House Engrossed Senate Bill

**FILED**
**JANICE K. BREWER**
**SECRETARY OF STATE**

State of Arizona
Senate
Forty-sixth Legislature
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**CHAPTER 172**

# SENATE BILL 1098

AN ACT

AMENDING SECTIONS 32-2001, 32-2003, 32-2021, 32-2022, 32-2023, 32-2024, 32-2025, 32-2026, 32-2027, 32-2028, 32-2029, 32-2041, 32-2042, 32-2043, 32-2044, 32-2045, 32-2046, 32-2047, 32-2048, 32-2049, 32-2050 AND 32-2051, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF PHYSICAL THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-2001, Arizona Revised Statutes, is amended to read:

32-2001. Definitions

In this chapter, unless the context otherwise requires:

1. "Assistive personnel" includes physical therapist assistants and physical therapy aides and other assistive personnel who are trained or educated health care providers and who are not physical therapist assistants or physical therapy aides but who perform specific designated tasks related to physical therapy under the supervision of a physical therapist. At the discretion of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their training or education. This paragraph does not apply to personnel assisting other health care professionals licensed pursuant to this title in the performance of delegable treatment responsibilities within their scope of practice.

2. "Board" means the board of physical therapy.

3. "INTERIM PERMIT" MEANS A PERMIT ISSUED BY THE BOARD THAT ALLOWS A PERSON TO PRACTICE AS A PHYSICAL THERAPIST IN THIS STATE OR TO WORK AS A PHYSICAL THERAPIST ASSISTANT FOR A SPECIFIC PERIOD OF TIME AND UNDER CONDITIONS PRESCRIBED BY THE BOARD BEFORE THAT PERSON IS ISSUED A LICENSE OR CERTIFICATE

~~3.~~ 4. "Manual therapy techniques" means a broad group of passive interventions in which physical therapists use their hands to administer skilled movements designed to modulate pain, increase joint range of motion, reduce or eliminate soft tissue swelling, inflammation, or restriction, induce relaxation, improve contractile and noncontractile tissue extensibility, and improve pulmonary function. These interventions involve a variety of techniques, such as the application of graded forces.

~~4.~~ 5. "On-site supervision" means that the supervising physical therapist is on site and is present in the facility or on the campus where assistive personnel or a holder of an interim permit ~~are~~ IS performing services, is immediately available to assist the person being supervised in the services being performed and maintains continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated ~~to assistive personnel~~.

~~5.~~ 6. "Physical therapist" means a person who is licensed pursuant to this chapter.

~~6.~~ 7. "Physical therapist assistant" means a person who meets the requirements of this chapter for certification and who performs physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist.

~~7.~~ 8. "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist who is licensed pursuant to this chapter.

~~8.~~ 9. "Physical therapy aide" means a person who is trained under the direction of a physical therapist and who performs designated and supervised routine physical therapy tasks.

~~9.~~ 10. "Practice of physical therapy" means:

(a) Examining, evaluating and testing persons who have mechanical, physiological and developmental impairments, functional limitations and disabilities or other health and movement related conditions in order to determine a diagnosis, a prognosis and a plan of therapeutic intervention and to assess the ongoing effects of intervention.

(b) Alleviating impairments and functional limitations by MANAGING, designing, implementing and modifying therapeutic interventions including:

(i) Therapeutic exercise.

(ii) Functional training in self-care and in home, community or work reintegration.

(iii) Manual therapy techniques.

(iv) Therapeutic massage.

(v) Assistive and adaptive orthotic, prosthetic, protective and supportive devices and equipment.

(vi) Pulmonary hygiene.

(vii) Debridement and wound care.

(viii) Physical agents or modalities.

(ix) Mechanical and electrotherapeutic modalities.

(x) Patient related instruction.

(c) Reducing the risk of injury, impairments, functional limitations and disability by means that include promoting and maintaining a person's fitness, health and quality of life.

(d) Engaging in administration, consultation, education and research.

~~10.~~ 11. "Restricted certificate" means a certificate on which the board has placed any restrictions as the result of a disciplinary action.

~~11.~~ 12. "Restricted license" means a license on which the board places restrictions or conditions, or both, as to the scope of practice, place of practice, supervision of practice, duration of licensed status or type or condition of a patient to whom the licensee may provide services.

Sec. 2. Section 32-2003, Arizona Revised Statutes, is amended to read:

32-2003. <u>Board duties</u>

The board shall:

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

2. Provide for national examinations for physical therapists and physical therapist assistants and adopt passing scores for these examinations.

3. Issue licenses, permits and certificates to persons who meet the requirements of this chapter.

4. Regulate the practice of physical therapy by interpreting and enforcing this chapter.

5. Adopt and revise rules to enforce this chapter.

6. Meet at least once each quarter in compliance with the open meeting requirements of title 38, chapter 3, article 3.1 and keep an official record of these meetings.

7. Establish ~~requirements~~ THE MECHANISMS for assessing continuing PROFESSIONAL competence OF PHYSICAL THERAPISTS TO ENGAGE IN THE PRACTICE OF PHYSICAL THERAPY AND THE COMPETENCE OF PHYSICAL THERAPIST ASSISTANTS TO WORK IN THE FIELD OF PHYSICAL THERAPY.

8. At its first regular meeting after the start of each calendar year, elect officers from among its members and as necessary to accomplish board business.

9. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this chapter, board rules and board procedures.

10. Maintain a current list of all persons regulated under this chapter. This list shall include the person's name, current business and residential addresses, telephone numbers and license or certificate number.

11. Employ necessary personnel to carry out the administrative work of the board. Board personnel are eligible to receive compensation pursuant to section 38-611.

12. Enter into contracts for services necessary for adequate enforcement of this chapter.

13. Report final disciplinary action taken against a licensee or a certificate holder to a national disciplinary ~~data base~~ DATABASE recognized by the board.

14. Publish, at least annually, final disciplinary actions taken against a licensee or a certificate holder.

15. Publish, at least annually, board rulings, opinions and interpretations of statutes or rules in order to guide persons regulated pursuant to this chapter.

16. Not later than December 31 of each year, submit a written report of its actions and proceedings to the governor.

17. ESTABLISH AND COLLECT FEES.

18. PROVIDE INFORMATION TO THE PUBLIC REGARDING THE BOARD, ITS PROCESSES AND CONSUMER RIGHTS.

Sec. 3. Section 32-2021, Arizona Revised Statutes, is amended to read:

32-2021. Persons and activities not required to be licensed

A. This chapter does not restrict a person who is licensed under any other law of this state from engaging in the profession or practice for which that person is licensed if that person does not claim to be a physical therapist or a provider of physical therapy.

B. This chapter does not restrict the use of physical agents, modalities or devices by persons qualified under this title to personally render or delegate the use of this treatment.

~~C. This chapter does not prohibit an athletic trainer certified by a national athletic trainers' association approved by the board from providing athletic training services to participating athletes of an educational institution or a professional or bona fide amateur sports organization at the institution's or organization's athletic training facility or at the site of athletic practice or competition.~~

~~D.~~ C. The following persons are exempt from the licensure requirements of this chapter:

~~1. A person who is pursuing a course of study leading to a degree as a physical therapist in a professional education program approved by the board if that person is satisfying supervised clinical education requirements related to the person's physical therapy education while under on-site supervision of a licensed physical therapist.~~

1. A PERSON IN A PROFESSIONAL EDUCATION PROGRAM APPROVED BY THE BOARD WHO IS SATISFYING SUPERVISED CLINICAL EDUCATION REQUIREMENTS RELATED TO THE PERSON'S PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT EDUCATION WHILE UNDER THE ON-SITE SUPERVISION OF A PHYSICAL THERAPIST.

2. A physical therapist who is practicing OR A PHYSICAL THERAPIST ASSISTANT WHO IS WORKING in the United States armed services, United States public health service or veterans administration pursuant to federal regulations for state licensure of health care providers.

3. A physical therapist who is licensed in another jurisdiction of the United States or a foreign educated physical therapist credentialed in another country if that person is performing physical therapy in connection with teaching or participating in an educational seminar for not more than sixty days in any twelve month period.

4. A PHYSICAL THERAPIST WHO IS LICENSED IN ANOTHER JURISDICTION OF THE UNITED STATES OR WHO IS CREDENTIALED IN ANOTHER COUNTRY IF THAT PERSON BY CONTRACT OR EMPLOYMENT IS PROVIDING PHYSICAL THERAPY TO PERSONS WHO ARE AFFILIATED WITH OR EMPLOYED BY ESTABLISHED ATHLETIC TEAMS, ATHLETIC ORGANIZATIONS OR PERFORMING ARTS COMPANIES TEMPORARILY PRACTICING, COMPETING OR PERFORMING IN THIS STATE FOR NOT MORE THAN SIXTY DAYS IN A CALENDAR YEAR.

5. A PHYSICAL THERAPIST WHO IS LICENSED IN ANOTHER JURISDICTION OF THE UNITED STATES AND WHO ENTERS THIS STATE TO PROVIDE PHYSICAL THERAPY TO VICTIMS OF A DECLARED LOCAL, STATE OR NATIONAL DISASTER OR EMERGENCY. THIS EXEMPTION APPLIES FOR THE DURATION OF THE DECLARED EMERGENCY BUT NOT LONGER THAN SIXTY DAYS. THE PHYSICAL THERAPIST MUST ALSO REGISTER WITH THE BOARD BEFORE PRACTICING.

Sec. 4. Section 32-2022, Arizona Revised Statutes, is amended to read:

32-2022. <u>Qualifications for licensure and certification</u>

A. An applicant for a license as a physical therapist WHO HAS BEEN EDUCATED IN THE UNITED STATES shall:

1. Be of good moral character.

2. ~~Have completed~~ COMPLETE the application process.

3. Be a graduate of a professional physical therapy education program accredited by a national accreditation agency approved by the board.

4. Have successfully passed the national examination approved by the board.

5. Have successfully passed a jurisprudence examination that tests the applicant's knowledge of board statutes and rules.

B. An applicant for a license as a physical therapist who has been educated outside of the United States shall:

1. Be of good moral character.

2. ~~Have completed~~ COMPLETE the application process.

3. Provide satisfactory evidence that the applicant's education is substantially equivalent to the requirements of physical therapists educated in accredited educational programs as determined by the board. If the board determines that a foreign educated applicant's education is not substantially equivalent it may require the person to complete additional course work before it proceeds with the application process. IT IS NOT NECESSARY THAT COURSEWORK COMPLETED BY THE APPLICANT BE IDENTICAL IN ALL RESPECTS TO THAT REQUIRED BY AN EDUCATION PROGRAM IN THE UNITED STATES FOR AN ENTRY LEVEL PHYSICAL THERAPY DEGREE, BUT ALL REQUIRED CONTENT AREAS MUST BE EVIDENT AS REQUIRED BY BOARD RULES. DEFICIENCIES MAY OCCUR ONLY IN COURSEWORK AND NOT IN ESSENTIAL AREAS OF PROFESSIONAL EDUCATION AND SHALL NOT BE OF A MAGNITUDE THAT WOULD CAUSE THE EDUCATION TO BE DEEMED BELOW ENTRY LEVEL PREPARATION FOR PRACTICE IN THIS STATE.

~~4. Provide written proof that the applicant's school of physical therapy education is recognized by its own ministry of education.~~

~~5.~~ 4. Provide written proof of LEGAL authorization to practice as a physical therapist without limitation in the country where the professional education occurred.

~~6.~~ 5. Provide proof of legal authorization to reside and seek employment in the United States or its territories.

~~7. Have the applicant's educational credentials evaluated by a board approved credential evaluation agency.~~

~~8.~~ 6. Have passed the board approved English proficiency examinations if the applicant's native language is not English.

~~9.~~ 7. Have participated in an interim supervised clinical practice period before licensure AS APPROVED BY THE BOARD OR SHALL HAVE ALREADY MET THIS REQUIREMENT TO THE BOARD'S SATISFACTION BY VIRTUE OF THE APPLICANT'S CLINICAL PRACTICE IN ANOTHER JURISDICTION OF THE UNITED STATES.

~~10.~~ 8. Have successfully passed the national examination approved by the board.

~~11.~~ 9. Have successfully passed a jurisprudence examination that tests the applicant's knowledge of board statutes and rules.

C. Notwithstanding the requirements of subsection B, if the foreign educated physical therapist applicant is a graduate of an accredited

educational program as determined by the board, the board may waive the requirements of subsection B, paragraphs 3~~, 4,~~ AND 7 ~~and 9~~.

D. An applicant for certification as a physical therapist assistant shall meet the following requirements:

1. Be of good moral character.

2. ~~Have completed~~ COMPLETE the application process.

3. Be a graduate of a physical therapist assistant education program accredited by an agency approved by the board.

4. Have successfully passed the national examination approved by the board.

5. Have successfully passed a jurisprudence examination that tests the applicant's knowledge of board statutes and rules.

E. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPH 3, "SUBSTANTIALLY EQUIVALENT" MEANS THAT THE APPLICANT PROVIDES DOCUMENTATION SATISFACTORY TO THE BOARD THAT:

1. THE APPLICANT GRADUATED FROM A PHYSICAL THERAPIST EDUCATION PROGRAM THAT PREPARES THE APPLICANT TO ENGAGE WITHOUT RESTRICTION IN THE PRACTICE OF PHYSICAL THERAPY.

2. THE APPLICANT'S SCHOOL OF PHYSICAL THERAPY EDUCATION IS RECOGNIZED BY ITS OWN MINISTRY OF EDUCATION. THE BOARD MAY WAIVE THIS REQUIREMENT FOR GOOD CAUSE SHOWN.

3. THE APPLICANT HAS UNDERGONE A CREDENTIALS EVALUATION AS DIRECTED BY THE BOARD THAT DETERMINES THAT THE APPLICANT HAS MET UNIFORM CRITERIA FOR EDUCATIONAL REQUIREMENTS PURSUANT TO BOARD RULES.

4. THE APPLICANT HAS COMPLETED ANY ADDITIONAL EDUCATION REQUIRED BY THE BOARD.

Sec. 5. Section 32-2023, Arizona Revised Statutes, is amended to read:

32-2023. Application; denial; hearing

A. An applicant for licensure or certification shall file a completed application as required by the board. The applicant shall include THE application ~~and examination fees as~~ FEE prescribed in section 32-2029.

~~B. The board may return an application with a statement of deficiencies. On request of an applicant who disagrees with the statement the board shall hold a hearing pursuant to title 41, chapter 6, article 10.~~

B. IF THE BOARD DENIES AN APPLICATION BECAUSE OF DEFICIENCIES IN AN APPLICATION, THE BOARD MUST INFORM AN APPLICANT OF THOSE SPECIFIC DEFICIENCIES. ON RECEIPT OF A WRITTEN REQUEST BY AN APPLICANT WHO DISAGREES WITH THE BOARD'S DECISION TO DENY AN APPLICATION, THE BOARD SHALL HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

Sec. 6. Section 32-2024, Arizona Revised Statutes, is amended to read:

32-2024. Examinations

A. The board shall ~~conduct~~ PRESCRIBE examinations ~~in this state at least quarterly at a time and place prescribed by the board. The board shall~~ FOR LICENSURE AND CERTIFICATION AND determine the passing score.

B. An applicant may take the examination for licensure ~~after the application process has been completed~~ IF THE APPLICANT HAS MET ALL OF THE REQUIREMENTS OF SECTION 32-2022, SUBSECTION A OR B AND HAS PAID THE FEES PRESCRIBED BY THIS CHAPTER. The national examination shall test entry level competency related to physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention and consultation.

C. An applicant may take the examination for certification ~~after the application process has been completed~~ IF THE APPLICANT HAS MET ALL OF THE REQUIREMENTS OF SECTION 32-2022, SUBSECTION D AND HAS PAID THE FEES PRESCRIBED BY THIS CHAPTER. The national examination shall test for requisite knowledge and skills in the technical application of physical therapy services.

D. An applicant for licensure or certification who does not pass the examination after the first attempt may retake the examination one additional time within six months after the first failure without reapplication for licensure or certification. ~~Before the board may approve an applicant for subsequent testing beyond two attempts, an applicant shall reapply for licensure or certification and shall demonstrate evidence satisfactory to the board of having successfully completed additional clinical training or course work, or both, as determined by the board.~~ AN APPLICANT MAY RETAKE THE EXAMINATION AS PRESCRIBED BY THE ORGANIZATION THAT ADMINISTERS THE EXAMINATION.

E. The board shall not issue a license or certificate to a person who passes an examination through fraud.

Sec. 7. Section 32-2025, Arizona Revised Statutes, is amended to read:

32-2025. Interim permits

A. If a foreign educated applicant satisfies the requirements of section 32-2022, subsection B, before the board issues a license it shall issue an interim permit to the applicant for the purpose of participating in a supervised clinical practice period. An applicant who fails the national examination is not eligible for an interim permit until the applicant passes the examination.

B. IF AN APPLICANT WHO HAS BEEN EDUCATED IN THE UNITED STATES SATISFIES THE REQUIREMENTS OF SECTION 32-2022, SUBSECTION A OR D, BUT THE BOARD DETERMINES THAT THERE IS EVIDENCE THAT THE APPLICANT LACKS THE COMPETENCE TO PRACTICE AS A PHYSICAL THERAPIST OR WORK AS A PHYSICAL THERAPIST ASSISTANT, THE BOARD SHALL ISSUE AN INTERIM PERMIT TO THE APPLICANT TO ALLOW THAT PERSON TO PARTICIPATE IN A SUPERVISED CLINICAL PRACTICE.

~~B.~~ C. The board may issue an interim permit for at least ninety days but not more than six months.

~~C.~~ D. An interim permit holder shall complete, to the satisfaction of the board, a period of clinical practice in a facility approved by the board and under the continuous and on-site supervision of a physical therapist who holds an unrestricted license issued pursuant to this chapter.

~~D. An interim permit is immediately revoked when the board notifies an interim permit holder that the permit holder has failed the licensing examination.~~

E. At any time during an interim supervised clinical practice period, the board may revoke an interim permit because of the permit holder's incompetence or for a violation of this chapter. PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10, the board shall hold a hearing on request of a permit holder whose permit is revoked.

Sec. 8. Section 32-2026, Arizona Revised Statutes, is amended to read:

32-2026. Licensure or certification by endorsement

A. The board shall issue a license to a physical therapist who has a valid unrestricted license from another jurisdiction of the United States if that person, when granted the license, met all OF THE requirements prescribed in section 32-2022, subsection A or B and any applicable board rules.

B. THE BOARD SHALL ISSUE A CERTIFICATE TO A PHYSICAL THERAPIST ASSISTANT WHO HAS A VALID UNRESTRICTED LICENSE OR CERTIFICATE FROM ANOTHER JURISDICTION OF THE UNITED STATES IF THAT PERSON, WHEN GRANTED THE LICENSE OR CERTIFICATE, MEETS ALL OF THE REQUIREMENTS PRESCRIBED IN SECTION 32-2022, SUBSECTION D AND ANY APPLICABLE BOARD RULES.

Sec. 9. Section 32-2027, Arizona Revised Statutes, is amended to read:

32-2027. License or certificate renewal

~~A.~~ A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state.

~~B. Each licensee and certificate holder is responsible for reporting to the board a name change and changes in business and home addresses within thirty days after the change.~~

Sec. 10. Section 32-2028, Arizona Revised Statutes, is amended to read:

32-2028. Reinstatement of license or certificate

A. The board may reinstate a lapsed license or certificate on payment of a renewal fee and reinstatement fee AND COMPLETION OF THE APPLICATION PROCESS AS PRESCRIBED BY THE BOARD.

B. If a person's license OR CERTIFICATE has lapsed for more than three consecutive years that person shall reapply for a license OR CERTIFICATE PURSUANT TO SECTION 32-2022 OR 32-2026 and pay all applicable fees. ~~The person shall also demonstrate to the board's satisfaction competency in the practice of physical therapy or shall serve an internship under a restricted license or take remedial courses as determined by the board, or both, at the board's discretion. The board may also require the applicant to take an examination.~~ THE PERSON MUST ALSO DEMONSTRATE TO THE BOARD'S SATISFACTION COMPETENCY BY SATISFYING ONE OR MORE OF THE FOLLOWING AS PRESCRIBED BY THE BOARD:

1. PRACTICING FOR A SPECIFIED TIME UNDER AN INTERIM PERMIT.
2. COMPLETING REMEDIAL COURSES.
3. COMPLETING CONTINUING COMPETENCE REQUIREMENTS FOR THE PERIOD OF THE LAPSED LICENSE.
4. PASSING AN EXAMINATION.

Sec. 11. Section 32-2029, Arizona Revised Statutes, is amended to read:

32-2029. Fees

The board shall establish and collect fees of not more than:

1. Three hundred dollars for an application for an original license or certificate. This fee is nonrefundable.

~~2. Five hundred dollars for an examination for licensure or certification.~~

~~3.~~ 2. Three hundred dollars for a certificate of renewal of a license or certificate.

~~4.~~ 3. Three hundred dollars for an application for reinstatement of licensure.

~~5.~~ 4. Fifty dollars for each duplicate license or certificate.

Sec. 12. Section 32-2041, Arizona Revised Statutes, is amended to read:

32-2041. Lawful practice

A. A physical therapist shall refer a client to appropriate health care practitioners if the physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice ~~and~~ OR if physical therapy is contraindicated.

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

~~C. This chapter does not authorize a physical therapist to practice any other profession regulated under this title. However, a physical therapist licensed pursuant to this chapter may practice physical therapy as defined in section 32-2001.~~

C. A PHYSICAL THERAPIST LICENSED UNDER THIS CHAPTER SHALL PRACTICE PHYSICAL THERAPY AS PRESCRIBED BY THIS CHAPTER.

Sec. 13. Section 32-2042, Arizona Revised Statutes, is amended to read:

32-2042. Use of titles; restrictions; violation; classification

A. A physical therapist shall use the letters "P.T." in connection with the physical therapist's name or place of business to denote licensure under this chapter.

B. A physical therapist assistant shall use the letters "P.T.A." in connection with that person's name to denote certification pursuant to this chapter.

C. A person or business entity or its employees, agents or representatives shall not use in connection with that person's name or the name or activity of the business the words "physical therapy", "physical

therapist", "physiotherapy", "physiotherapist" or "registered physical therapist", the letters "P.T.", "L.P.T.", "R.P.T.", "M.P.T." or "D.P.T." or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, including the billing of services labeled as physical therapy, unless these services are provided by or under the direction of a physical therapist licensed pursuant to this chapter. A person or entity that violates this subsection is guilty of a class 1 misdemeanor.

D. A PERSON OR BUSINESS ENTITY SHALL NOT ADVERTISE, BILL OR OTHERWISE PROMOTE A PERSON WHO IS NOT LICENSED PURSUANT TO THIS CHAPTER AS BEING A PHYSICAL THERAPIST OR OFFERING PHYSICAL THERAPY SERVICES.

~~D.~~ E. A person shall not use the title "physical therapist assistant" or use the letters "P.T.A." in connection with that person's name or any other words, abbreviations or insignia indicating or implying directly or indirectly that the person is a physical therapist assistant unless that person is certified as a physical therapist assistant pursuant to this chapter. A person who violates this subsection is guilty of a class 1 misdemeanor.

Sec. 14. Section 32-2043, Arizona Revised Statutes, is amended to read:

32-2043. Supervision; patient care management

A. A physical therapist is responsible for patient care given by assistive personnel under the physical therapist's supervision. A physical therapist may delegate to assistive personnel and supervise selected acts, tasks or procedures that fall within the scope of physical therapy practice but that do not exceed the education or training of the assistive personnel.

B. A physical therapist assistant shall function under the on-site supervision of a licensed physical therapist and as prescribed by board rules.

C. A physical therapy aide and other assistive personnel shall perform ~~patient care activities~~ DESIGNATED ROUTINE TASKS only under the on-site supervision of a licensed physical therapist WHO IS PRESENT IN THE FACILITY.

D. A LICENSED PHYSICAL THERAPIST MUST PROVIDE ON-SITE SUPERVISION OF AN INTERIM PERMIT HOLDER.

E. A PHYSICAL THERAPIST STUDENT AND A PHYSICAL THERAPIST ASSISTANT STUDENT MUST PRACTICE UNDER THE ON-SITE SUPERVISION OF A LICENSED PHYSICAL THERAPIST.

F. A PHYSICAL THERAPIST IS RESPONSIBLE FOR MANAGING ALL ASPECTS OF THE PHYSICAL THERAPY CARE OF EACH PATIENT. A PHYSICAL THERAPIST MUST PROVIDE:

1. THE INITIAL EVALUATION AND DOCUMENTATION FOR A PATIENT.

2. PERIODIC REEVALUATION AND DOCUMENTATION OF A PATIENT.

3. THE DOCUMENTED DISCHARGE OF A PATIENT, INCLUDING THE RESPONSE TO THERAPEUTIC INTERVENTION AT THE TIME OF DISCHARGE.

G. A PHYSICAL THERAPIST MUST VERIFY THE QUALIFICATIONS OF PHYSICAL THERAPIST ASSISTANTS AND OTHER ASSISTIVE PERSONNEL UNDER THE PHYSICAL THERAPIST'S DIRECTION AND SUPERVISION.

H. FOR EACH PATIENT ON EACH DATE OF SERVICE, A PHYSICAL THERAPIST MUST PROVIDE AND DOCUMENT ALL OF THE THERAPEUTIC INTERVENTION THAT REQUIRES THE EXPERTISE OF A PHYSICAL THERAPIST AND MUST DETERMINE THE USE OF PHYSICAL THERAPIST ASSISTANTS AND OTHER ASSISTIVE PERSONNEL TO ENSURE THE DELIVERY OF CARE THAT IS SAFE, EFFECTIVE AND EFFICIENT. DOCUMENTATION FOR EACH DATE OF SERVICE MUST BE AS PRESCRIBED BY THE BOARD BY RULE.

I. A PHYSICAL THERAPIST ASSISTANT MUST DOCUMENT CARE PROVIDED BUT MAY DO SO WITHOUT THE CO-SIGNATURE OF THE SUPERVISING PHYSICAL THERAPIST IF THE PHYSICAL THERAPIST COMPLIES WITH THE REQUIREMENTS OF SUBSECTIONS G AND H.

J. A PHYSICAL THERAPIST'S RESPONSIBILITY FOR PATIENT CARE MANAGEMENT INCLUDES ACCURATE DOCUMENTATION AND BILLING OF THE SERVICES PROVIDED.

Sec. 15. Section 32-2044, Arizona Revised Statutes, is amended to read:

32-2044. Grounds for disciplinary action

The following are grounds for disciplinary action:

~~1. Practicing physical therapy in violation of this chapter or rules adopted pursuant to this chapter.~~

1. VIOLATING THIS CHAPTER, BOARD RULES OR A WRITTEN BOARD ORDER.

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

3. Obtaining or attempting to obtain a license or certificate by fraud or misrepresentation.

4. Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.

5. Engaging in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform tasks selected and delegated by the supervising licensee regardless of whether actual injury to the patient is established.

6. Failing to supervise assistive personnel, PHYSICAL THERAPY STUDENTS OR INTERIM PERMIT HOLDERS in accordance with this chapter and rules adopted pursuant to this chapter.

7. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case conviction by a court of competent jurisdiction is conclusive evidence of the commission.

8. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by DISEASE OR TRAUMA, BY the use of controlled substances or other habit-forming drugs, chemicals or alcohol OR BY OTHER CAUSES.

9. Having had a license or certificate revoked or suspended or other disciplinary action taken or an application for licensure or certification

refused, revoked or suspended by the proper authorities of another state, territory or country.

10. Engaging in sexual misconduct. For the ~~purpose~~ PURPOSES of this paragraph, "sexual misconduct" includes:

(a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a provider-patient relationship exists.

(b) Making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with patients.

(c) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.

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

12. Failing to adhere to the recognized standards of ethics of the physical therapy profession.

13. Charging unreasonable or fraudulent fees for services performed or not performed.

14. Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter OR IN THE PRACTICE OF THE PROFESSION.

15. Having been adjudged mentally incompetent by a court of competent jurisdiction.

16. Aiding or abetting a person who is not licensed or certified in this state and who directly or indirectly performs activities requiring a license or certificate.

~~17. Failing to report to the board any act or omission of a licensee, certificate holder or applicant or any other person who violates this chapter.~~

17. FAILING TO REPORT TO THE BOARD ANY DIRECT KNOWLEDGE OF AN UNPROFESSIONAL, INCOMPETENT OR ILLEGAL ACT THAT APPEARS TO BE IN VIOLATION OF THIS CHAPTER OR BOARD RULES.

18. Interfering with an investigation or disciplinary proceeding by FAILING TO COOPERATE, BY wilful misrepresentation of facts or by the use of threats or harassment against any patient or witness to prevent ~~them~~ THE PATIENT OR WITNESS from providing evidence in a disciplinary proceeding or any legal action.

19. Failing to maintain patient confidentiality without prior written consent of the patient or unless otherwise required by law.

20. Failing to maintain adequate patient records. For the purposes of this subsection, "adequate patient records" means legible records that COMPLY WITH BOARD RULES AND THAT contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.

21. Promoting an unnecessary device, treatment intervention or service for the financial gain of the practitioner or of a third party.

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

~~23. Violating this chapter, board rules or a written order of the board.~~

23. FAILING TO REPORT TO THE BOARD A NAME CHANGE OR A CHANGE IN BUSINESS OR HOME ADDRESS WITHIN THIRTY DAYS AFTER THAT CHANGE.

Sec. 16. Section 32-2045, Arizona Revised Statutes, is amended to read:

32-2045. Investigative powers; emergency action

A. To enforce this chapter the board may:

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

2. Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the board has reason to believe that there may be a violation of this chapter.

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

4. Take emergency action ordering the summary suspension of a license or certificate or the restriction of the licensee's practice or certificate holder's employment pending proceedings by the board.

5. Require a licensee OR CERTIFICATE HOLDER to be examined in order to determine the licensee's OR CERTIFICATE HOLDER'S mental, physical or professional competence TO PRACTICE OR WORK IN THE FIELD OF PHYSICAL THERAPY.

B. If the board finds that the information received in a complaint or an investigation is not of sufficient seriousness to merit direct action against the licensee or certificate holder it may take either of the following actions:

1. Dismiss the complaint if the board believes the information or complaint is without merit.

~~2. File a letter of concern. A letter of concern is a public document and may be used in future disciplinary actions against a licensee or certificate holder.~~

2. ISSUE AN ADVISORY LETTER. THE ISSUANCE OF AN ADVISORY LETTER IS A NONDISCIPLINARY ACTION TO NOTIFY A LICENSEE OR CERTIFICATE HOLDER THAT, WHILE THERE IS NOT SUFFICIENT EVIDENCE TO MERIT DISCIPLINARY ACTION, THE BOARD BELIEVES THAT THE LICENSEE OR CERTIFICATE HOLDER SHOULD BE EDUCATED ABOUT THE REQUIREMENTS OF THIS CHAPTER AND BOARD RULES. AN ADVISORY LETTER IS A PUBLIC

DOCUMENT AND MAY BE USED IN FUTURE DISCIPLINARY ACTIONS AGAINST A LICENSEE OR CERTIFICATE HOLDER.

C. The board shall notify a licensee or certificate holder of a complaint and the nature of the complaint within ninety days after receiving the complaint.

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

E. The board shall keep confidential all information relating to the receipt and investigation of complaints filed against licensees and certificate holders until the information becomes public record or as required by law.

Sec. 17. Section 32-2046, Arizona Revised Statutes, is amended to read:

32-2046. Informal and formal hearings

A. The board may request an informal ~~interview~~ HEARING with a licensee, a certificate holder or any unlicensed person in order to further its investigation or to resolve a complaint.

B. If at an informal ~~interview~~ HEARING the board finds a violation of this chapter has occurred that constitutes grounds for disciplinary action, it may take any disciplinary actions prescribed in section 32-2047, paragraph 1~~,~~ OR 2 ~~or 3~~.

C. If the results of an informal ~~interview~~ HEARING indicate that suspension, revocation or a civil penalty might be in order, the board shall notify the subject of the investigation of the time and place for a hearing pursuant to title 41, chapter 6, article 10.

D. In lieu of or in addition to an informal ~~interview~~ HEARING as provided in subsection A of this section, the board may serve on a licensee or a certificate holder a summons and complaint setting forth the grounds for disciplinary action and notice of a hearing to be held before the board not less than thirty days after the date of the notice. The notice shall state the time and place of the hearing.

E. A motion for rehearing or review of the board's decision in a disciplinary action shall be filed pursuant to title 41, chapter 6, article 10.

F. The service of a summons and complaint and the service of a subpoena shall be as provided for service in civil cases.

G. If a person disobeys a subpoena the board may petition the superior court for an order requiring appearance or the production of documents.

Sec. 18. Section 32-2047, Arizona Revised Statutes, is amended to read:

32-2047. Disciplinary actions; penalties

On proof that any grounds prescribed in section 32-2044 have been violated, the board may take the following disciplinary actions singly or in combination:

1. Issue a decree of censure.

2. ~~Prescribe a licensee's scope of practice, place of practice or supervision of practice, the duration of a license or a certificate or the type or condition of patient or client served by a licensee or certificate holder.~~ RESTRICT A LICENSE OR A CERTIFICATE. The board may require a licensee or certificate holder to report regularly to the board on matters related to the grounds for the restricted license or certificate.

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

4. Revoke a license or certificate.

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

6. Impose a civil penalty of at least two hundred fifty dollars but not more than ten thousand dollars for each violation of this chapter. In addition the board may assess and collect the reasonable costs incurred in a disciplinary hearing when action is taken against a person's license or certificate.

7. Accept a voluntary surrendering of a license or certificate, IF APPROVED BY THE BOARD.

Sec. 19. Section 32-2048, Arizona Revised Statutes, is amended to read:

32-2048. Unlawful practice; classification; injunctive relief; deposit of civil penalties

A. It is unlawful for any person to practice or in any manner to claim to practice physical therapy or for a person to claim the designation of a physical therapist unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter or who uses any word, title or representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor.

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

C. The board, through the appropriate county attorney or the office of the attorney general, may apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of this chapter. Injunction proceedings are in addition to, and not in lieu of, all penalties and other remedies prescribed in this chapter.

~~D. A person who aids or requires another person to directly or indirectly violate this chapter or board rules, who permits a license to be used by another person or who acts with the intent to violate this chapter or board rules is subject to a civil penalty of not more than one thousand dollars for each violation and not more than five thousand dollars for each~~

~~subsequent violation. The board shall hold a hearing before it imposes this penalty.~~

~~E.~~ D. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies it collects from civil penalties pursuant to this chapter in the state general fund.

Sec. 20. Section 32-2049, Arizona Revised Statutes, is amended to read:

32-2049. Disclosure prohibition

~~A. A person, licensee, corporation, insurance company, health care organization or health care facility and state or local governmental agencies shall report to the board any conviction, determination or finding that a licensee has committed an act that constitutes a violation of section 32-2044.~~

~~B. A person is immune from civil liability, whether direct or derivative, for providing information in good faith to the board pursuant to subsection A of this section.~~

~~C.~~ The board shall not disclose the identity of a person who provides information unless this information is essential to proceedings conducted pursuant to sections 32-2045 and 32-2046 or unless required by a court.

Sec. 21. Section 32-2050, Arizona Revised Statutes, is amended to read:

32-2050. Substance abuse recovery program

In lieu of a disciplinary proceeding prescribed by this article the board may permit a licensee OR CERTIFICATE HOLDER to actively participate in a board approved substance abuse recovery program if:

1. The board has evidence that the licensee OR CERTIFICATE HOLDER is an impaired professional.

2. The licensee OR CERTIFICATE HOLDER has not been convicted of a felony relating to a controlled substance in a court of law of the United States or any other territory or country.

3. The licensee OR CERTIFICATE HOLDER enters into a written agreement with the board for a restricted license and complies with all of the terms of the agreement, including making satisfactory progress in the program and adhering to any limitations on the licensee's practice imposed by the board to protect the public. Failure to enter into such an agreement shall activate an immediate investigation and disciplinary proceedings by the board.

4. As part of the agreement established between the licensee OR CERTIFICATE HOLDER and the board, the licensee OR CERTIFICATE HOLDER signs a waiver allowing the substance abuse program to release information to the board if the licensee OR CERTIFICATE HOLDER does not comply with the requirements of this section or is unable to practice with reasonable skill or safety.

Sec. 22. Section 32-2051, Arizona Revised Statutes, is amended to read:

32-2051. Rights of consumers

A. The public has access to the following information:

1. A list of licensees and interim permit holders that includes the licensee's and interim permit holder's place of practice, license or interim permit number, date of license or interim permit expiration and status of license OR INTERIM PERMIT.

2. A list of physical therapist assistants certified in this state, including place of employment, certificate number, ~~and~~ date of certificate expiration AND STATUS OF CERTIFICATE.

~~3. A list of official actions taken by the board.~~

3. PUBLIC RECORDS.

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

C. If a referring practitioner is deriving direct or indirect compensation from the referral to physical therapy the physical therapist shall disclose this information in writing to the patient.

D. A physical therapist shall disclose in writing to a patient any financial interest in products the physical therapist endorses and recommends to the patient AND SHALL DOCUMENT THIS DISCLOSURE IN THE PATIENT'S RECORD.

E. A physical therapist shall ensure that each patient understands that the patient has freedom of choice in services and products.

F. Information relating to the physical therapist-patient relationship is confidential and shall not be communicated to a third party who is not involved in that patient's care without the prior written consent of the patient. The physical therapist shall divulge to the board information it requires in connection with any investigation, public hearing or other proceeding. The physical therapist-patient privilege does not extend to cases in which the physical therapist has a duty to report information as required by law. THE CONFIDENTIALITY REQUIREMENTS AND PRIVILEGES OF THIS SUBSECTION ALSO APPLY TO PHYSICAL THERAPIST ASSISTANTS.

G. Each licensee AND CERTIFICATE HOLDER shall display a copy of the ~~licensee's~~ license or CERTIFICATE AND current renewal verification in a location accessible to public view at the licensee's place of practice. IF THE LICENSEE OR CERTIFICATE HOLDER IS UNABLE TO DISPLAY THE LICENSE, CERTIFICATE OR CURRENT RENEWAL VERIFICATION, THE LICENSEE OR CERTIFICATE HOLDER MUST PRODUCE THAT DOCUMENTATION ON REQUEST.

H. THE BOARD SHALL KEEP ALL INFORMATION RELATING TO THE RECEIPT AND INVESTIGATION OF COMPLAINTS FILED AGAINST A LICENSEE OR CERTIFICATE HOLDER CONFIDENTIAL UNLESS THE INFORMATION IS DISCLOSED IN THE COURSE OF THE INVESTIGATION OR ANY SUBSEQUENT PROCEEDING OR IF THAT INFORMATION IS REQUIRED TO BE DISCLOSED BY LAW.

1 I. THE FOLLOWING ARE CONFIDENTIAL AND ARE NOT AVAILABLE TO THE PUBLIC:
2 1. PATIENT RECORDS, INCLUDING CLINICAL RECORDS, FILES, ANY REPORT OR
3 ORAL STATEMENT RELATING TO A DIAGNOSTIC FINDING OR TREATMENT OF A PATIENT.
4 2. ANY INFORMATION FROM WHICH A PATIENT OR A PATIENT'S FAMILY MIGHT
5 BE IDENTIFIED.
6 3. INFORMATION RECEIVED AND RECORDS OR REPORTS KEPT BY THE BOARD AS
7 A RESULT OF AN INVESTIGATION MADE PURSUANT TO THIS CHAPTER.

APPROVED BY THE GOVERNOR APRIL 27, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2004.