

## CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

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### Authority

The provisions of this Chapter 40 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3 of the Physical Therapy Practice Act (63 P. S. § 1303), unless otherwise noted.

### Source

The provisions of this Chapter 40 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138, unless otherwise noted.

### Cross References

This chapter cited in 28 Pa. Code § 601.3 (relating to requirements for home health care agencies); 49 Pa. Code § 41.26 (relating to professional corporations); and 49 Pa. Code § 47.21 (relating to professional corporations).

## Subchapter A. PHYSICAL THERAPISTS

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**GENERAL PROVISIONS****§ 40.1. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Physical Therapy Practice Act (63 P. S. §§ 1301—1313).

*Board*—The State Board of Physical Therapy.

*Direct on-premise supervision*—The physical presence of a physical therapist on the premises where the physical therapist assistant or the supportive personnel is providing patient-care services, so that the physical therapist is immediately available to provide supervision, direction and control.

*Physical therapist*—A person licensed under the act and this chapter to provide physical therapy services without restriction in this Commonwealth.

*Supportive personnel*—Persons other than physical therapist assistants who aid and assist a physical therapist but whose activities do not require the formal education or knowledge of a physical therapist or physical therapist assistant. The term does not include secretarial, administrative and other personnel who are not involved in direct patient care.

#### Authority

The provisions of this § 40.1 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); and amended under sections 3(a), 5, 6(d.1), 8(b), 9.1, 9.2, 10 and 11(a)(6) of the Physical Therapy Practice Act (63 P. S. §§ 1303(a), 1305, 1306(d.1), 1308(b), 1309.1, 1309.2, 1310 and 1311(a)(6)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

#### Source

The provisions of this § 40.1 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended October 4, 1985, effective October 5, 1985, 15 Pa.B. 3513; amended July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (304688) to (304689).

### § 40.2. Practice of medicine prohibited.

The license issued to those practicing physical therapy does not authorize the right to use the title “Doctor of Medicine,” or the right to use drugs administered internally. Except as authorized in section 9 of the act (63 P. S. § 1309), a person licensed under the act as a physical therapist may not treat human ailments by physical therapy or otherwise except upon the referral of a physician or other person authorized by law to order the same.

#### Authority

The provisions of this § 40.2 amended under section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

#### Source

The provisions of this § 40.2 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended July 16, 2004, effective July 17, 2004, 34 Pa.B. 3700. Immediately preceding text appears at serial page (287923).

### § 40.3. Exceptions to requirement of licensure.

The act continues past law in defining physical therapy and governing its practice in this Commonwealth, and it is not meant to limit or restrict those who are engaged in certain occupations or jobs which do not require a license, such as,

but not limited to, physical education directors, health or recreation directors at health clubs or spas, athletic trainers and masseurs. The duties which may be properly undertaken in such occupation or job include the nontherapeutic administration of baths, massage, normal exercise, normal conditioning, and the like to normal subjects, that is those persons who have no specific pathology upon which said acts are being administered; first aid subjects are excluded. If, under their duties, unlicensed individuals perform acts, some of which are described in this section, that are deemed to relate directly or indirectly to the evaluation, treatment or therapeutic management of a specific pathology in the subject, the person administering the acts shall be subject to fine and penalty as provided by law.

**Source**

The provisions of this § 40.3 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138.

**§ 40.4. Admission to practice of physical therapy.**

Admission to the practice of physical therapy in this Commonwealth will be granted by the Board as follows:

- (1) By the issuance of a license to an applicant who meets the requirements for licensure as set forth in sections 5 and 6 of the act (63 P. S. §§ 1305 and 1306).
- (2) By the issuance of a license by endorsement to an applicant who is educated in another state or territory of the United States and who meets the licensing requirements in section 6 of the act (63 P. S. § 1306) and who holds a valid license by examination in another state or territory of the United States, providing the requirements were, at the time of receiving the license, substantially equal to the requirements as set forth in the act.
- (3) By the issuance of a temporary license to an applicant who meets the licensing requirements as set forth in section 6 of the act.
- (4) By the issuance of a license to an applicant educated in a jurisdiction other than a state or territory of the United States who meets the licensing requirements as set forth in sections 5 and 6(f) of the act.
- (5) By the issuance of a license by endorsement to an applicant who is educated in a foreign country and who is authorized to practice as a physical therapist without limitations in the country where the professional education occurred and who holds a valid license by examination in another state or territory of the United States providing the requirements were, at the time of receiving the license, substantially equivalent to the requirements as set forth in the act.

**Authority**

The provisions of this § 40.4 amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

Source

The provisions of this § 40.4 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (304690).

§ 40.5. Fees.

The following fees are charged by the Board:

Physical therapist:

Application for licensure by examination/endorsement . . . . .	\$30
Application for licensure through foreign training . . . . .	\$45
Verification of licensure or temporary permit . . . . .	\$15
Certification of examination scores or licensure . . . . .	\$25
Temporary license . . . . .	\$15
Biennial renewal . . . . .	\$90
Application for Certificate to Practice Physical Therapy without a referral . . . . .	\$30
Biennial renewal of Certificate to Practice Physical Therapy without a referral . . . . .	\$45
Application for approval of continuing education provider or program (per each course offered) . . . . .	\$40

Athletic trainer:

Application for certification . . . . .	\$20
Biennial renewal . . . . .	\$37
Certification of examination scores or certification . . . . .	\$25
Verification of certification. . . . .	\$15

Physical therapist assistants:

Initial application for registration by exam or endorsement. . . . .	\$30
Certification of exam scores or registration . . . . .	\$25
Biennial renewal of registration . . . . .	\$45
Verification of registration . . . . .	\$15

Authority

The provisions of this § 40.5 issued under section 8 of the Physical Therapy Practice Act (63 P. S. § 1308); amended under section 812.1(a) of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3, 5 and 8(b) of the Physical Therapy Practice Act (63 P. S. §§ 1303, 1305 and 1308(b)).

Source

The provisions of this § 40.5 adopted November 4, 1988, effective November 5, 1988, 18 Pa.B. 4952; amended March 16, 1990, effective March 17, 1990, 20 Pa.B. 1504; amended May 14, 1993, effective May 15, 1993, and apply retroactively to fees for March 1993 examinations, 23 Pa.B. 2333; amended December 30, 1994, effective December 31, 1994, 24 Pa.B. 6567; amended December 22, 1995, effective December 23, 1995, apply to examination fees charged on and after September 1, 1995, 25 Pa.B. 5968; amended October 25, 1996, effective October 26, 1996, and apply to examinations administered by PES after October 26, 1996, 26 Pa.B. 5110; amended May 26, 2000, effective

May 27, 2000, and apply to examinations administered after the effective date of this amendment, 30 Pa.B. 2592; amended January 26, 2001, effective January 27, 2001, 31 Pa.B. 537; amended March 29, 2002, effective March 30, 2002, 32 Pa.B. 1658; amended July 16, 2004, effective July 17, 2004, 34 Pa.B. 3700; amended July 3, 2008, effective July 5, 2008, 38 Pa.B. 3658. Immediately preceding text appears at serial pages (305575) to (305576).

#### **Cross References**

This section cited in 49 Pa. Code § 40.15 (relating to examinations); and 49 Pa. Code § 40.16 (relating to licensure by endorsement).

### **LICENSURE**

#### **§ 40.11. License by examination; requirements for examination.**

An applicant for license by examination shall have graduated from a physical therapy program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) which has provided adequate instruction in basic sciences, clinical science and physical therapy theory and procedures.

#### **Authority**

The provisions of this § 40.11 amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

#### **Source**

The provisions of this § 40.11 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (287925) to (287926).

#### **Cross References**

This section cited in 49 Pa. Code § 40.12 (relating to application for licensure); and 49 Pa. Code § 40.16 (relating to licensure by endorsement).

#### **§ 40.12. Application for licensure.**

(a) Evidence, satisfactory to the Board, shall be submitted indicating that the applicant:

- (1) Is at least 20 years of age, unless otherwise waived upon application to and review by the Board.
- (2) Is of good moral character.
- (3) Is not addicted to the habitual use of alcohol, narcotics or other habit forming drugs.
- (4) Has met the professional requirements as set forth in § 40.11 (relating to license by examination; requirements for examination).

#### **Source**

The provisions of this § 40.12 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138.

**Cross References**

This section cited in 49 Pa. Code § 40.17 (relating to foreign-trained physical therapists applying to take the licensure examination and pursue a clinical experience).

**§ 40.13. Areas of examination.**

(a) An applicant for licensure shall pass the approved licensing examination described in section 6(b) of the act (63 P. S. § 1306(b)). The Board's approved vendor conducts at least two written examinations each year. The examinations will be conducted in the English language in the following areas:

- (1) Basic science.
- (2) Clinical science.
- (3) Physical therapy theory and procedures.

(b) Oral or practical examinations, or both, for licensure may be administered by the Board-approved vendor under section 6(b) of the act, in addition to the requirement of passing a written examination for licensure.

**Authority**

The provisions of this § 40.13 amended under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and section 8 of the Physical Therapy Practice Act (63 P. S. § 1308).

**Source**

The provisions of this § 40.13 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended March 29, 2002, effective March 30, 2002, 32 Pa.B. 1658. Immediately preceding text appears at serial page (274468).

**§ 40.14. Examination; failure; reexamination.**

(a) Applicants shall successfully pass, to the satisfaction of the Board, the examination approved by the Board. In cases of failure at the first examination, the applicant shall have, after the expiration of 6 months and within 2 years from the date of the first failure, the privilege of a second examination, with the payment of an additional examination fee charged by the vendor.

(b) After a second or successive failure to pass the examination, an applicant desiring to take a third or successive examination shall make a new application within the meaning of section 5 of the act (63 P. S. § 1305) within 6 months from the date of the last failure. However, prior to filing a new application for examination, the Board may require evidence of additional training. If the Board determines that the applicant will be permitted to take a third or successive examination, the Board may authorize in connection with a written examination an oral or practical examination, or both, to test the knowledge and competence of the applicant.

(c) The granting of permission by the Board to take a third or successive examination is at all times subject to the applicant otherwise qualifying under the requirements in force at the time permission to take the examination is sought.

**Authority**

The provisions of this § 40.14 amended under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3(a) and 8 of the Physical Therapy Practice Act (63 P. S. §§ 1303(a) and 1308).

**Source**

The provisions of this § 40.14 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended March 29, 2002, effective March 30, 2002, 32 Pa.B. 1658; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (287927).

**§ 40.15. Examinations.**

(a) An application for licensure by examination may be obtained from the State Board of Physical Therapy, Post Office Box 2649, Harrisburg, Pennsylvania, 17105-2649.

(b) An applicant may not be admitted to examination who is unable to present, at the time of application, the required credentials of professional education from an approved institution.

**Authority**

The provisions of this § 40.15 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); amended under sections 3(a) and 8 of the Physical Therapy Practice Act (63 P. S. §§ 1303(a) and 1308); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.15 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended May 14, 1982, effective May 15, 1982, 12 Pa.B. 1564; amended October 4, 1985, effective October 5, 1985, 15 Pa.B. 3513; amended November 4, 1988, effective upon publication and applies retroactively to November 1, 1988, 18 Pa.B. 4952; amended March 29, 2002, effective March 30, 2002, 32 Pa.B. 1658; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (287927) to (287928).

**§ 40.16. Licensure by endorsement.**

(a) An applicant for licensure by endorsement who is educated in another state or territory of the United States is required to submit the professional credentials in § 40.11 (relating to license by examination; requirements for examination), and comply with the following:

(1) Submit a written application on forms provided by the Board, together with evidence satisfactory to the Board that the applicant is licensed or otherwise registered as a physical therapist in another state or territory of the United States, or in the District of Columbia, if the requirements for licensure or registration in the state, territory or district were, at the date of licensure or registration, substantially equal to the requirements for licensure or registration in this Commonwealth under the act.

(2) A fee prescribed in § 40.5 (relating to fees) must accompany each application for licensure by endorsement.

(b) An applicant for licensure by endorsement who received education in a country outside of the United States is required to meet the educational requirements as set forth in § 40.17(5) and (6) (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience) and comply with the following:

(1) The applicant shall submit documentary evidence that the applicant is authorized to practice as a physical therapist without limitation in the country where the professional education occurred.

(2) The applicant shall hold a valid license by examination in another state or territory of the United States providing the requirements were, at the time of receiving the license, substantially equivalent to the requirements as set forth in the act.

#### Authority

The provisions of this § 40.16 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); amended under sections 3(a) and 8 of the Physical Therapy Practice Act (63 P. S. §§ 1303(a) and 1308); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

#### Source

The provisions of this § 40.16 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended November 4, 1988, effective upon publication and applies retroactively to November 1, 1988, 18 Pa.B. 4952; amended March 29, 2002, effective March 30, 2002, 32 Pa.B. 1658; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (287928) to (287929).

### **§ 40.17. Foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience.**

To be eligible to take the examination for licensure, foreign-educated applicants for licensure shall comply with the following conditions:

(1) The applicant shall submit evidence, satisfactory to the Board, indicating that the applicant has met the requirements stated in § 40.12(a)(1)—(3) (relating to application for licensure).

(2) The applicant shall provide written documentation that the school of physical therapy is recognized by the authorizing agency or entity of the jurisdiction in which the school is situated.

(3) The applicant shall provide written documentation of authorization to practice as a physical therapist without limitations in the country where the professional education took place.

(4) The applicant shall provide documentation of legal authorization to seek employment in the United States or its territories.

(5) The applicant shall meet educational requirements by securing a credentials evaluation from a recognized and accredited evaluation agency approved by the Board. The credentials evaluation must demonstrate that the

applicant has met the requirement of at least 120 semester credit hours of which at least 42 credit hours must be in general education subjects and 69 credit hours must be in professional education subjects. If an applicant has deficiencies in general education or professional education, the applicant can correct the deficiencies as follows:

(i) *General education.* A minimum of one semester course must be successfully completed in each of the following areas of general education unless otherwise noted:

- (A) Humanities.
- (B) Physical science (two courses each in chemistry and physics including laboratory sessions).
- (C) Biological science.
- (D) Social science.
- (E) Behavioral science.
- (F) Mathematics.

(ii) *Professional education.* The applicant shall complete 69 credit hours of professional education the content of which includes:

- (A) Basic health science including:
  - (I) Human anatomy (specific to physical therapy).
  - (II) Human physiology (specific to physical therapy).
  - (III) Neuroscience.
  - (IV) Kinesiology or functional anatomy.
  - (V) Pathology.

(B) Medical and clinical science coursework including the following:

- (I) Clinical medicine pertinent to physical therapy including:
  - (-a-) Neurology.
  - (-b-) Orthopedics.
  - (-c-) Pediatrics.
  - (-d-) Geriatrics.
  - (-e-) Cardiopulmonary.
  - (-f-) Pharmacology.
- (II) Physical therapist coursework must include:
  - (-a-) Examination, evaluation and intervention pertaining to the integumentary system.
  - (-b-) Examination, evaluation and intervention pertaining to the musculoskeletal system.
  - (-c-) Examination, evaluation and intervention pertaining to the neuromuscular system.
  - (-d-) Examination, evaluation and intervention pertaining to the cardiopulmonary system.

(iii) *Clinical education.* Clinical education must include physical therapist-supervised application of physical therapy theory, examination, evaluation and intervention. The applicant shall have a minimum of two full-

time clinical internships of at least 800 hours total, which are supervised by a physical therapist. The maximum number of full-time clinical education credits is 23.

(iv) *Related professional coursework.* Content is required in the following nine areas:

- (A) Professional behaviors.
- (B) Administration.
- (C) Community health.
- (D) Research and clinical decision making.
- (E) Educational techniques.
- (F) Medical terminology.
- (G) Communication (related to client/patient care).
- (H) Legal and ethical aspects of physical therapy practice.
- (I) Psychosocial aspects in physical therapy practice.

(6) *General educational deficiencies.* The applicant may correct general educational deficiencies in the areas specified in paragraph (5)(i) by either:

(A) Pursuing studies in an accredited college or university. Upon completion of studies, the applicant shall submit an official transcript to the Board.

(B) Attaining college credit through successful completion of the following examinations offered by the College Level Examination Program (CLEP). No more than 30 credits may be obtained through CLEP.

(I) The CLEP General Examination may be used to satisfy the requirements in paragraph (5)(i) for credit hours if passing scores are received in the following subjects:

<i>General Examination</i>	<i>College Level Credit</i>
English Composition with Essay	6
Mathematics	3
Humanities	6
Natural Sciences	
Biological Sciences (subscore)	3
Physical Sciences (subscore)	3
Social Sciences	6

(II) The CLEP Subject Examination may be used to satisfy the requirements in paragraph (5) for credit hours if passing scores are received in the following subjects:

<i>Subject Examination</i>	<i>College Level Credit</i>
Analysis and Interpretation of Literature	3
College Algebra	3
English Literature	3

<i>Subject Examination</i>	<i>College Level Credit</i>
Foreign Language	
French—Levels I and II	6
German—Levels I and II	6
Spanish—Levels I and II	6
Freshman English	3
English Composition	4
General Biology	3
General Chemistry	3
General Psychology	2
Human Growth & Development	2
Introduction to Management	2
Introduction to Sociology	2
Statistics	2
Trigonometry	2
Western Civilization	3

(III) The applicant is responsible for directing that CLEP report his examination scores to the Board.

(7) *Clinical experience.* The applicant shall complete, at the Board's discretion, up to 1 year of supervised clinical experience in the United States, as approved by the Board.

(i) To apply for approved supervised clinical experience the applicant shall:

(A) Submit a notarized application signed by the sponsoring physical therapist who will supervise the applicant in the institution in which the applicant will be pursuing the clinical experience.

(B) Arrange for and have a personal interview with a member of the Board and have the application forms signed and approved by the Board member.

(C) Submit a passport-size photograph for the purpose of identification. The applicant and a sponsor shall both sign either the photograph or the paper on which the photograph is mounted.

(ii) The applicant may obtain the required clinical experience while pursuing studies to correct educational deficiencies in the areas specified in paragraph (5).

(iii) The applicant shall submit a letter from the supervising physical therapist in the institution where the supervised clinical experience was completed, certifying the applicant's clinical competence.

**Authority**

The provisions of this § 40.17 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); and amended under sections 3(a), 5 and 10 of the Physical Therapy Practice Act (63 P. S. §§ 1303(a), 1305 and 1310); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.17 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended October 4, 1985, effective October 5, 1985, 15 Pa.B. 3513; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (287929) and (206193) to (206195).

**Cross References**

This section cited in 49 Pa. Code § 40.16 (relating to licensure by endorsement).

**§ 40.18. [Reserved].****Source**

The provisions of this § 40.18 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; reserved August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (206195).

**TEMPORARY LICENSES****§ 40.21. [Reserved].****Source**

The provisions of this § 40.21 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended November 4, 1988, effective upon publication and applies retroactively to November 1, 1988, 18 Pa.B. 4952; reserved August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (206195) to (206196).

**§ 40.22. Temporary license.**

(a) An applicant for temporary license under section 6(g) of the act (63 P. S. § 1306(g)) shall apply to the Board on forms provided by the Board and meet the following requirements:

- (1) Fulfill to the satisfaction of the Board the requirements set forth under section 6(a) of the act.
- (2) Have made application to take the examination set forth in section 6(b) of the act or have taken the examination and be awaiting the results of the examination.
- (3) Received the temporary license from the Board, work only under the direct on premises supervision of a licensed physical therapist with at least 2 years of experience.

(b) A temporary license issued under 6(g) of the act must be surrendered to the Board immediately upon the failure of the first examination or 6 months after the date of issuance, whichever occurs first.

**Authority**

The provisions of this § 40.22 amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.22 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (206196).

**§ 40.23. [Reserved].****Source**

The provisions of this § 40.23 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; reserved August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (206196) to (206197).

**§ 40.24. [Reserved].****Source**

The provisions of this § 40.24 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; reserved August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (206197).

**SUPPORTIVE PERSONNEL****§ 40.31. [Reserved].****Source**

The provisions of this § 40.31 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; amended October 4, 1985, effective October 5, 1985, 15 Pa.B. 3513; amended November 4, 1988, effective upon publication and applies retroactively to November 1, 1988, 18 Pa.B. 4952; reserved July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872. Immediately preceding text appears at serial pages (133259) to (133260).

**§ 40.31a. Identification of supportive personnel.**

Supportive personnel shall identify themselves to patients as supportive personnel.

**Authority**

The provisions of this § 40.31a issued under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.31a adopted August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697.

**§ 40.32. Functions of supportive personnel.**

(a) The physical therapist may only allow supportive personnel to perform patient-related activities which do not require the formal education or training and the skill and knowledge of a physical therapist or physical therapist assistant, and only while the supportive personnel are under the direct on-premise supervision of a physical therapist.

(b) The physical therapist may not permit supportive personnel to provide physical therapy services. The physical therapist may permit supportive personnel to perform the following:

- (1) Patient assistance in preparation for treatment, as necessary during treatment and at the conclusion of treatment.
- (2) Application of superficial heat or cold as an adjunct to the treatment program.
- (3) Assembly, disassembly and maintenance of equipment and accessories.
- (4) Transportation of patients.
- (5) Assistance to patients with nontreatment aspects of activities and attending the personal needs of patients.
- (6) Recording information through the use of flow sheets and checklists which identify activities performed by the patient.

(c) The physical therapist may not permit supportive personnel to interpret referrals, perform evaluation procedures, conduct tests, initiate or adjust treatment programs, assume responsibility for patient care or document physical therapy treatment.

**Authority**

The provisions of this § 40.32 issued under sections 3(a), 6(d.1), 8(b), 9.1, 9.2 and 11(a)(6) of the Physical Therapy Practice Act (63 P. S. §§ 1301(a), 1306(d.1), 1308(b), 1309.1, 1309.2 and 1311(a)(6)); amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.32 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (206197) to (206198).

**Cross References**

This section cited in 49 Pa. Code § 40.52 (relating to unprofessional conduct; physical therapists).

**RULES AND REGULATIONS OF THE BOARD****§ 40.41. Hearings relating to revocation or suspension of license.**

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to administrative practice and procedure) is applicable to the activities of and proceedings before the Board.

**Source**

The provisions of this § 40.41 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138.

**§ 40.42. [Reserved].****Source**

The provisions of this § 40.42 adopted July 29, 1977, effective July 30, 1977, 7 Pa.B. 2138; reserved October 4, 1985, effective October 5, 1985, 15 Pa.B. 3515. Immediately preceding text appears at serial page (88283).

**SCOPE OF PRACTICE****§ 40.51. Administration of electroneuromyography (EMG) and nerve conduction velocity (NCV) tests.**

(a) EMG and NCV—studies and evaluations—shall be conducted only upon the referral of a physician, under section 9 of the act (63 P. S. § 1309).

(b) A licensed physical therapist may not diagnose from the results of the tests, but may prepare a statement of his impression of the results of the test to be forwarded to the referring physician for his review and diagnosis.

**Source**

The provisions of this § 40.51 adopted October 4, 1985, effective October 5, 1985, 15 Pa.B. 3513.

**§ 40.51a. Transdermal administration of drugs.**

A physical therapist may perform transdermal administration of drugs through the use of modalities such as ultrasound and electrical stimulation. If a prescriptive medication is used, the medication must be prescribed by the referring physician and dispensed in the name of the patient by the referring physician or pharmacist. Between treatment sessions, drugs must be properly stored in a manner consistent with pharmaceutical practice. After the patient is discharged, the remaining drugs must be disposed of by the physical therapist or returned to the patient.

**Authority**

The provisions of this § 40.51a issued under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.51a adopted August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697.

**§ 40.52. Unprofessional conduct; physical therapists.**

A physical therapist who engages in unprofessional conduct is subject to disciplinary action under section 11(a)(6) of the act (63 P. S. § 1311(a)(6)). Unprofessional conduct includes the following:

- (1) Harassing, abusing or intimidating a patient.

- (2) Revealing information obtained as a result of the therapist-patient relationship to a third party who is not involved in the patient's care, without the prior written consent of the patient, except as authorized or required by statute.
- (3) Failing to exercise appropriate supervision over a person who is authorized to render services only under the supervision of the physical therapist.
- (4) Accepting a patient for treatment or continuing treatment if benefit cannot reasonably be expected to accrue to the patient, or misleading a patient as to the benefits to be derived from physical therapy.
- (5) Unconditionally guaranteeing the results of physical therapy treatment.
- (6) Practicing physical therapy while the ability to practice is impaired by alcohol, drugs or a physical or mental disability.
- (7) Charging a patient or a third-party payor for a physical therapy service which is not performed.
- (8) Receiving a fee for referring a patient to a third person.
- (9) Advertising physical therapy services in a false, misleading or deceptive manner.
- (10) Assigning or delegating to physical therapist assistants or supportive personnel activities prohibited from assignment or delegation under §§ 40.32, 40.53 and 40.171 (relating to functions of supportive personnel; nondelegable activities; accountability; and functions of physical therapist assistants).
- (11) Violating a provision of the act or this chapter which establishes a standard of conduct.
- (12) Failure to maintain adequate patient records. Adequate patient records include at a minimum sufficient information to identify the patient, a summary of the findings of the examination, an evaluation, a diagnosis, the plan of care including desired outcomes, and the treatment record.

#### Authority

The provisions of this § 40.52 issued under sections 3, 5 and 10 of the Physical Therapy Practice Act (63 P. S. §§ 1303, 1305 and 1310); amended under sections 3(a), 6(d.1), 8(b), 9.1, 9.2 and 11(a)(6) of the Physical Therapy Practice Act (63 P. S. §§ 1303(a), 1306(d.1), 1308(b), 1309.1, 1309.2 and 1311(a)(6)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

#### Source

The provisions of this § 40.52 adopted October 4, 1985, effective October 5, 1985, 15 Pa.B. 3513; amended July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (290329) to (290330).

#### Notes of Decisions

##### *Unprofessional Conduct*

Act of removing 90 patient files from hospital's premises for 1 year and 4 months due to physical therapist's inability to complete documentation of patient files in a timely manner, related to the level of care provided to a patient and not to an administrative practice, was unprofessional conduct that subjected hospital to liability and jeopardized the level of care provided to a patient; therefore, the State Board of Physical Therapy properly found that physical therapist was subject to disciplinary action. *Korch v. State Board of Physical Therapy*, 900 A.2d 941, 947 (Pa. Cmwlth. 2006).

Physical therapist's removal of 90 patient files from hospital employer for 1 year and 4 months due to his inability to complete the necessary documentation in a timely manner and only returned the files after legal counsel demanded they be returned, supported State Board of Physical Therapy's imposition of formal reprimand and \$1,000 civil penalty. *Korch v. State Board of Physical Therapy*, 900 A.2d 941, 943, 947 (Pa. Cmwlth. 2006).

#### Cross References

This section cited in 49 Pa. Code § 40.206 (relating to confidentiality—waived); 49 Pa. Code § 40.302 (relating to procedural matters); and 49 Pa. Code § 40.304 (relating to disciplinary action).

### § 40.53. Nondelegable activities; accountability.

(a) A physical therapist may delegate to a physical therapist assistant or supportive personnel that which he is educated to perform subject to the limitations in this section.

(b) A physical therapist may not assign or delegate to physical therapist assistants or supportive personnel functions which require the formal education or training and the skill and knowledge of a licensed physical therapist, including the following functions:

- (1) Interpretation of referrals.
- (2) Initial evaluation or reevaluation.
- (3) Determination or modification of a patient plan of care.
- (4) Final discharge assessment/evaluation or establishment of discharge plan.
- (5) Therapeutic techniques and procedures beyond the skill and knowledge of the physical therapist assistant.
- (6) Duties, the delegation of which is inconsistent with minimum standards of acceptable physical therapy practice embraced by the physical therapy community in this Commonwealth.
- (7) Mobilization. Mobilization is defined as a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.
- (8) The performance of consultations.

(c) A physical therapist may not assign or delegate to supportive personnel activities which require the formal education or training and skill and knowledge of a licensed physical therapist or registered physical therapist assistant.

(d) When patient-care services are provided by the physical therapist assistant, the physical therapist shall document reevaluations and adjustments to a patient plan of care and goals at least every 30 calendar days or when there is a significant change in patient status warranting an earlier patient evaluation.

(e) A physical therapist may not assign or delegate to a physical therapist assistant or supportive personnel screenings to determine the need for the following:

- (1) Primary, secondary or tertiary services.
- (2) Further examination or intervention.
- (3) Consultation by a physical therapist.

(4) Referral to another health care practitioner.

(f) For purposes of this section, screening is defined as determining the need for further examination or intervention, or both, by a physical therapist or for referral to another health professional.

**Authority**

The provisions of this § 40.53 amended under sections 3(a), 6(d.1), 8(b), 9.1, 9.2 and 11(a)(6) of the Physical Therapy Practice Act (63 P. S. §§ 1303(a), 1306(d.1), 1308(b), 1309.1, 1309.2 and 1311(a)(6)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.53 adopted May 4, 1990, effective May 5, 1990, 20 Pa.B. 2437; amended July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (290330).



**Notes of Decisions***Insurance Coverage*

The Pennsylvania Motor Vehicle Financial Responsibility Law obligated the insurer to pay for physical therapy treatments provided by a trained but unlicensed technician operating under the general supervision of a physician, notwithstanding the 'nondelegable' nature of the duties of a physical therapist pursuant to this section. *Nelson v. Nationwide Mutual Insurance Co.*, 36 Pa. D & C 4th 1 (1998).

**Cross References**

This section cited in 49 Pa. Code § 40.52 (relating to unprofessional conduct; physical therapists).

**§ 40.54. Disclosure of financial or ownership interest—statement of policy.**

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

(1) *Appliances or devices*—Gas, oxygen, therapy equipment, therapeutic equipment, instruments, syringes and their component parts or accessories, hearing aids, eyeglasses, contact lenses, prosthetic devices, orthotics, crutches and cervical collars.

(2) *Disclose to the patient*—The physical therapist makes known to the patient at the time a referral is made that the physical therapist has a financial or ownership interest in the facility or entity to which the patient is referred. The physical therapist shall also inform the patient of the patient's freedom to choose an alternate provider.

(3) *Facility or entity*—Another practitioner of the healing arts, licensed health care practitioner, partnership, association, group practice, business corporation and professional corporation not on the premises of the physical therapist.

(4) *Financial interest of the physical therapist or ownership by the physical therapist in the facility or entity*—A financial or ownership interest to any extent or degree including interest held by the physical therapist, the therapist's spouse or minor children. The term does not include employment by a hospital if the remuneration paid to the physical therapist is not contingent upon the therapist's referral of patients to hospital-related services.

(5) *Health-related services*—Radiologic services, physical therapy, occupational therapy, counseling, laboratory services and nursing home care.

(6) *Pharmaceutical*—A drug or pharmacy.

(7) *Practitioner of the healing arts*—A physical therapist.

(8) *Referral*—The act of prescribing, ordering, directing, redirecting or recommending to a patient a specific facility or entity which provides a health-related service, test, pharmaceutical, appliance or device, by means of prescription, recommended course of treatment, or direction concerning diagnostic or therapeutic treatment of services.

(9) *Test*—Laboratory work, radiologic tests, nuclear medicine scanning and other laboratory services.

(b) *Use of patient disclosure forms.*

(1) It is the physical therapist's responsibility to disclose to the patient a financial or ownership interest when making a referral covered by the act of May 26, 1988 (P. L. 403, No. 66) (35 P. S. §§ 449.21—449.23). The Board believes that meaningful disclosure shall be given to each patient at the time a referral is made. The disclosure may be made orally or in writing. In either event, it is recommended that the disclosure be memorialized, dated and signed at the time of referral by the physical therapist and the patient, and that the physical therapist maintain written evidence of the disclosure. If the physical therapist delegates the disclosure to another person in the therapist's office, the disclosure shall be memorialized, dated and signed by the person making the disclosure and the patient.

(2) The memorialization of the disclosure shall be substantially in the following form:

I ACKNOWLEDGE THAT I HAVE BEEN ADVISED BY MY PHYSICAL THERAPIST THAT HE HAS A FINANCIAL OR OWNERSHIP INTEREST IN THE FACILITY OR ENTITY TO WHICH HE HAS REFERRED ME, AND THAT HE HAS ADVISED ME THAT I AM FREE TO CHOOSE ANOTHER FACILITY OR ENTITY TO PROVIDE THE SERVICE, DRUG, DEVICE OR EQUIPMENT.

(3) Written evidence shall constitute presumptive evidence that the physical therapist made the required disclosure in an enforcement proceeding before the Board. The disclosure to the patient is not the act of the patient signing the form, but is the act of the physical therapist disclosing to the patient the therapist's financial or ownership interest and advising the patient of the patient's freedom of choice.

(c) *Guidelines for disclosure.* If the patient is a minor, unconscious, of unsound mind, or otherwise incompetent to understand freedom of choice in the selection of a facility or entity, disclosure shall be made to the guardian, spouse or closest adult next of kin. A physical therapist may not disclose his interest unless the patient is competent to understand his freedom of choice. A physical therapist will not be disciplined for failure to disclose if an emergency prevents consulting the patient or the patient's next of kin.

(d) *Posting notice of disclosure requirement.* It is recommended that compliance with the disclosure requirement include the prominent posting of a printed notice, at least 8 1/2" x 11" in the physical therapist's waiting room in all office locations, substantially in the following form:

TREATMENT IN THIS OFFICE MAY INCLUDE A RECOMMENDATION FOR FURTHER DIAGNOSTIC TESTING, FOR VARIOUS FORMS OF THERAPY OR TREATMENT, OR FOR DRUGS OR DEVICES. PENNSYLVANIA LAW REQUIRES YOUR PHYSICAL THERAPIST TO DISCLOSE TO YOU ANY FINANCIAL INTEREST HE HAS IN TREATMENT FACILITIES, TESTING LABORATORIES, MEDICAL EQUIPMENT SUPPLIES, PHARMACEUTICAL COMPANIES AND PHARMACIES TO WHICH HE REFERS YOU. HE MUST ALSO ADVISE YOU THAT YOU ARE FREE TO CHOOSE ANOTHER FACILITY OR ENTITY TO PROVIDE THE SERVICE, DRUG, DEVICE OR EQUIPMENT. (ACT 66-1988)

**Source**

The provisions of this § 40.54 adopted May 4, 1990, effective May 5, 1990, 20 Pa.B. 2437; renumbered August 13, 1992, effective August 14, 1992, 22 Pa.B. 4299. Immediately preceding text appears at serial pages (148370) to (148372).

**§ 40.55. Identification of physical therapists.**

Physical therapists shall identify themselves to patients as physical therapists.

**Authority**

The provisions of this § 40.55 issued under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.55 adopted August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697.

**PRACTICE WITHOUT PHYSICIAN REFERRAL**

**§ 40.61. Certificate of authorization to practice physical therapy without a referral.**

(a) An applicant for certification of authorization to practice physical therapy without the referral of a licensed physician shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following requirements:

- (1) Holds a current license to practice physical therapy in this Commonwealth.
- (2) Has done one of the following:
  - (i) Passed the National Physical Therapy Examination (NPTE) after January 1, 1990.

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(ii) Passed the NPTE prior to January 1, 1990 and successfully completed, within 2 years prior to application, a Board approved course consisting of at least 10 hours on the appropriate evaluative and screening procedures to determine the need for further examination or consultation by a physician, dentist or podiatrist prior to initiating treatment without a referral. The Board will maintain a list of currently approved courses.

(3) Has done one of the following:

(i) Practiced physical therapy in the delivery of patient care on a continuous basis for at least 2 years immediately preceding the application for certificate of authorization.

(ii) Been licensed by endorsement and practiced physical therapy in the delivery of patient care as a licensed physical therapist in the other state on a continuous basis for at least 2 years immediately preceding the application for certificate of authorization.

(iii) Provided proof of meeting these practice requirements through any combination of subparagraphs (i) and (ii).

(iv) For purposes of this section, “practice of physical therapy on a continuous basis” is defined as a minimum of 200 hours each year in the delivery of direct patient care.

(4) Has obtained professional liability insurance under the requirements of § 40.62 (relating to liability insurance).

(b) A certificateholder shall display the certificate of authorization in a manner conspicuous to the public.

(c) A certificateholder may not delegate the care of a patient being treated without a referral to a physical therapist who is not a certificateholder.

(d) A certificateholder shall refer patients to a licensed physician or other appropriate health care practitioner in the following cases:

(1) Cases where symptoms are present for which physical therapy is a contraindication.

(2) Cases for which treatment is outside the scope of practice of physical therapy.

(3) Cases for which treatment is beyond the education, expertise or experience of the physical therapist.

(e) A certificateholder may treat a person without a referral as provided in this chapter for up to 30 calendar days from the date of the first treatment. A physical therapist may not treat a person beyond 30 days from the date of the first treatment unless the person has obtained a referral from a licensed physician, dentist or podiatrist. The date of the first treatment for purposes of this subsection is the date the person is treated by any physical therapist treating without a referral.

(f) A certificateholder may not treat a condition in any person which is a nonneurologic, nonmuscular or nonskeletal condition or treat a person who has an acute cardiac or acute pulmonary condition unless the certificateholder has consulted with the person's licensed physician, dentist or podiatrist regarding the person's condition and the physical therapy treatment plan or has referred the person to a licensed physician, dentist or podiatrist for diagnosis and referral.

**Authority**

The provisions of this § 40.61 issued under section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.61 adopted July 16, 2004, effective July 17, 2004, 34 Pa.B. 3700.

**§ 40.62. Professional liability insurance.**

(a) Beginning January 1, 2005, or upon applying for a certificate of authorization, whichever occurs earlier, a licensee who applies for and obtains a certificate of authorization shall obtain and maintain professional liability insurance coverage in the minimum amount required to be maintained by physicians under section 711 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.711).

(b) A certificateholder shall notify the Board within 30 days of the holder's lapse in coverage of the required insurance.

(c) The certificate of authorization will automatically be suspended upon failure to be covered by the required insurance and will not be restored until submission to the Board of satisfactory evidence that the licensee has the required professional liability insurance.

(d) Satisfactory evidence of insurance coverage is any one of the following:

(1) A self-insurance plan that meets the standards and procedures established by the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(2) Personally purchased professional liability insurance.

(3) Professional liability insurance, coverage provided by the licensee's employer.

(4) A similar type of coverage.

**Authority**

The provisions of this § 40.62 issued under section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.62 adopted July 16, 2004, effective July 17, 2004, 34 Pa.B. 3700.

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**Cross References**

This section cited in 49 Pa. Code § 40.61 (relating to certificate of authorization to practice physical therapy without a referral).

**§ 40.63. Continuing education.**

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Certificateholder*—A licensed physical therapist who holds a certificate of authorization to practice physical therapy without a referral.

*Contact hour*—A unit of measure equaling 60 minutes of participation in an approved continuing education course or program.

(b) *Continuing education requirement for renewal of certificate of authorization.* Beginning after the first renewal of the certificate of authorization, as a condition of certificate renewal, a physical therapist shall have completed during the preceding biennium a minimum of 20 contact hours of physical therapy continuing education related to keeping the certificateholder apprised of advancements and new developments in the practice of the physical therapy profession. At least 10 of the 20 contact hours shall be in evaluative procedures to treat a person without a referral.

(c) *Reports to the Board.* A certificateholder shall certify compliance with the continuing education hours requirement at the time of biennial renewal of the certificate. A certificateholder shall retain for at least 4 years, certificates, transcripts or other documentation showing completion of the prescribed number of hours. These records are subject to audit by the Board.

(d) *Approved sponsors; acceptable courses and programs.*

(1) Courses and programs provided by Board-approved sponsors will be accepted as satisfying the continuing education requirement. It is the responsibility of the certificateholder to ascertain the approval status of the sponsor before undertaking a continuing education activity.

(2) Irrespective of the sponsor, the Board reserves the right to reject a continuing education course or program submitted by a certificateholder if it is outside the scope of practice of physical therapy. The Board will not accept courses or programs which are unrelated to the actual practice of physical therapy—for example, instruction in office management or practice building. A certificate holder will be notified of a rejected course or program in writing, along with the reason for the rejection.

(3) Sponsors of physical therapy continuing education seeking Board approval shall submit an application on forms provided by the Board and pay the required fee. The applicant will be notified of approval or disapproval in writing. Notifications of disapproval will set forth reasons. The Board will not approve a sponsor unless it:

- (i) Offers courses or programs, or both, with specific learning objectives geared to improve the professional competence of the participant.
  - (ii) Verifies attendance of the course.
  - (iii) Provides each attendee with a certificate which includes participant's name, date, place, course title, presenter and number of contact hours.
- (4) The Board may withdraw approval of a sponsor for cause. The sponsor will be notified in writing of the reasons for withdrawal of approval.
- (e) *Distance education.* A certificateholder may accrue all required hours in distance education courses offered by approved sponsors of continuing education as long as the course sponsor evaluates and assesses the extent of learning that has taken place.
- (f) *Reinstatement of certificate.* Reinstatement of certificate shall be subject to the following conditions:
- (1) A person whose certificate has lapsed or been inactive shall show compliance with the continuing education requirement during the biennium immediately preceding the request for reinstatement.
  - (2) A person whose certificate has been suspended or restricted shall show compliance with the continuing education requirement during the entire period of suspension or restriction.
- (g) *Waivers; exemptions for continuing education.* The Board may, in individual cases involving physical disability or illness, or undue hardship, grant a waiver of the continuing education requirements or grant an extension of time to complete the requirements. No waiver or extension of time will be granted unless a written request is submitted by the licensee; or in cases of physical disability or illness, by a physician licensed in this state or another state or territory of the United States or the District of Columbia and whose license is in good standing, or both. All necessary documentation must be received by the Board no later than 90 days preceding the biennial renewal. If the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the licensee shall reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the applicant to make up all or part of the continuing education waived.

#### Authority

The provisions of this § 40.63 issued under section 3 of the Physical Therapy Practice Act (63 P. S. § 1303); and section 812.1 of The Administrative Code of 1929 (71 P. S. 279.3a).

#### Source

The provisions of this § 40.63 adopted July 16, 2004, effective July 17, 2004, 34 Pa.B. 3700.

**Subchapter B. [Reserved]****§ 40.71. [Reserved].****Source**

The provisions of this § 40.71 adopted July 31, 1987, effective August 1, 1987, 7 Pa.B. 3210; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (305597).

**§ 40.72. [Reserved].****Source**

The provisions of this § 40.72 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (305597) and (230659).

**§ 40.73. [Reserved].****Source**

The provisions of this § 40.73 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved November 4, 1988, effective upon publication and applies retroactively to November 1, 1988, 18 Pa.B. 4952. Immediately preceding text appears at serial page (121513).

**§ 40.74. [Reserved].****Source**

The provisions of this § 40.74 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230659) to (230660).

**§ 40.75. [Reserved].****Source**

The provisions of this § 40.75 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (230660).

**§ 40.81. [Reserved].****Source**

The provisions of this § 40.81 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (230660).

**§ 40.82. [Reserved].****Source**

The provisions of this § 40.82 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (230661).

**§ 40.83. [Reserved].****Source**

The provisions of this § 40.83 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended March 22, 1991, effective March 23, 1991, 21 Pa.B. 1170; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230661) to (230662).

**§ 40.84. [Reserved].****Source**

The provisions of this § 40.84 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (230662).

**§ 40.85. [Reserved].****Source**

The provisions of this § 40.85 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230662) to (230663).

**§ 40.86. [Reserved].****Source**

The provisions of this § 40.86 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819. Immediately preceding text appears at serial pages (206210) to (206211).

**§ 40.87. [Reserved].****Source**

The provisions of this § 40.87 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230663) to (230664).

**§ 40.88. [Reserved].****Source**

The provisions of this § 40.88 adopted June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (230664).

**§ 40.101. [Reserved].****Source**

The provisions of this § 40.101 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230664) to (230665).

**§ 40.102. [Reserved].****Source**

The provisions of this § 40.102 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; amended June 13, 1997, effective June 14, 1997, 27 Pa.B. 2819; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (230665).

**§ 40.103. [Reserved].****Source**

The provisions of this § 40.103 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230665) to (230666).

**§ 40.121. [Reserved].****Source**

The provisions of this § 40.121 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial pages (230666) and (274471).

**§ 40.131. [Reserved].****Source**

The provisions of this § 40.131 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3210; reserved April 18, 2008, effective April 19, 2008, 38 Pa.B. 1829. Immediately preceding text appears at serial page (274471).

**Subchapter C. PHYSICAL THERAPIST ASSISTANTS****GENERAL PROVISIONS**

- Sec.  
40.151. Purpose.  
40.152. Definitions.  
40.153. [Reserved].

**REGISTRATION**

- 40.161. Registration of physical therapist assistants; practice; exceptions.  
40.162. Application for registration.  
40.163. Requirements for registration.  
40.164. Physical therapist assistant registration examination.

**SCOPE OF ACTIVITIES**

- 40.171. Functions of physical therapist assistants.

**DISCIPLINE**

- 40.181. Refusal, suspension or revocation of registration.

**MAINTENANCE OF REGISTRATION**

- 40.191. Renewal of registration.

**Authority**

The provisions of this Subchapter C issued under sections 3(a), 6(d.1), 8(b), 9.1, 9.2 and 11(a)(6) of the Physical Therapy Practice Act (63 P. S. §§ 1303(a), 1306(d.1), 1308(b), 1309.1, 1309.2 and 1311(a)(6)), unless otherwise noted.

**GENERAL PROVISIONS****§ 40.151. Purpose.**

This subchapter implements section 9.1 of the act (63 P. S. § 1309.1) which provides for the registration of physical therapist assistants.

**Source**

The provisions of this § 40.151 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872.

**§ 40.152. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Physical Therapy Practice Act (63 P. S. §§ 1301—1313).

*Physical therapist assistant*—A person who has been registered in accordance with the act and this subchapter and who provides patient-care services only in compliance with this chapter.

*Physical Therapist Assistant Registration Examination*—An examination adopted by the Board and administered in accordance with section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3(a)). The term also includes an examination administered by another state, territory or the District of Columbia if it is the same examination adopted by the Board.

**Source**

The provisions of this § 40.152 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872.

**§ 40.153. [Reserved].****Source**

The provisions of this § 40.153 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended May 14, 1993, effective May 15, 1993, and apply retroactively to fees for the March 1993 examinations, 23 Pa.B. 2333; amended December 30, 1994, effective December 31, 1994, 24 Pa.B. 6567; amended December 22, 1995, effective December 23, 1995, apply to examination fees charged on and after September 1, 1995, 25 Pa.B. 5968; reserved January 26, 2001, effective January 27, 2001, 31 Pa.B. 537. Immediately preceding text appears at serial page (230669).

**REGISTRATION****§ 40.161. Registration of physical therapist assistants; practice; exceptions.**

(a) A person may not perform or hold himself out as being able to perform as a physical therapist assistant in this Commonwealth unless the person is registered by the Board under section 9.1 of the act (63 P. S. § 1309.1) and this subchapter or exempted under this section.

(b) A person or business entity may not use in connection with a business name or activity the words “physical therapist assistant,” the letters “P.T.A.” or similar words and related abbreviations to imply that physical therapist assistant services are being provided, unless the services are provided by a physical therapist assistant registered under the act and this subchapter.

(c) This subchapter does not prohibit physical therapist assistant students from assisting a physical therapist licensed to practice without restriction in this Commonwealth under the direct on-premises supervision of the physical therapist as is incidental to their course of study in a program which has been approved for the education and training for physical therapist assistants by the Commission on Accreditation in Physical Therapy Education (CAPTE).

(d) Physical therapist assistants shall identify themselves to patients as physical therapist assistants.

**Authority**

The provisions of this § 40.161 amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.161 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial page (274473).

**§ 40.162. Application for registration.**

(a) The applicant shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following criteria. The applicant:

- (1) Is at least 20 years of age, unless otherwise determined by the Board that the candidate has proved the capability to accept and handle the responsibilities appurtenant to registration.
- (2) Is of good moral character.
- (3) Is not addicted to the habitual use of alcohol, or narcotics or other habit-forming drugs.
- (4) Has met the professional requirements for registration under § 40.163 (relating to requirements for registration).

(b) An applicant for a registration issued by the Board shall apprise the Board of the following:

(1) A license, certificate, registration or other authorization to practice a profession issued, denied or limited by another state, territory or possession of the United States, a branch of the Federal government or another country.

(2) Disciplinary action instituted against the applicant by a licensing authority of another state, territory or possession of the United States, a branch of the Federal government or another country.

(3) A finding or verdict of guilt, an admission of guilt or a plea of nolo contendere to a felony offense or an offense involving moral turpitude.

(c) The reporting responsibilities enumerated in subsection (b) continue after the Board issues a registration. If, after the Board has issued a registration, one or more of the events listed under subsection (b)(1) and (2) occur, the registrant shall report that matter to the Board in writing on the biennial reregistration application or within 90 days of its occurrence, whichever occurs sooner. The registrant shall report an event occurring under subsection (b)(3) within 30 days of occurrence.

#### Source

The provisions of this § 40.162 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872.

### § 40.163. Requirements for registration.

(a) Under section 9.1(a) of the act (63 P. S. § 1309.1(a)), an applicant for registration by examination shall submit evidence of the following:

(1) Graduation from a physical therapist assistant program which has been approved for the education and training for physical therapist assistants by the Commission on Accreditation in Physical Therapy Education (CAPTE).

(2) A passing grade on the physical therapist assistant registration examination.

(b) Under section 6(d.1) of the act (63 P. S. § 1306(d.1)), an applicant for reciprocal registration shall submit evidence of a valid license, certificate or registration as a physical therapist assistant issued by another state, territory or the District of Columbia, where the requirements for licensure, certification or registration were on the date of issuance substantially the same as those required by this Commonwealth, and which accords similar privileges to persons registered as physical therapist assistants in this Commonwealth.

#### Authority

The provisions of this § 40.163 amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.163 adopted July 24, 1992, effective April 28, 1993, 22 Pa.B. 3872; corrected October 9, 1992, 22 Pa.B. 5030; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (274474) and (230671).

**Cross References**

This section cited in 49 Pa. Code § 40.162 (relating to application for registration).

**§ 40.164. Physical therapist assistant registration examination.**

(a) *Application procedure.* An applicant applying for registration by examination shall take the physical therapist assistant registration examination. The applicant who is taking the examination within this Commonwealth shall comply with the following:

(1) The applicant shall complete application forms for admission to the examination obtained from the Board and return the completed form with a check or money order for the appropriate fee.

(2) The applicant shall present the required credentials of professional education at the time of application.

(b) *Failure and reexamination.* In the case of failure of examination, the following apply:

(1) After failing the first examination, the applicant has, after the expiration of 6 months and within 2 years of the date of the first failure, the privilege of a second examination upon the filing of a new application under subsection (a) and upon payment of the appropriate fee.

(2) After a second or successive failure to pass the examination, an applicant desiring to take a third or successive examination shall file a new application. The Board may require evidence of additional training prior to allowing a candidate to take a third or successive examination.

(3) The granting of permission to take a third or successive examination is subject to:

(i) Authorization by the Board at its discretion to include an oral or practical examination, or both, in connection with the written examination to further test the knowledge, skills and competence of the applicant.

(ii) The applicant otherwise qualifying under requirements in force at the time that permission to take the examination is sought.

**Authority**

The provisions of this § 40.164 amended under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

**Source**

The provisions of this § 40.164 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended August 27, 2004, effective August 28, 2004, 34 Pa.B. 4697. Immediately preceding text appears at serial pages (230671) to (230672).

**SCOPE OF ACTIVITIES****§ 40.171. Functions of physical therapist assistants.**

(a) A physical therapist assistant may perform only activities for which the physical therapist assistant has received formal education and training, including the following activities:

- (1) Providing patient-care services as specified in the patient's plan of care.
- (2) Modifying treatment techniques as indicated in the patient's plan of care.
- (3) Responding to acute changes in the patient's physiological state.
- (4) Performing selected tests and measurements consistent with the physical therapist assistant's formal education and training.

(b) Physical therapist assistants may not interpret referrals or tests, perform evaluation procedures, initiate treatment programs, assume responsibility for planning patient care or perform activities which require the formal education or training and the skill and knowledge of a licensed physical therapist.

(c) Patient care services performed by a physical therapist assistant under direct on-premises supervision of a physical therapist shall be on a basis of not more than two physical therapist assistants for a physical therapist.

**Source**

The provisions of this § 40.171 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872; amended October 16, 1992, effective July 25, 1992, 22 Pa.B. 5163. Immediately preceding text appears at serial page (171286).

**Cross References**

This section cited in 49 Pa. Code § 40.52 (relating to unprofessional conduct; physical therapists); and 49 Pa. Code § 40.181 (relating to refusal, suspension or revocation of registration).

**DISCIPLINE****§ 40.181. Refusal, suspension or revocation of registration.**

(a) Under section 9.1(f) of the act (63 P. S. § 1309.1(f)), the Board may refuse, suspend or revoke the registration of a person who has:

- (1) Performed physical therapist assistant functions outside the scope of activities under § 40.171 (relating to functions of physical therapist assistants).
- (2) Attempted to obtain or obtained registration by fraud or misrepresentation.
- (3) Committed an act of gross negligence, or gross incompetence or repeated acts of negligence or incompetence in the providing of physical therapist assistant services.

(4) Been convicted of a felony or of a misdemeanor which relates to the person's suitability for registration as a physical therapist assistant in a Federal, state, territorial or foreign court of competent jurisdiction. Conviction as used

in this paragraph includes a finding, or verdict of guilt, an admission of guilt or a plea of nolo contendere.

(5) Become addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.

(6) Been found guilty of unprofessional conduct, which includes departure from or failure to conform to the minimal standards of acceptable and prevailing practice for physical therapist assistants in which proceeding actual injury to a patient need not be established.

(7) Been adjudged mentally incompetent by a court of competent jurisdiction.

(8) Had a certificate, license or registration to practice as a physical therapist assistant revoked, suspended or refused or otherwise been subjected to other disciplinary action taken by another state, territory or country or by the District of Columbia.

(9) Made misleading, deceptive, untrue or fraudulent representations in violation of the act or otherwise in the rendering of physical therapist assistant services.

(b) Actions taken by the Board regarding the refusal, suspension or revocation of a registration are taken subject to the right of notice, hearing and adjudication, and the right of appeal therefrom under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law).

#### Source

The provisions of this § 40.181 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872.

#### Cross References

This section cited in 49 Pa. Code § 40.302 (relating to procedural matters); and 49 Pa. Code § 40.304 (relating to disciplinary action).

## MAINTENANCE OF REGISTRATION

### § 40.191. Renewal of registration.

(a) A registration issued under this subchapter expires on December 31 of every even numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board by the registrant. The registrant shall notify the Board in writing within 10 days after making an address change.

(c) To retain the right to engage in practice, the registrant's registration shall be renewed by the registrant in the manner prescribed by the Board, and the required fee shall be paid by the registrant prior to the expiration of the next biennium.

(d) When a registration is renewed beyond December 31 of an even numbered year, a penalty fee of \$5 for each month or part of a month that the registrant has engaged in practice beyond the renewal date will be charged, in addition to the renewal fee.

(e) A registrant who does not intend to practice in this Commonwealth and who does not desire to renew the registration shall inform the Board in writing. Written confirmation of the Board's receipt of the request and notice that the registration has been classified as inactive will be forwarded to the registrant.

(f) The registrant who either fails to pay the biennial renewal fee or who notifies the Board of the desire not to renew the registration will not be sent biennial renewal forms for the following biennial renewal periods unless the registrant requests the Board, in writing, to reactivate the registration.

(g) A registrant who is applying to return to active status is required to pay the current fees and submit a notarized affidavit stating the period of time during which the registrant was not engaged in practice in this Commonwealth.

(h) The applicant for registration renewal will not be assessed a fee or penalty for preceding biennial periods in which the applicant did not engage in practice in this Commonwealth.

(i) If other conditions of the act and this chapter have been met, active status will be restored upon payment of fees and penalties which have accrued.

(j) A registrant who has engaged in practice during a period in which the registrant was not registered may be subject to criminal prosecution under section 12 of the act (63 P. S. § 1312).

#### Source

The provisions of this § 40.191 adopted July 24, 1992, effective July 25, 1992, 22 Pa.B. 3872.

### Subchapter D. CHILD ABUSE REPORTING REQUIREMENTS

Sec.

- 40.201. Definitions.
- 40.202. Suspected child abuse—mandated reporting requirements.
- 40.203. Photographs, medical tests and X-rays of child subject to report.
- 40.204. Suspected death as a result of child abuse—mandated reporting requirement.
- 40.205. Immunity from liability.
- 40.206. Confidentiality—waived.
- 40.207. Noncompliance.

#### Authority

The provisions of this Subchapter D issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)), unless otherwise noted.

**Source**

The provisions of this Subchapter D adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5415, unless otherwise noted.

**§ 40.201. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Physical Therapy Practice Act (63 P. S. §§ 1301—1312).

*Child abuse*—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

*ChildLine*—An organizational unit of the Department of Public Welfare which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

*Individual residing in the same home as the child*—An individual who is 14 years of age or older and who resides in the same home as the child.

*Perpetrator*—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

*Person responsible for the child's welfare*—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

*Recent acts or omissions*—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

*Serious mental injury*—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

*Serious physical injury*—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

*Sexual abuse or exploitation*—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct, or a simulation of sexually explicit conduct, for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

**§ 40.202. Suspected child abuse—mandated reporting requirements.**

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), physical therapists, physical therapist assistants or certified athletic trainers who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when the physical therapist, physical therapist assistant or certified athletic trainer has reasonable cause to suspect on the basis of professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Physical therapists, physical therapist assistants and certified athletic trainers who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the physical therapist, physical therapist assistant or certified athletic trainer, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine (800) 932-0313.

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.

(d) *Written reports.* Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:

- (1) The names and addresses of the child and the parents or other person responsible for the care of the child, if known.
- (2) Where the suspected abuse occurred.
- (3) The age and sex of the subjects of the report.
- (4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.
- (5) The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.
- (6) Family composition.
- (7) The source of the report.
- (8) The person making the report and where that person can be reached.
- (9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.
- (10) Other information which the Department of Public Welfare may require by regulation.

#### Cross References

This section cited in 49 Pa. Code § 40.206 (relating to confidentiality—waived); and 49 Pa. Code § 40.207 (relating to noncompliance).

### **§ 40.203. Photographs, medical tests and X-rays of child subject to report.**

A physical therapist, physical therapist assistant or certified athletic trainer may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

#### Cross References

This section cited in 49 Pa. Code § 40.206 (relating to confidentiality—waived).

**§ 40.204. Suspected death as a result of child abuse—mandated reporting requirement.**

A physical therapist, physical therapist assistant or certified athletic trainer who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

**Cross References**

This section cited in 49 Pa. Code § 40.206 (relating to confidentiality—waived).

**§ 40.205. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a physical therapist, physical therapist assistant or certified athletic trainer who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the physical therapist's, physical therapist assistant's or certified athletic trainer's actions. For the purpose of any civil or criminal proceeding, the good faith of the physical therapist, physical therapist assistant or certified athletic trainer shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a physical therapist's, physical therapist assistant's or certified athletic trainer's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

**§ 40.206. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 40.202—40.204 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions in § 40.52(2) (relating to unprofessional conduct; physical therapists) and any other client confidentiality, ethical principle or professional standard that might otherwise apply.

**§ 40.207. Noncompliance.**

(a) *Disciplinary action.* A physical therapist, physical therapist assistant or certified athletic trainer who willfully fails to comply with the reporting requirements in § 40.202 (relating to suspected child abuse—mandated reporting requirements) will be subject to disciplinary action under section 11 of the act (63 P. S. § 1311).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a physical therapist, physical therapist assistant or certified athletic trainer who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

### Subchapter E. SEXUAL MISCONDUCT

Sec.	
40.301.	Definitions.
40.302.	Procedural matters.
40.303.	Impaired professional program.
40.304.	Disciplinary action.

#### Authority

The provisions of this Subchapter E issued under section 3(a) of the Physical Therapy Practice Act (63 P. S. § 1303(a)), unless otherwise noted.

#### Source

The provisions of this Subchapter E adopted August 9, 2002, effective August 10, 2002, 32 Pa.B. 3942, unless otherwise noted.

### § 40.301. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Patient (includes resident and client)*—A person, other than the spouse of the physical therapist or physical therapist assistant, who receives professional services from the physical therapist or physical therapist assistant regardless of whether the services are provided for remuneration.

*Professional relationship*— For a physical therapist or physical therapist assistant, the relationship shall be deemed to exist for a period of time beginning with the first professional contact or consultation between a physical therapist or physical therapist assistant and a patient and ending upon discharge from or discontinuance of services provided by the physical therapist or physical therapist assistant.

*Sexual impropriety*—The term includes the following offenses:

- (i) Making sexually demeaning or sexually suggestive comments about or to a patient, including comments about a patient's body or undergarments.
- (ii) Unnecessarily exposing a patient's body or watching a patient dress or undress, unless for therapeutic purposes or the patient specifically requests assistance.
- (iii) Examining or touching genitals without the use of gloves when performing an otherwise appropriate examination.

(iv) Discussing or commenting on a patient's potential sexual performance or requesting details of a patient's sexual history or preferences during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction or reproductive health care.

(v) Soliciting a date from a patient.

(vi) Volunteering information to a patient about one's sexual problems, preferences or fantasies.

*Sexual violation*—The term includes the following offenses:

(i) Sexual intercourse between a physical therapist or physical therapist assistant and a patient during the professional relationship.

(ii) Genital to genital contact between a physical therapist or physical therapist assistant and a patient during the professional relationship.

(iii) Oral to genital contact between a physical therapist or physical therapist assistant and a patient during the professional relationship.

(iv) Touching breasts, the genitals, or any other part of the body of a patient in a sexual, erotic or romantic manner. Touching for the purpose of an appropriate examination or treatment does not constitute a sexual violation.

(v) Encouraging a patient to masturbate in the presence of the physical therapist or physical therapist assistant or masturbating while a patient is present.

(vi) Providing or offering to provide treatment in exchange for sexual favors.

### § 40.302. Procedural matters.

(a) The consent of the patient to any sexual impropriety or sexual violation is not a defense to any disciplinary charge for violation of the act or this chapter.

(b) Evidence of specific instances, opinion evidence or reputation evidence of a patient's past sexual conduct is not admissible in proceedings brought under §§ 40.52 and 40.181 (relating to unprofessional conduct; physical therapists; and refusal, suspension or revocation of registration). The Board may consider sexual relationships between the physical therapist or the physical therapist assistant and the patient occurring prior to the professional relationship.

(c) A physical therapist or the physical therapist assistant who attempts to raise as a defense an argument that conduct prohibited as a sexual violation or sexual impropriety was necessary or appropriate to the treatment of any patient shall be required to demonstrate the relevancy of the conduct in question to the patient's condition or diagnosis. Appropriate discussions of sexual matters between a physical therapist or the physical therapist assistant and a patient shall be fully documented in patient records.

**§ 40.303. Impaired professional program.**

When the Board is empowered to take disciplinary or corrective action against a physical therapist or the physical therapist assistant for conduct defined as a sexual violation or sexual impropriety, the physical therapist or physical therapist assistant will not be eligible for placement into an impaired professional program under section 13 of the act (63 P. S. § 1313).

**§ 40.304. Disciplinary action.**

A physical therapist or physical therapist assistant who engages in sexual impropriety or sexual violation as defined in § 40.301 (relating to definitions) will be subject to disciplinary action under §§ 40.52 and 40.181(a)(6) (relating to unprofessional conduct; physical therapists; and refusal, suspension or revocation of registration) and section 11 of the act (63 P. S. § 1311).

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