

FIRST REGULAR SESSION

HOUSE BILL NO. 115

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHIELDS.

0039H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 334.100, 334.506, and 334.613, RSMo, and to enact in lieu thereof three new sections relating to the scope of practice for physical therapists.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 334.100, 334.506, and 334.613, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 334.100, 334.506, and 334.613,
3 to read as follows:

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

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 for a hearing is received by the administrative hearing commission within the thirty-day
17 period, the right to seek review of the board's decision shall be considered as waived.

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

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

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

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

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

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

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

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

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

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

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

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

60 (h) Signing a blank prescription form; or dispensing, prescribing, administering or
61 otherwise distributing any drug, controlled substance or other treatment without sufficient
62 examination including failing to establish a valid physician-patient relationship pursuant to
63 section 334.108, or for other than medically accepted therapeutic or experimental or
64 investigative purposes duly authorized by a state or federal agency, or not in the course of
65 professional practice, or not in good faith to relieve pain and suffering, or not to cure an
66 ailment, physical infirmity or disease, except as authorized in section 334.104;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

104 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,
105 censure, probation or other final disciplinary action against the holder of or applicant for a
106 license or other right to practice any profession regulated by this chapter by another state,
107 territory, federal agency or country, whether or not voluntarily agreed to by the licensee or
108 applicant, including, but not limited to, the denial of licensure, surrender of the license,
109 allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine
110 while subject to an investigation or while actually under investigation by any licensing
111 authority, medical facility, branch of the Armed Forces of the United States of America,
112 insurance company, court, agency of the state or federal government, or employer;

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

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

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

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

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

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

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

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

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

141 (18) Knowingly making or causing to be made a false statement or misrepresentation
142 of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter
143 208 or chapter 630 or for payment from Title XVIII or Title XIX of the Social Security Act;

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

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

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

161 (22) Any person licensed to practice as a physician or surgeon, requiring, as a
162 condition of the physician-patient relationship, that the patient receive prescribed drugs,

163 devices or other professional services directly from facilities of that physician's office or other
164 entities under that physician's ownership or control. A physician shall provide the patient
165 with a prescription which may be taken to the facility selected by the patient and a physician
166 knowingly failing to disclose to a patient on a form approved by the advisory commission for
167 professional physical therapists as established by section 334.625 which is dated and signed
168 by a patient or guardian acknowledging that the patient or guardian has read and understands
169 that the physician has a pecuniary interest in a physical therapy or rehabilitation service
170 providing prescribed treatment and that the prescribed treatment is available on a competitive
171 basis. This subdivision shall not apply to a referral by one physician to another physician
172 within a group of physicians practicing together;

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

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

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

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

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

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

188 4. After the filing of such complaint before the administrative hearing commission,
189 the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a
190 finding by the administrative hearing commission that the grounds, provided in subsection 2
191 of this section, for disciplinary action are met, the board may, singly or in combination, warn,
192 censure or place the person named in the complaint on probation on such terms and
193 conditions as the board deems appropriate for a period not to exceed ten years, or may
194 suspend the person's license, certificate or permit for a period not to exceed three years, or
195 restrict or limit the person's license, certificate or permit for an indefinite period of time, or
196 revoke the person's license, certificate, or permit, or administer a public or private reprimand,
197 or deny the person's application for a license, or permanently withhold issuance of a license or
198 require the person to submit to the care, counseling or treatment of physicians designated by

199 the board at the expense of the individual to be examined, or require the person to attend such
200 continuing educational courses and pass such examinations as the board may direct.

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

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

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

215 8. The act of lawfully dispensing, prescribing, administering, or otherwise
216 distributing ivermectin tablets or hydroxychloroquine sulfate tablets for human use shall
217 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:**

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

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

11 2. A physical therapist ~~shall not~~ **may evaluate and** initiate treatment ~~[for a new~~
12 ~~injury or illness]~~ **on a patient** without a prescription **or referral** from an approved health care
13 provider, **provided that the physical therapist has a doctorate of physical therapy degree**
14 **or has five years of clinical practice as a physical therapist.**

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

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

23 (1) ~~[Contact the patient's current approved health care provider within seven days of~~
24 ~~initiating physical therapy services under this subsection;]~~ **A physical therapist shall refer**
25 **to an approved health care provider any patient whose condition at the time of**
26 **evaluation or treatment is determined to be beyond the scope of practice of physical**
27 **therapy.**

28 (2) ~~[Not change an existing physical therapy referral available to the physical~~
29 ~~therapist without approval of the patient's current approved health care provider;]~~ **A physical**
30 **therapist shall refer to an approved health care provider any patient who does not**
31 **demonstrate measurable or functional improvement after ten visits or twenty-one**
32 **business days, whichever occurs first.**

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

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

40 (5) ~~Notify the patient's current approved health care provider prior to the continuation~~
41 ~~of treatment if treatment rendered under this subsection is to continue beyond thirty days.~~
42 ~~The physical therapist shall provide such notification for each successive period of thirty~~
43 ~~days.]~~

44 **(a) A physical therapist shall consult with an approved health care provider if,**
45 **demonstrated measurable or functional improvement from the course of physical**
46 **therapy services or treatment provided and the physical therapist believes that**
47 **continuation of the course of physical therapy services or treatment is reasonable and**
48 **necessary based on the physical therapist's evaluation of the patient. The physical**
49 **therapist shall not provide further physical therapy services or treatment until the**
50 **consultation has occurred.**

51 **(b) The consultation with the approved health care provider shall include**
52 **information concerning:**

53 **a. The patient's condition for which physical therapy services or treatments were**
54 **provided;**

55 **b. The basis for the course of services or treatment indicated, as determined**
56 **from the physical therapy evaluation of the patient;**

57 **c. The physical therapy services or treatment provided before the date of the**
58 **consultation;**

59 **d. The patient's demonstrated measurable or functional improvement from the**
60 **services or treatment provided before the date of the consultation;**

61 **e. The continuing physical therapy services or treatment proposed to be**
62 **provided following the consultation; and**

63 **f. The professional physical therapy basis for the continued physical therapy**
64 **services or treatment to be provided.**

65 **(c) Continued physical therapy services or treatment following the consultation**
66 **with an approved health care provider shall proceed in accordance with any feedback,**
67 **advice, opinion, or direction of the approved health care provider. The physical**
68 **therapist shall notify the consulting approved health care provider of continuing**
69 **physical therapy services or treatment every thirty days after the initial consultation**
70 **unless the consulting approved health care provider directs otherwise.**

71 5. The provision of physical therapy services of evaluation and screening pursuant to
72 this section shall be limited to a physical therapist, and any authority for evaluation and
73 screening granted within this section may not be delegated. Upon each reinitiation of
74 physical therapy services, a physical therapist shall provide a full physical therapy evaluation
75 prior to the reinitiation of physical therapy treatment. ~~[Physical therapy treatment provided~~
76 ~~pursuant to the provisions of subsection 4 of this section may be delegated by physical~~
77 ~~therapists to physical therapist assistants only if the patient's current approved health care~~
78 ~~provider has been so informed as part of the physical therapist's seven-day notification upon~~
79 ~~reinitiation of physical therapy services as required in subsection 4 of this section.]~~ Nothing
80 in this subsection shall be construed as to limit the ability of physical therapists or physical
81 therapist assistants to provide physical therapy services in accordance with the provisions of
82 this chapter, and upon the referral of an approved health care provider. Nothing in this
83 subsection shall prohibit an approved health care provider from acting within the scope of
84 their practice as defined by the applicable chapters of RSMo.

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

87 7. A physical therapist shall only delegate physical therapy treatment to a physical
88 therapist assistant or to a person in an entry level of a professional education program
89 approved by the Commission on Accreditation in Physical Therapy Education (CAPTE) who
90 satisfies supervised clinical education requirements related to the person's physical therapist

91 or physical therapist assistant education. The entry-level person shall be under the
92 supervision of a physical therapist.

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

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

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

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

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

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

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

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

44 (c) Willfully and continually performing inappropriate or unnecessary treatment or
45 services;

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

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

50 (f) Performing services which have been declared by board rule to be of no physical
51 therapy value;

52 (g) Final disciplinary action by any professional association, professional society,
53 licensed hospital or medical staff of the hospital, or physical therapy facility in this or any
54 other state or territory, whether agreed to voluntarily or not, and including but not limited to
55 any removal, suspension, limitation, or restriction of the person's professional employment,
56 malpractice, or any other violation of any provision of this chapter;

57 (h) Administering treatment without sufficient examination, or for other than
58 medically accepted therapeutic or experimental or investigative purposes duly authorized by a
59 state or federal agency, or not in the course of professional physical therapy practice;

60 (i) Engaging in or soliciting sexual relationships, whether consensual or
61 nonconsensual, while a physical therapist or physical therapist assistant/patient relationship
62 exists; making sexual advances, requesting sexual favors, or engaging in other verbal conduct
63 or physical contact of a sexual nature with patients or clients;

64 (j) Terminating the care of a patient without adequate notice or without making other
65 arrangements for the continued care of the patient;

66 (k) Failing to furnish details of a patient's physical therapy records to treating
67 physicians, other physical therapists, or hospitals upon proper request; or failing to comply
68 with any other law relating to physical therapy records;

69 (l) Failure of any applicant or licensee, other than the licensee subject to the
70 investigation, to cooperate with the board during any investigation;

71 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or
72 an order of the board;

73 (n) Failure to timely pay license renewal fees specified in this chapter;

74 (o) Violating a probation agreement with this board or any other licensing agency;

75 (p) Failing to inform the board of the physical therapist's or physical therapist
76 assistant's current telephone number, residence, and business address;

77 (q) Advertising by an applicant or licensee which is false or misleading, or which
78 violates any rule of the board, or which claims without substantiation the positive cure of any
79 disease, or professional superiority to or greater skill than that possessed by any other
80 physical therapist or physical therapist assistant. An applicant or licensee shall also be in
81 violation of this provision if the applicant or licensee has a financial interest in any
82 organization, corporation, or association which issues or conducts such advertising;

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

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

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

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

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

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

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

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

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

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

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

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

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

137 (18) Any candidate for licensure or person licensed to practice as a physical therapist
138 or physical therapist assistant paying or offering to pay a referral fee or~~notwithstanding~~
139 ~~section 334.010 to the contrary, practicing or offering to practice professional physical~~
140 ~~therapy independent of the prescription and direction of a person licensed and registered as a~~
141 ~~physician and surgeon under this chapter, as a physician assistant under this chapter, as a~~
142 ~~chiropractor under chapter 331, as a dentist under chapter 332, as a podiatrist under chapter~~
143 ~~330, as an advanced practice registered nurse under chapter 335, or any licensed and~~

144 ~~registered physician, chiropractor, dentist, podiatrist, or advanced practice registered nurse~~
145 ~~practicing in another jurisdiction, whose license is in good standing]~~ **evaluating or treating a**
146 **patient in a manner inconsistent with section 334.506;**

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

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

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

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

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

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

170 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a
171 finding of probable cause, require a physical therapist or physical therapist assistant to submit
172 to a reexamination for the purpose of establishing his or her competency to practice as a
173 physical therapist or physical therapist assistant conducted in accordance with rules adopted
174 for this purpose by the board, including rules to allow the examination of the pattern and
175 practice of such physical therapist's or physical therapist assistant's professional conduct, or to
176 submit to a mental or physical examination or combination thereof by a facility or
177 professional approved by the board;

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

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

186 (d) Written notice of the reexamination or the physical or mental examination shall be
187 sent to the physical therapist or physical therapist assistant, by registered mail, addressed to
188 the physical therapist or physical therapist assistant at the physical therapist's or physical
189 therapist assistant's last known address. Failure of a physical therapist or physical therapist
190 assistant to submit to the examination when directed shall constitute an admission of the
191 allegations against the physical therapist or physical therapist assistant, in which case the
192 board may enter a final order without the presentation of evidence, unless the failure was due
193 to circumstances beyond the physical therapist's or physical therapist assistant's control. A
194 physical therapist or physical therapist assistant whose right to practice has been affected
195 under this subdivision shall, at reasonable intervals, be afforded an opportunity to
196 demonstrate that the physical therapist or physical therapist assistant can resume the
197 competent practice as a physical therapist or physical therapist assistant with reasonable skill
198 and safety to patients;

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

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

206 3. After the filing of such complaint before the administrative hearing commission,
207 the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a
208 finding by the administrative hearing commission that the grounds provided in subsection 2
209 of this section for disciplinary action are met, the board may, singly or in combination:

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

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

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

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

- 218 (5) Administer a public or private reprimand;
- 219 (6) Deny the physical therapist's or physical therapist assistant's application for a
220 license;
- 221 (7) Permanently withhold issuance of a license;
- 222 (8) Require the physical therapist or physical therapist assistant to submit to the care,
223 counseling or treatment of physicians designated by the board at the expense of the physical
224 therapist or physical therapist assistant to be examined;
- 225 (9) Require the physical therapist or physical therapist assistant to attend such
226 continuing educational courses and pass such examinations as the board may direct.
- 227 4. In any order of revocation, the board may provide that the physical therapist or
228 physical therapist assistant shall not apply for reinstatement of the physical therapist's or
229 physical therapist assistant's license for a period of time ranging from two to seven years
230 following the date of the order of revocation. All stay orders shall toll this time period.
- 231 5. Before restoring to good standing a license issued under this chapter which has
232 been in a revoked, suspended, or inactive state for any cause for more than two years, the
233 board may require the applicant to attend such continuing medical education courses and pass
234 such examinations as the board may direct.
- 235 6. In any investigation, hearing or other proceeding to determine a physical
236 therapist's, physical therapist assistant's or applicant's fitness to practice, any record relating to
237 any patient of the physical therapist, physical therapist assistant, or applicant shall be
238 discoverable by the board and admissible into evidence, regardless of any statutory or
239 common law privilege which such physical therapist, physical therapist assistant, applicant,
240 record custodian, or patient might otherwise invoke. In addition, no such physical therapist,
241 physical therapist assistant, applicant, or record custodian may withhold records or testimony
242 bearing upon a physical therapist's, physical therapist assistant's, or applicant's fitness to
243 practice on the grounds of privilege between such physical therapist, physical therapist
244 assistant, applicant, or record custodian and a patient.

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