or applicant's fitness to practice, any record relating to any patient of
29 the physical therapist, physical therapist assistant, or applicant shall be discoverable by the board
30 and admissible into evidence, regardless of any statutory or common law privilege which such
31 physical therapist, physical therapist assistant, applicant, record custodian, or patient might
32 otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant, or
33 record custodian may withhold records or testimony bearing upon a physical therapist's, physical
34 therapist assistant's, or applicant's fitness to practice on the grounds of privilege between such
35 physical therapist, physical therapist assistant, applicant, or record custodian and a patient."; and";
36 and

37
38 Further amend said bill by amending the title, enacting clause, and intersectional references
39 accordingly.
40

1 THIS AMENDMENT AMENDS 0309H09.44H.