



Certification Page

Regular and Emergency Rules

Revised May 2014

☐ **Emergency Rules** *(After completing all of Sections 1 and 2, proceed to Section 5 below)*

☐ **Regular Rules**

<u>1. General Information</u>			
a. Agency/Board Name			
b. Agency/Board Address		c. City	d. Zip Code
e. Name of Contact Person		f. Contact Telephone Number	
g. Contact Email Address		h. Adoption Date	
i. Program			
<u>2. Rule Type and Information:</u> For each chapter listed, indicate if the rule is New, Amended, or Repealed.			
If "New," provide the Enrolled Act numbers and years enacted:			
c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed <i>(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)</i>			
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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	Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
	Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
d. <input type="checkbox"/> The Statement of Reasons is attached to this certification.			
e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:			

3. State Government Notice of Intended Rulemaking

- a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**:
- b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Legislative Service Office**:
- c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Attorney General**:

4. Public Notice of Intended Rulemaking

- a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. ☐ Yes ☐ No ☐ N/A
- b. A public hearing was held on the proposed rules. ☐ Yes ☐ No

If "Yes:"	Date:	Time:	City:	Location:

5. Final Filing of Rules

- a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**:
- b. Date on which final rules were sent to the **Legislative Service Office**:
- c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**:

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)	
Printed Name of Signatory	
Signatory Title	
Date of Signature	

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to Criss.Carlson@wyoleg.gov: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SOS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

STATEMENT OF REASONS

- CHAPTER 0: This chapter is a repeat of the statute W.S. 33-25-101 through 33-25-115 and is not necessary, therefore, repealed.
- CHAPTER 1: This chapter provides general provisions. Revisions include better definition of terms and incorporation by reference of the Office of Administrative Hearings rules in accordance with W.S. 16-3-102.
- CHAPTER 2: This chapter provides requirements for examinations. Revisions provide elimination of the remediation plan and limits to the number of times the exam can be taken.
- CHAPTER 3: This chapter provides requirements for obtaining and renewing a license or certificate. Revisions delete unnecessary repetition for U.S. educated and Foreign educated physical therapists and establish new continuing education requirements for renewal.
- CHAPTER 4: This chapter regulates ethical conduct of physical therapists and physical therapist assistants. Revisions provide better clarification and acceptable practices of licensees and certificate holders, allowing for better public protection.
- CHAPTER 5: This chapter establishes fees for services provided by the Board of Physical Therapy (Board). The Board has not increased fees for over ten (10) years. In 2009, the Board was given authority to require criminal background checks on new applicants. The additional expense of these reports was absorbed by the Board rather than charged to the applicant. At the same time, the Board eliminated fees charged for licensee rosters and began providing this service for free. Physical Therapist Assistants (PTAs) were not regulated in Colorado until 2012. Many PTAs living in Colorado were required by their employer to hold a license/certificate in another state in order to be employed in facilities across Colorado. When legislation was passed in Colorado authorizing regulation of PTAs, those PTAs certified in Wyoming did not renew their Wyoming certificate as it was no longer needed for their employer. This was a loss to the Board of approximately \$4,000 annually in renewal revenue as well as an undetermined loss of new applicants. The Board is also in need of a modernized credentialing system for better performance and streamlining of the licensing and renewal process for better efficiency. If fees are not increased, this endeavor cannot happen. B-11 requests in 2010, 2011 and 2012 to cover administrative costs have cut deeply into the Board's cash reserve. Due to the decreases in revenue and the additional duties assigned, the current revenue is insufficient to fully support the duties provided by Board.

CHAPTER 6: This chapter provides continuing competence requirements. Revisions restructure acceptable continuing competence, allowing a broader spectrum of activities no longer limited to “education” only, provide the Board authority to perform continuing competence audits, and allow for waiver of continuing competence requirements.

CHAPTER 7: This chapter provides standards of practice for physical therapists, physical therapist assistants and supportive personnel. Revisions provide better definition and clarification to delegation and supervision.

CHAPTER 8: This chapter provides information on application review and complaint processing. Revisions make this chapter more consistent with other Board’s rules at the request of the Attorney General’s Office.

CHAPTER 10: This chapter provides information for students and standards of practice for medications. Revisions eliminate the restriction of dispensing or selling topical medications to patients.

The Wyoming Board of Physical Therapy (Board) is authorized to adopt rules and regulations to implement the act under W.S. 33-25-104.

The Board has been working to revise the Rules and Regulations since 2012, when the need for more clarification and guidance regarding supervision became apparent. The Board decided to review all rules and found inconsistencies, repetition and lack of clarification in several areas.

The Board then began working on a complete revision of the Rules & Regulations, researching rules in surrounding states and seeking assistance from the Federation of State Boards of Physical Therapy (FSBPT).

On April 9, 2013, the Board received the letter from Governor Mead requesting a rule reduction by one third. The Board reviewed their draft rules and was able to reduce them by eight (8) pages. Although these rules have not been reduced the full one third (1/3) the Governor requested, the Board was able to reduce the rules from nine thousand seven hundred twenty-nine (9,729) words to nine thousand three hundred sixty-four (9,364) words. The Board feels these changes are necessary in light of its mission to protect Wyoming citizens and respectfully requests review of the rules as presented.

APPENDIX A

W.S. 33-25-101 THROUGH 33-25-115

CHAPTER 25

PHYSICAL THERAPISTS

33-25-101. Definitions.

~~(a) As used in this act:~~

~~(i) "Physical therapy" means the evaluation, instruction or treatment of a human being to prevent, correct, alleviate or limit physical disability due to injury, disease or any other physical or mental condition by the utilization of physical measures such as exercise, massage, heat, cold, air, light, water, electricity or sound, and rehabilitative procedures including training in functional activities and the performance and interpretation of tests and measurements of bodily functions as an aid in the examination, evaluation or treatment of any human conditions for the purpose of correcting or alleviating an individual's physical or mental disability. Physical therapy also includes the supervision of physical therapy activities, physical therapy consultation and the establishment and modification of physical therapy programs, but physical therapy shall not include radiology or electro-surgery or authorize the diagnosis of disease. Treatment by physical therapy shall be rendered subject to W.S. 33-25-102;~~

~~(ii) "Physical therapist" means a person who is licensed to practice physical therapy pursuant to this act;~~

~~(iii) "Board" means the Wyoming board of physical therapy as established under the provisions of this act;~~

~~(iv) "Applicant" means any individual who has applied to the board for licensure as a physical therapist or registration as a physical therapist assistant and whose application is pending, awaiting decision by the board;~~

~~(v) "Physical therapist assistant" means an individual who assists a licensed physical therapist subject to the provisions of this act and rules and regulations adopted pursuant thereto, and who has met all the requirements of this act;~~

~~(vi) "Physical therapy services" means services provided by a physical therapist or a physical therapist assistant licensed pursuant to this act;~~

~~(vii) "This act" means W.S. 33-25-101 through 33-25-115.~~

33-25-102. Practice of physical therapy; license required; exceptions; false representations.

~~(a) From and after January 1, 1962, no individual shall provide physical therapy services nor hold himself out as being able to practice physical therapy in the state of Wyoming unless he is licensed in accordance with the provisions of this act and such license is in good standing and has not been suspended or revoked, except nothing in this act shall:~~

~~(i) Prohibit any individual licensed in Wyoming under any other act from engaging in the practice for which he is licensed;~~

~~(ii) Prohibit students who are enrolled in educational courses of physical therapy at schools recognized by the board from performing acts of physical therapy incidental to their respective courses of study while under the direct supervision of a licensed physical therapist who is in compliance with subsection (c) of this section;~~

~~(iii) Apply to any individual employed by an agency, bureau or division of the federal government while in the discharge of official duties;~~

~~(iv) Prohibit an athletic trainer certified by a national athletic trainers' certification organization 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 or organization's athletic training facility or at the site of athletic practice or competition, provided that no person shall use in connection with his name or activity the words "athletic trainer" or "athletic training" or the letters "AT" or "ATC" unless the person is certified as provided by this paragraph.~~

~~(b) No person shall use in connection with his name or business, the words physical therapy, physical therapist, physiotherapy, physiotherapist, registered physical therapist, or the letters P.T., L.P.T., R.P.T. or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied in any manner when the person is not a physical therapist or physical therapist assistant licensed to practice in accordance with this act.~~

~~(c) Except as provided in this subsection, a physical therapist with a master's degree, or a bachelor's degree with five (5) years of clinical experience may initiate physical therapy treatment for a new or recurring injury with or without a prescription from a licensed physician including doctor of osteopathy, podiatrist, advanced practitioner of nursing, dentist, chiropractor or physician assistant. Nothing in this subsection shall be construed to preclude a physical therapist from treating a chronic or recurring injury or condition without a prescription, provided that the patient or client was previously diagnosed and prescribed physical therapy treatment within the previous year by a health care provider identified in this subsection and the treatment is directly related to the original prescribed care. Without a prescription, a physical therapist is prohibited from initiating physical therapy treatment for children under the age of twelve (12) years, unless the child is to receive physical therapy treatment under an individualized education program or an individualized family services plan. A physical~~

~~therapist shall refer the patient or client to a licensed physician including doctor of osteopathy, podiatrist, advanced practitioner of nursing, dentist, chiropractor or physician assistant, as appropriate, when:~~

~~(i) The physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of physical therapy practice;~~

~~(ii) Physical therapy is contraindicated; or~~

~~(iii) Except for patients or clients participating in general exercise or fitness programs or receiving physical therapy services under an individualized education program or an individualized family services plan, the patient or client has received physical therapy services without a prescription for twelve (12) visits or for a thirty (30) day period, whichever occurs earlier, and further services may be necessary.~~

~~(d) Assistive personnel may perform patient care activities as defined by the board under the on-site supervision of a licensed physical therapist or a registered physical therapist assistant.~~

~~(e) Prior to any physical therapy service, the patient or client shall be directed to posted information and delivered a handout explaining:~~

~~(i) The education level and degrees held by the treating physical therapist;~~

~~(ii) That coverage may not be available through governmental or worker's compensation programs unless prescribed by a physician, physician's assistant or nurse practitioner; and~~

~~(iii) That the patient's or client's insurance may not cover the service.~~

~~33-25-103. Board of physical therapy; established; members; terms; removal; compensation.~~

~~(a) There is established the Wyoming board of physical therapy which shall consist of three (3) physical therapists licensed pursuant to this act, one (1) public representative and one (1) medical doctor, appointed as follows:~~

~~(i) The physical therapist members shall be appointed by the governor from a list of five (5) qualified physical therapists submitted by the Wyoming chapter of American Physical Therapy Association. All shall be residents of Wyoming and practitioners of physical therapy. They shall meet all requirements established by the American Physical Therapy Association for registry of members and shall have practiced a minimum of three (3) years in Wyoming;~~

~~(ii) — A medical doctor shall be appointed to the board by the governor from a list of five (5) medical doctors, recommended on the basis of interest in physical therapy, by the Wyoming chapter of the American Physical Therapy Association. Those recommended shall be practicing physicians who have practiced in Wyoming for a period of at least five (5) years immediately preceding the appointment;~~

~~(iii) — The public member shall be appointed by the governor.~~

~~(b) — Terms of office for board members shall be for three (3) years with initial terms for the physical therapist members being staggered so the term of one (1) physical therapist expires each year. The governor may remove any member as provided in W.S. 9-1-202.~~

~~(c) — Members of the board shall each receive, from the physical therapy account fifty dollars (\$50.00) for each day actually spent in the performance of their board duties along with per diem and mileage allowance as allowed to state employees. Board members shall serve without compensation where there are insufficient monies in the account to pay the compensation.~~

~~(d) — Vacancies on the board shall be filled in a like manner as are the original appointments, to complete the unexpired term left vacant.~~

~~(e) — The members shall annually select a president and secretary who shall each serve a one (1) year term of office from the date of election.~~

~~(f) — The board shall meet at least twice annually and at such other times as the board deems necessary. Action by the board shall be by majority vote. Three (3) members constitute a quorum.~~

~~33-25-104. Board of physical therapy; powers and duties generally.~~

~~(a) — The board shall have the following powers and duties:~~

~~(i) — Pass upon the qualifications of applicants for license as a physical therapist and registration as a physical therapist assistant, conduct examinations for applicants, issue license or registration certificates to those who meet the requirements established by the board;~~

~~(ii) — Have authority to revoke, suspend or deny the license of any physical therapist or the registration of any physical therapy assistant or applicant pursuant to W.S. 33-25-111;~~

~~(iii) — Maintain current records listing the name of every physical therapist and physical therapist assistant licensed or registered in this state, his business and home address, the date and number of his license or registration and, if known, his area or expertise, professional interest or credentials;~~

~~(A) — This list shall be published and revised each year. Copies shall be available to any person.~~

~~(iv) — Adopt rules and regulations to implement this act;~~

~~(v) — Within the limitations provided in W.S. 33-25-113(a), set and from time to time revise fees as necessary to recover the expenses of administering this act.~~

~~33-25-105. License and registration requirements; foreign trained applicants.~~

~~(a) — Application for licensure or registration shall be made on forms prescribed by the board, presenting to the satisfaction of the board the following:~~

~~(i) — Evidence through the application or otherwise, as the board deems desirable with due regard to the paramount interests of the public, as to the honesty, truthfulness, integrity and competency of the applicant;~~

~~(ii) — Evidence of successful completion of a board approved program of physical therapy or physical therapy assistant as set forth in rules and regulations;~~

~~(iii) — A personal interview may be required if the board deems it necessary.~~

~~(b) — A physical therapist applicant whose application is based on a diploma issued to him by a physical therapy school outside the United States shall furnish evidence satisfactory to the board of the completion of a physical therapy school resident course of professional instruction equivalent to that required in paragraph (a)(ii) of this section. Foreign applicants shall satisfactorily complete a period of service not to exceed one (1) year under the continuous direction and immediate supervision of a licensed physical therapist in a physical therapy setting or in an institution either of which have been approved by the board for providing such a period of service. The board may waive all or any portion of the required period of service based on criteria set forth by the board in rules and regulations. Before a license may be issued, each foreign applicant shall pass a written examination prior to commencing a period of service and may be required to pass an oral examination at the completion of the period of service if the period of service has not been completed to the satisfaction of the supervising physical therapist.~~

~~33-25-106. Examinations.~~

~~(a) — All applicants shall be required to pass an examination prior to their being licensed or registered as provided herein unless otherwise exempted from examination pursuant to W.S. 33-25-108. The examination shall be approved and administered by the board and shall include a written examination which shall test each applicant's knowledge of basic and clinical sciences as they relate to physical therapy and physical~~

~~therapy theory and physical therapy procedures along with such other subjects as the board may deem useful to test the applicant's fitness to practice physical therapy or to act as physical therapy assistant. The board shall define passing and failing examination grades.~~

~~(b) — Examinations shall be held at such times and places as the board shall determine.~~

~~(c) — The board may appoint persons to conduct the examinations.~~

~~(d) — An applicant who fails his first examination shall be permitted to take another at the next examination scheduled after receiving notification of failure. If the second or a subsequent examination is failed, a minimum of six (6) months shall pass before a third or subsequent examination is given. The board may adopt special requirements for applicants seeking examination who have failed three (3) or more examinations.~~

~~33-25-107. License; certificate of registration; titles.~~

~~(a) — The board shall issue a license or certificate of registration to each applicant who meets the requirements for licensure or registration without examination or who passes the examination and meets the standards established herein for licensure or registration.~~

~~(b) — Each individual licensed as a physical therapist in this state is authorized to use the letters "L.P.T." or "P.T." after his name, and may represent himself to the public as a licensed physical therapist.~~

~~(c) — Each individual registered as a physical therapist assistant shall be entitled to use the letters "R.P.T.A." or "P.T.A." after his name, and may represent himself to the public as a registered physical therapist assistant.~~

~~33-25-108. Licensure or registration without examination.~~

~~The board shall license or register without examination those applicants who meet the requirements set forth in W.S. 33-25-108 and who are licensed or registered as a physical therapist or licensed, registered or certified as a physical therapist assistant by another state or territory of the United States or the District of Columbia if the requirements for license, registration or certification in the state, territory or district were, at the date of licensure or registration substantially equal to the requirements for licensing or registration set forth in this act. However, if the applicant has not taken a physical therapy examination given by the professional examination service, or has failed the examination one (1) or more times, issuance of a license or registration under this section is at the discretion of the board.~~

~~33-25-109. Temporary license.~~

~~(a) — Temporary license to practice physical therapy in Wyoming may be issued in the board's discretion to qualified persons who are licensed or registered in another state or territory of the United States of America or the District of Columbia and who are working in Wyoming on a temporary basis to assist in a medical emergency, or who are engaged in a special physical therapy project or educational program. A temporary license shall be limited to one (1) year and is nonrenewable.~~

~~(b) — The board shall issue a temporary license to an individual who has applied for a license under the provisions of W.S. 33-25-105 and who is, in the judgment of the board, eligible to take the examination provided for in W.S. 33-25-106. The temporary license shall be available to an applicant with respect to his application for a license under W.S. 33-25-105 but the applicant may only use the temporary license while under the direct supervision of a licensed physical therapist. Any temporary license shall expire upon the failure of the first examination and upon expiration the license shall be surrendered to the board.~~

~~(c) — A temporary license may be issued in the board's discretion to an applicant who is seeking licensure without examination under W.S. 33-25-108 but the applicant may only use the temporary license while under the supervision of a licensed physical therapist. The temporary license shall expire upon the board's determination of the application submitted by the applicant under W.S. 33-25-108.~~

~~33-25-110. License or registration expiration and renewal.~~

~~All permanent licenses and certificates of registration issued pursuant to this act shall expire on January 1 of the year next succeeding their issuance. A license or certificate of registration may be renewed by making application and upon payment of the required fee. A license or certificate of registration which has expired may be renewed within five (5) years of its expiration by the payment of renewal fees for each year or part thereof during which the license or registration was ineffective, and the payment of the required restoration fee. No renewal shall be permitted of a license or certificate of registration which has expired and has not been renewed for five (5) years from its expiration date, without full compliance with all requirements of this act.~~

~~33-25-111. Denial, suspension or revocation of license or registration.~~

~~(a) — The board may limit the scope of practice allowed by the license or registration, or condition the retention of a license or registration upon successful completion of any reasonable requirement, or may refuse to license or register any applicant or may refuse to renew the license or registration of any person or may suspend or revoke the license or registration of any individual, who:~~

~~(i) — Practices physical therapy or acts as a physical therapist assistant in violation of the provisions of this act;~~

~~(ii) Attempts to or obtains licensure or registration by fraud or misrepresentations;~~

~~(iii) Commits negligence or incompetence in the practice of physical therapy;~~

~~(iv) Has been convicted of a felony in the courts of this state or any other state, territory or country. As used in this paragraph, conviction includes a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere;~~

~~(v) Habitually indulges in the use of controlled substances, or excessively indulges in the use of alcoholic liquors or malt beverages;~~

~~(vi) Has treated or has undertaken to treat human ailments otherwise than by physical therapy as defined in this act;~~

~~(vii) Has had his license to practice physical therapy or registration to act as a physical therapist assistant refused, revoked or suspended or has had other disciplinary action taken by the proper authorities of another state, territory or country;~~

~~(viii) Has negligently failed to refer a patient whose condition is beyond the training or ability of the physical therapist to another professional qualified to diagnose or care for the condition;~~

~~(ix) Has been guilty of any conduct or practice contrary to recognized standards of ethics of the physical therapy profession where the conduct or practice might constitute a danger to the health, safety or welfare of the patient or the public;~~

~~(x) Engages directly or indirectly in the division, transferring, assigning, rebating, or refunding of fees received for professional services or profits by means of a credit or other valuable consideration as an unearned commission, discount or gratuity with any person who has referred a patient, or with any relative or business associate of the referring person. Nothing in this paragraph shall be construed as prohibiting the members of any regularly and properly organized business entity comprised of or including physical therapists from making any division of their total fees among themselves as they determine by contract necessary;~~

~~(xi) Been judged mentally incompetent by a court of competent jurisdiction;~~

~~(xii) Fails to refer a patient or client or post information as required by W.S. 33-25-102(c) and (e).~~

~~(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding,~~

~~suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.~~

~~33-25-112. Hearing and appeal procedures.~~

~~(a) — The board shall notify any applicant of a decision to deny a license or registration for the applicant's failure to comply with the requirements of this act. The board shall notify any licensed physical therapist or registered physical therapy assistant of any complaint against him or of any revocation or suspension decision being considered by the board by registered mail sent to his last known address or by personal service of the notice. Except as provided by W.S. 33-25-111(b), within sixty (60) days of the mailing or delivery by personal service of the notice, the person may demand a hearing before the board. The board shall grant such demands. The hearing shall be conducted in accordance with the provisions of the Wyoming Administrative Procedure Act.~~

~~(b) — Except as provided by W.S. 33-25-111(b), all board decisions concerning revocation or suspension of a license or registration shall require an affirmative vote of three (3) board members.~~

~~(c) — In any appeal procedure the board shall be represented by an attorney from the staff of the attorney general.~~

~~33-25-113. Fees.~~

~~(a) — The board, pursuant to W.S. 33-1-201, shall establish fees for examination, licensure or registration without examination, temporary licensure or registration, renewal and restoration.~~

~~(b) — All money shall be received and collected as provided by law. The state treasurer shall credit the money to a separate account which is subject at all times to the warrant of the state auditor, drawn upon written requisition of the president, and attested by the secretary of the board of physical therapy, with seal attached, for the payment of any expenses made by the board.~~

~~(c) — Repealed by Laws 1985, ch. 216, § 3.~~

~~33-25-114. Penalties.~~

~~Each violation of this act is punishable by fine of not more than seven hundred fifty dollars (\$750.00) or by imprisonment for not more than six (6) months, or both.~~

~~33-25-115. Actions against board members; defense.~~

~~The state shall defend and hold harmless any member of the board from any action at law resulting from any action taken in good faith in the course of his official duties.~~

CHAPTER 1

GENERAL PROVISIONS

Section 1. Statement of purpose. The Wyoming State Board of Physical Therapy Rules and Regulations are set forth and promulgated for the purpose of interpreting and implementing W. S. 33-25-101 through 33-25-116 et seq.

Section 2. Severability. If any provisions of these rules or the application thereof to any license or certificate holder or circumstance is determined to be invalid, such invalidity shall not affect other provisions or application of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are declared to be severable.

Section 3. Terms defined by Statute. Terms defined in W. S. 33-25-101 through 33-25-116 shall have the same meaning when used in these rules unless the context or subject matter clearly requires a different interpretation.

Section 4. Definitions. Unless specifically stated otherwise, the following definitions are applicable throughout this title:

(a) "Approved program" means a school of physical therapy or a program of physical therapist assistant training which is CAPTE accredited and approved by the Board.

(b) "Board" means the Wyoming State Board of Physical Therapy.

(c) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(d) "Consultation by means of telecommunications" means that a physical therapist renders professional or expert opinion or advice to another physical therapist or health care provider via telecommunications or computer technology from a distant location. It includes the transfer of data or exchange of educational or related information by means of audio, video, or data communications. The physical therapist may use telehealth technology as a vehicle for providing only services that are legally or professionally authorized. The patient's written or verbal consent will be obtained and documented prior to such consultation. All records used or resulting from a consultation by means of telecommunications are part of a patient's record and are subject to applicable confidentiality requirements.

(e) "Direct supervision" means the physical therapist/physical therapist assistant is physically present on the premises and immediately available for direction and supervision.

(f) "Dry needling" is a manual therapy technique that uses a filiform needle as mechanical device to treat conditions within the scope of physical therapy practice. It is based upon Western medical concepts, requires a physical therapy examination and physical therapy diagnosis, and treats specific anatomic entities. Dry needling does not include the stimulation of auricular or acupuncture meridians.

(g) “Examination” means a national examination approved by the Board for the license of a physical therapist or certificate of a physical therapist assistant.

(h) “NPTE” means the National Physical Therapy Examination.

(i) “Restricted” for a physical therapist assistant means a license or certificate on which the Board places restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client whom the license may provide services.

(j) “Student” is an individual who is currently engaged in the fulfillment of a physical therapy or physical therapist assistant educational program approved by the Board.

(k) “Supportive personnel” are persons other than licensed physical therapists who function in a physical therapy setting and assist with physical therapy care.

(l) “Testing” means standard methods and techniques used to gather data about the patient.

Section 5. Incorporation by Reference.

(a) For any code, standard, rule, regulation or statute incorporated by reference in these rules:

(i) The Board has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated code, standard, rule, regulation or statute is maintained at 2001 Capitol Avenue, Room 104, Cheyenne, WY 82002 and is available for public inspection and copying at cost at the same location;

(b) Each code, standard, rule, regulation or statute incorporated by reference in these Board Rules is further identified as follows:

(i) The rule incorporated by reference in Chapter 8, Section 18 of these Board Rules is Office of Administrative Hearing Rules as existing on October 17, 2014. Copies of these rules can be obtained from the Wyoming Secretary of State Office at the following location <http://soswy.state.wy.us/Rules/default.aspx>.

CHAPTER 1

GENERAL PROVISIONS

Section 1. Statement of purpose. The Wyoming State Board of Physical Therapy Rules and Regulations are set forth and promulgated for the purpose of interpreting and implementing W. S. 33-25-101 through 33-25-116 et seq.

Section 2. Severability. If any provisions of these rules or the application thereof to any license or certificate holder or circumstance is determined to be invalid, such invalidity shall not affect other provisions or application of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are declared to be severable.

Section 3. Terms defined by Statute. Terms defined in W. S. 33-25-101 through 33-25-116 shall have the same meaning when used in these rules unless the context or subject matter clearly requires a different interpretation.

Section 4. Definitions. Unless specifically stated otherwise, the following definitions are applicable throughout this title:

(a) "Approved program" means a school of physical therapy or a program of physical therapist assistant training which is CAPTE ~~nationally~~ accredited and approved by the Board.

(b) "Board" means the Wyoming State Board of Physical Therapy.

(c) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(d) "Consultation by means of telecommunications" means that a physical therapist renders professional or expert opinion or advice to another physical therapist or health care provider via telecommunications or computer technology from a distant location. It includes the transfer of data or exchange of educational or related information by means of audio, video, or data communications. The physical therapist may use telehealth technology as a vehicle for providing only services that are legally or professionally authorized. The patient's written or verbal consent will be obtained and documented prior to such consultation. All records used or resulting from a consultation by means of telecommunications are part of a patient's record and are subject to applicable confidentiality requirements.

(e) "Direct supervision" means the physical therapist/physical therapist assistant is physically present on the premises and immediately available for direction and supervision. ~~The physical therapist will have direct contact with the patient during each visit. Telecommunications does not meet the requirement for direct supervision.~~

(f) ~~"Examination" means a national examination approved by the Board for the license of a physical therapist or a physical therapist assistant.~~ "Dry needling" is a manual therapy technique that uses a filiform needle as mechanical device to treat conditions within the

scope of physical therapy practice. It is based upon Western medical concepts, requires a physical therapy examination and physical therapy diagnosis, and treats specific anatomic entities. Dry needling does not include the stimulation of auricular or acupuncture meridians.

(g) ~~"FCCPT" means Foreign Credentialing Commission on Physical Therapy.~~ "Examination" means a national examination approved by the Board for the license of a physical therapist or certificate of a physical therapist assistant.

(h) ~~"FSBPT" means the Federation of State Boards of Physical Therapy. "NPTE" means the National Physical Therapy Examination.~~

(i) ~~"ICD" means the International Consultants of Delaware. "Restricted" for a physical therapist assistant means a license or certificate on which the Board places restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client whom the license may provide services.~~

(j) ~~"IERF" means the International Education Research Foundation. "Student" is an individual who is currently engaged in the fulfillment of a physical therapy or physical therapist assistant educational program approved by the Board.~~

(k) ~~"NPTE" means the National Physical Therapy Examination. "Supportive personnel" are persons other than licensed physical therapists who function in a physical therapy setting and assist with physical therapy care.~~

(l) ~~"Restricted" for a physical therapist or physical therapist assistant means a license or certificate on which the Board places restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client to whom the license may provide services. "Testing" means standard methods and techniques used to gather data about the patient.~~

(m) ~~"Student" is an individual who is currently engaged in the fulfillment of a physical therapy or physical therapist assistant educational program approved by the Board.~~

(n) ~~"Supportive personnel" are persons other than licensed physical therapists who function in a physical therapy setting and assist with physical therapy care.~~

(o) ~~"Testing" means standard methods and techniques used to gather data about the patient.~~

Section 5. Incorporation by Reference.

(a) For any code, standard, rule, regulation or statute incorporated by reference in these rules:

(i) The Board has determined that incorporation of the full text in these rules

would be cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated code, standard, rule, regulation or statute is maintained at 2001 Capitol Avenue, Room 104, Cheyenne, WY 82002 and is available for public inspection and copying at cost at the same location;

(b) Each code, standard, rule, regulation or statute incorporated by reference in these Board Rules is further identified as follows:

(i) The rule incorporated by reference in Chapter 8, Section 18 of these Board Rules is Office of Administrative Hearing Rules as existing on October 17, 2014. Copies of these rules can be obtained from the Wyoming Secretary of State Office at the following location <http://soswy.state.wy.us/Rules/default.aspx>.

CHAPTER 2

EXAMINATIONS

Section 1. Examinations

(a) Frequency and locations of examinations. Computer-based examinations are available by appointment at designated sites.

(b) Repeating examinations. An applicant who fails an examination may repeat the examination, but must pay another examination fee each time the examination is repeated

(i) No applicant will be licensed or certified if they have taken the NPTE more than four (4) times.

(c) Eligibility to take examination. An applicant must have graduated from a CAPTE accredited program, or be enrolled in the final semester of a CAPTE accredited program in order to be eligible to sit for the examination.

CHAPTER 2

EXAMINATIONS

Section 1. Examinations

(a) Frequency and locations of examinations. Computer-based examinations are available by appointment at designated sites.

(b) Repeating examinations. An applicant who fails an examination may repeat the examination, but must pay another examination fee each time the examination is repeated. ~~After the second failed attempt, an applicant must complete a remediation plan approved by the Board, and wait at least six months before repeating the examination. An applicant may not take the examination more than three times within a calendar year.~~

(i) No applicant will be licensed or certified if they have taken the NPTE more than four (4) times.

(c) Eligibility to take examination. An applicant must have graduated from an approved CAPTE accredited program, or be enrolled in the final semester of a CAPTE accredited program in order to be eligible to sit for ~~prior to taking~~ the examination.

CHAPTER 3

LICENSE OR CERTIFICATION

Section 1. General license or certification requirements for graduates of approved programs. The following requirements apply to all applicants for license or certification who are graduates of physical therapy or physical therapist assistant programs:

- (a) Application procedures. All applicants shall submit:
 - (i) A complete and legible application form with a recent, unmounted, full-face photograph;
 - (ii) Proof of Lawful Presence in the United States;
 - (iii) Payment of the fees set by the Board.
 - (iv) An official transcript giving evidence of graduation from a nationally accredited program approved by the Board.
 - (v) Passing scores on the National Physical Therapy Examination (NPTE);
 - (vi) Verification of license/certificate in good standing from all jurisdictions in which the applicant has been licensed or certified;
 - (vii) A successfully completed state jurisprudence examination with a passing score of at least seventy-five (75) percent;
 - (viii) Two (2) professional letters of recommendation attesting to the applicant's good moral character and professional abilities;
 - (ix) License and certificate holders from other jurisdictions applying for a license or certificate in Wyoming must provide evidence of completion of fifteen (15) hours of continuing competence credits within the last year.
 - (x) In order to obtain state and national criminal history record information, legible fingerprint cards as required by W.S. 7-19-201(a)(xv);
 - (xi) Evidence of passing a Board-approved English proficiency examination if the applicant's native language is not English;
 - (xii) Foreign-educated applicants must complete a six-month preceptorship under the direct supervision of a physical therapist licensed and actively practicing in Wyoming. The Board may waive all or any portion of the required preceptorship based on a favorable written report provided by the applicant's direct supervisor or if the supervisory requirement has been met in another state.

(b) No applicant for license or certificate shall have been convicted of an offense involving moral turpitude or controlled substances which may impair the applicant's ability to provide competent health care or which could pose a threat to the safety of the consumer public. A plea of nolo contendere shall establish guilt to the underlying criminal charge(s);

(c) The Board may issue a temporary practice permit to a military spouse who holds a current license or certificate in good standing from another jurisdiction which state mandates substantially equivalent or more stringent educational, training, examination and experience requirements for licensure or certification. The temporary permit shall be valid for ninety (90) days, or until the Board office is in receipt of the criminal background check.

Section 2. Renewal of license and certification.

(a) A license or certificate not renewed annually by October first is expired.

(b) It is the license or certificate holder's responsibility to renew before the October first deadline.

(c) Renewal of a license or certificate shall include:

(i) The successful completion of fifteen (15) continuing competence units taken within the year prior to renewal (October 2 through October 1); and

(ii) The successful completion of the jurisprudence examination every even numbered year.

(A) A score of at least seventy-five percent (75%) is required on the jurisprudence examination.

(d) Each license or certificate holder is responsible for reporting a name change and changes in business and home addresses to the Board within thirty (30) days of the change.

Section 3. Expired license or certificate.

(a) A license or certificate holder who fails to renew the license or certificate on or before the expiration date shall not practice as a physical therapist or physical therapist assistant in this state.

(b) License or certificate holders who allow their license or certificate to expire must complete the licensing or certification requirements specified in Rules and Regulations, Chapter 3, Section 1 if they choose to reapply for a license or certificate in this state.

CHAPTER 3

LICENSE OR CERTIFICATION

Section 1. General license or certification requirements for graduates of approved programs. The following requirements apply to all applicants for license or certification who are graduates of physical therapy or physical therapist assistant programs ~~approved by the Board:~~

(a) ~~United States educated applicants~~ Application procedures. All applicants shall submit:

(i) A complete and legible application form with a recent, unmounted, full-face photograph;

(ii) Proof of Lawful Presence in the United States;

(iii) Payment of the fees set by the Board.

(iv) An official transcript giving evidence of graduation from ~~a~~ nationally accredited program approved by CAPTE the Board.

(v) Passing scores on the National Physical Therapy Examination (NPTE);

(vi) Verification of license/certificate in good standing from all jurisdictions in which the applicant has been licensed or certified;

(vii) A ~~Successfully~~ completedion of the state jurisprudence examination with a passing score of at least seventy-five (75) percent;

(viii) ~~Completion of other educational requirements as set by the Board.~~ Two (2) professional letters of recommendation attesting to the applicant's good moral character and professional abilities;

(ix) ~~Two (2) professional letters of recommendation attesting to the applicants good moral character and professional abilities;~~ License and certificate holders from other jurisdictions applying for a license or certificate in Wyoming must provide evidence of completion of fifteen (15) hours of continuing competence credits within the last year.

(x) In order to obtain state and national criminal history record information, legible fingerprint cards as required by W.S. 7-19-201(a)(xv);

(xi) ~~No applicant for license shall have been convicted of an offense involving moral turpitude or controlled substances which may impair the applicant's ability to provide competent health care or which could pose a threat to the safety of the consumer public. A plea of nolo contendere shall establish guilt to the underlying criminal charge(s)~~ Evidence of passing a Board-approved English proficiency examination if the applicant's native language is

not English;

(xii) ~~At the Board's discretion, an interview with the Board or its designees~~ Foreign-educated applicants must complete a six-month preceptorship under the direct supervision of a physical therapist licensed and actively practicing in Wyoming. The Board may waive all or any portion of the required preceptorship based on a favorable written report provided by the applicant's direct supervisor or if the supervisory requirement has been met in another state.

(b) ~~Foreign-educated applicants: No applicant for license or certificate shall have been convicted of an offense involving moral turpitude or controlled substances which may impair the applicant's ability to provide competent health care or which could pose a threat to the safety of the consumer public. A plea of nolo contendere shall establish guilt to the underlying criminal charge(s);~~

(i) ~~— A complete and legible application form with a recent, unmounted, full face photograph;~~

(ii) ~~— Proof of Lawful Presence in the United States;~~

(iii) ~~— Payment of the fees set by the Board.~~

(iv) ~~— Satisfactory evidence from a credentialing agency approved by the Board that the applicant's education is substantially equivalent to the requirements of physical therapists educated in a United States physical therapy education program. Substantially equivalent means an applicant for license educated outside of the United States shall have:~~

(A) ~~— Graduated from a physical therapist education program that prepares the applicant to engage without restrictions in the practice of physical therapy.~~

(B) ~~— Proof that the applicant's school of physical therapy education is recognized by its own ministry of education.~~

(C) ~~— Passed the Board approved English proficiency examination if the applicant's native language is not English.~~

(D) ~~— Passing scores on the National Physical Therapy Examination (NPTE).~~

(E) ~~— Verification of license in good standing from all jurisdictions in which the applicant has been licensed.~~

(F) ~~— Successful completion of the jurisprudence examination.~~

(G) ~~— Two (2) professional letters of recommendation attesting to the applicants good moral character and professional abilities;~~

~~(H) At the Board's discretion, an interview with the Board or its designee.~~

~~(v) Complete a six month preceptorship under the direct supervision of a physical therapist licensed and actively practicing in Wyoming. The Board may waive all or any portion of the required preceptorship based on a favorable written report provided by the applicant's direct supervisor or if the supervisory requirement has been met in another state.~~

~~(vi) In order to obtain state and national criminal history record information legible fingerprint cards as required by W.S. 7-19-201(a)(xv);~~

~~(vii) No applicant for license shall have been convicted of an offense involving moral turpitude or controlled substances which may impair the applicant's ability to provide competent health care or which could pose a threat to the safety of the consumer public. A plea of nolo contendere shall establish guilt to the underlying criminal charge(s);~~

(c) The Board may issue a temporary practice permit to a military spouse who holds a current license or certificate in good standing from another jurisdiction which state mandates substantially equivalent or more stringent educational, training, examination and experience requirements for licensure or certification. The temporary permit shall be valid for ninety (90) days, or until the Board office is in receipt of the criminal background check.

Section 2. ~~Types~~ Renewal of license and certification.

~~(a) For license and certification by examination, all general license or certification requirements must be met~~ A license or certificate not renewed annually by October first is expired.

~~(b) For license or certification by endorsement all applicants must meet the requirements in W. S. 33-25-108:~~ It is the license or certificate holder's responsibility to renew before the October first deadline.

~~(i) Verification of license or certification in good standing from all jurisdictions in which the applicant has been licensed or certified.~~

~~(c) National Physical Therapy Examination Scores transmitted by a score transfer service approved by the Board:~~ Renewal of a license or certificate shall include:

(i) The successful completion of fifteen (15) continuing competence units taken within the year prior to renewal (October 2 through October 1); and

(ii) The successful completion of the jurisprudence examination every even numbered year.

(A) A score of at least seventy-five percent (75%) is required on

the jurisprudence examination.

(d) ~~Two (2) professional letters of recommendation attesting to the applicants good moral character and professional abilities~~ Each license or certificate holder is responsible for reporting a name change and changes in business and home addresses to the Board within thirty (30) days of the change.

(e) ~~At the Board's discretion, an interview with the Board or its designees.~~

Section 3. ~~Lapse in practice~~ Expired license or certificate.

(a) ~~If the applicant has not practiced physical therapy during the past three (3) years, the applicant shall demonstrate competence to practice physical therapy to the Board's satisfaction through one or more of the following determined by the Board: A license or certificate holder who fails to renew the license or certificate on or before the expiration date shall not practice as a physical therapist or physical therapist assistant in this state.~~

(i) ~~Practice for a specified time under a restricted license.~~

(ii) ~~Complete prescribed remedial courses.~~

(iii) ~~Complete continuing education or similar requirements for the period of the lapse in practice.~~

(iv) ~~Pass an examination.~~

(b) License or certificate holders who allow their license or certificate to expire must complete the licensing or certification requirements specified in Rules and Regulations, Chapter 3, Section 1 if they choose to reapply for a license or certificate in this state.

Section 4. ~~Renewal of license and certification.~~

(a) ~~A license or certificate not renewed annually by October first are expired.~~

(b) ~~It is the license's or certificate holder's responsibility to renew before the October first deadline.~~

(c) ~~Renewal of a license or certificate shall include the successful completion of the jurisprudence examination every two (2) years.~~

(d) ~~A license or certificate holder who fails to renew the license or certificate on or before the expiration date shall not practice as a physical therapist or physical therapist assistant in this state.~~

(e) ~~To renew a license or certificate that has expired the license or certificate holder will have to:~~

~~(i) Complete the licensing or certification requirements as specified in Rules and Regulations, Chapter 3, Section 1(a) and;~~

~~(ii) Complete other educational requirements as prescribed by the Board.~~

~~(f) Each license or certificate holder is responsible for reporting a name change and changes in business and home addresses to the Board within thirty (30) days of the change.~~

CHAPTER 4

CODE OF ETHICAL CONDUCT

Section 1. Code of ethical conduct for physical therapists and physical therapist assistants. An individual licensed or certified by the Board has a responsibility to report any organization or entity that provides or holds itself out to deliver physical therapy services that place the license or certificate holder in a position of compromise with this code of ethical conduct.

Section 2. Ethical integrity. License and certificate holders shall use the provisions contained in paragraphs (a) to (g) of this rule as guidelines for promoting ethical integrity and professionalism. Failure to comply with paragraphs (a) to (g) of this rule may be grounds for disciplinary action pursuant to W.S. 33-25-111.

(a) A license or certificate holder shall respect the rights and dignity of all patients and provide compassionate care.

(i) A license or certificate holder shall recognize individual differences with patients and shall respect and be responsive to those differences.

(ii) A license or certificate holder shall be guided by concern for the physical, psychosocial, and socioeconomic welfare of patients.

(b) A license or certificate holder shall exercise sound judgment and act in a trustworthy manner in all aspects of physical therapy practice. Regardless of practice setting, the physical therapist shall maintain the ability to make independent judgments. A license or certificate holder shall strive to effect changes that benefit the patient.

(c) A license or certificate holder shall only seek compensation that is reasonable for the physical therapy services delivered. A license or certificate holder shall never place the license or certificate holder's own financial interests above the welfare of the license or certificate holder's patients. A license or certificate holder, regardless of the practice setting, shall safeguard the public from unethical and unlawful business practices.

(d) A license or certificate holder shall not influence a patient or the patient's family to utilize, purchase, or rent any equipment based on the direct or indirect financial interests of the licensee. Recommendations of equipment must be based solely on the therapeutic value of that equipment to the patient. A licensee who owns or has a direct financial interest in an equipment or supply company must disclose the financial interest to the patient if the licensee sells or rents, or intends to sell or rent, to the patient.

(e) A license or certificate holder shall ensure the patient's rights to participate fully in their care, including the patient's right to select the physical therapy provider, regardless of the practice setting.

(f) A license or certificate holder shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

(g) A license or certificate holder shall safeguard the public from underutilization or overutilization of physical therapy services.

Section 3. Ethical conduct. Ethical conduct includes conforming to the minimal standards of acceptable and prevailing physical therapy practice. Conduct may be considered unethical regardless of whether or not actual injury to a patient occurred. Failure to comply with paragraphs (a) to (k) of this rule may be grounds for disciplinary action pursuant to W.S. 33-25-111.

(a) A license or certificate holder shall adhere to the standards of ethical practice by practicing in a manner that is moral and honorable. A license or certificate holder may be disciplined for violating any provision contained herein.

(b) A license or certificate holder shall adhere to the minimal standards of acceptable prevailing practice. Failure to adhere to minimal standards of practice, whether or not actual injury to a patient occurred, includes, but is not limited to:

(i) Failing to assess and evaluate a patient's status;

(ii) Performing or attempting to perform techniques, procedures, or both in which the license or certificate holder is untrained by education or experience;

(iii) Delegating physical therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibility in question;

(iv) Causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of their dignity;

(v) Providing treatment interventions that are not warranted by the patient's condition or continuing treatment beyond the point of reasonable benefit to the patient;

(vi) Providing substandard care as a physical therapist assistant by exceeding the authority to perform components of physical therapy interventions selected by the supervising physical therapist or through a deliberate or negligent act or failure to act, whether or not actual injury to any person occurred;

(vii) Abandoning the patient by inappropriately terminating the patient practitioner relationship by the licensee.

(c) A license or certificate holder shall not engage in conduct that constitutes harassment or verbal or physical abuse of, or unlawful discrimination against, patients.

(d) A license or certificate holder shall not engage in any sexual relationship or

conduct, including dating, with any patient, or engage in any conduct that may reasonably be interpreted by the patient to be sexual, whether consensual or nonconsensual, while a therapist-patient relationship exists.

(i) A license or certificate holder shall not intentionally expose or view a completely or partially disrobed patient in the course of treatment if the exposure of viewing is not related to the patient diagnosis or treatment under current practice standards.

(ii) A license or certificate holder shall not engage in a conversation with a patient that is sexually explicit and unrelated to the physical therapy plan of care.

(e) A license or certificate holder shall not engage in sexual harassment of patients. Sexual Harassment includes, but is not limited to, making sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature that results in:

(i) Withholding physical therapy services to a patient;

(ii) Creating an intimidating, hostile, or offensive environment for the patient; or

(iii) Interfering with the patient's ability to recover.

(f) A license or certificate holder shall not falsify, alter, or destroy patient/client records, medical records, or billing records without authorization, or fail to maintain accurate patient or billing records.

(g) A license or certificate holder shall not practice physical therapy while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability. If a license or certificate holder's ability to practice is in question, the license or certificate holder shall submit to a physical or mental examination or drug/alcohol screen as requested by the Board to determine the applicant's or licensee's qualifications to practice physical therapy.

(h) A license or certificate holder shall not obtain, attempt to obtain, or deliver medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge.

(i) A licensee shall transfer the continuum of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the licensee.

(j) A license or certificate holder shall not aid, abet, authorize, condone, or allow the practice of physical therapy by any person not legally authorized to provide services.

(k) A license or certificate holder shall not permit another person to use an individual's wall certificate, pocket identification card, or license/certificate number for any illegal purpose.

Section 4. Reporting requirements. A license or certificate holder shall self-report to the Board, within thirty days, any of the items outlined in paragraphs (a) to (e) of this rule. Failure to comply with this rule may be grounds for disciplinary action pursuant to W.S. 33-25-111.

(a) Impairment by illness, chemical use, or chemical dependency that affects the applicant's or license or certificate holder's ability to practice with reasonable skill and safety.

(b) Conviction of a felony.

(c) Conviction of a misdemeanor when the act that constituted the misdemeanor occurred during the practice of physical therapy.

(d) The termination, revocation, or suspension of a license, certificate, or membership by a state or national physical therapy professional association.

(e) A positive drug and/or alcohol screening.

CHAPTER 4

CODE OF ETHICS ETHICAL CONDUCT

Section 1. Code of ethical conduct for physical therapists and physical therapist assistants. ~~An individual licensed or certified by the Board has a responsibility to report any organization or entity that provides or holds itself out to deliver physical therapy services that place the license or certificate holder in a position of compromise with this code of ethical conduct. All physical therapists are responsible for maintaining and promoting ethical practice. The physical therapist shall act in the best interest of the patient/client. The principles set by the American Physical Therapy Association and adopted by the Board are:~~

~~(a) — A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.~~

~~(b) — A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of a physical therapy practice.~~

~~(c) — A physical therapist shall comply with the laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.~~

~~(d) — A physical therapist shall exercise sound professional judgment.~~

~~(e) — A physical therapist shall achieve and maintain professional competence.~~

~~(f) — A physical therapist shall maintain and promote high standards for physical therapy practice, education, and research.~~

~~(g) — A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.~~

~~(h) — A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.~~

~~(i) — A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.~~

~~(j) — A physical therapist shall endeavor to address the health needs of society.~~

~~(k) — A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.~~

Section 2. Ethical integrity. License and certificate holders shall use the provisions contained in paragraphs (a) to (g) of this rule as guidelines for promoting ethical integrity and professionalism. Failure to comply with paragraphs (a) to (g) of this rule may be grounds for disciplinary action pursuant to W.S. 33-25-111.

(a) A license or certificate holder shall respect the rights and dignity of all patients and provide compassionate care.

(i) A license or certificate holder shall recognize individual differences with patients and shall respect and be responsive to those differences.

(ii) A license or certificate holder shall be guided by concern for the physical, psychosocial, and socioeconomic welfare of patients.

(b) A license or certificate holder shall exercise sound judgment and act in a trustworthy manner in all aspects of physical therapy practice. Regardless of practice setting, the physical therapist shall maintain the ability to make independent judgments. A license or certificate holder shall strive to effect changes that benefit the patient.

(c) A license or certificate holder shall only seek compensation that is reasonable for the physical therapy services delivered. A license or certificate holder shall never place the license or certificate holder's own financial interests above the welfare of the license or certificate holder's patients. A license or certificate holder, regardless of the practice setting, shall safeguard the public from unethical and unlawful business practices.

(d) A license or certificate holder shall not influence a patient or the patient's family to utilize, purchase, or rent any equipment based on the direct or indirect financial interests of the licensee. Recommendations of equipment must be based solely on the therapeutic value of that equipment to the patient. A licensee who owns or has a direct financial interest in an equipment or supply company must disclose the financial interest to the patient if the licensee sells or rents, or intends to sell or rent, to the patient.

(e) A license or certificate holder shall ensure the patient's rights to participate fully in their care, including the patient's right to select the physical therapy provider, regardless of the practice setting.

(f) A license or certificate holder shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

(g) A license or certificate holder shall safeguard the public from underutilization or overutilization of physical therapy services.

Section 3. Ethical conduct. Ethical conduct includes conforming to the minimal standards of acceptable and prevailing physical therapy practice. Conduct may be considered unethical regardless of whether or not actual injury to a patient occurred. Failure to comply with paragraphs (a) to (k) of this rule may be grounds for disciplinary action pursuant to W.S. 33-25-111.

(a) A license or certificate holder shall adhere to the standards of ethical practice by practicing in a manner that is moral and honorable. A license or certificate holder may be

disciplined for violating any provision contained herein.

(b) A license or certificate holder shall adhere to the minimal standards of acceptable prevailing practice. Failure to adhere to minimal standards of practice, whether or not actual injury to a patient occurred, includes, but is not limited to:

(i) Failing to assess and evaluate a patient's status;

(ii) Performing or attempting to perform techniques, procedures, or both in which the license or certificate holder is untrained by education or experience;

(iii) Delegating physical therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibility in question;

(iv) Causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of their dignity;

(v) Providing treatment interventions that are not warranted by the patient's condition or continuing treatment beyond the point of reasonable benefit to the patient;

(vi) Providing substandard care as a physical therapist assistant by exceeding the authority to perform components of physical therapy interventions selected by the supervising physical therapist or through a deliberate or negligent act or failure to act, whether or not actual injury to any person occurred;

(vii) Abandoning the patient by inappropriately terminating the patient practitioner relationship by the licensee.

(c) A license or certificate holder shall not engage in conduct that constitutes harassment or verbal or physical abuse of, or unlawful discrimination against, patients.

(d) A license or certificate holder shall not engage in any sexual relationship or conduct, including dating, with any patient, or engage in any conduct that may reasonably be interpreted by the patient to be sexual, whether consensual or nonconsensual, while a therapist-patient relationship exists.

(i) A license or certificate holder shall not intentionally expose or view a completely or partially disrobed patient in the course of treatment if the exposure of viewing is not related to the patient diagnosis or treatment under current practice standards.

(ii) A license or certificate holder shall not engage in a conversation with a patient that is sexually explicit and unrelated to the physical therapy plan of care.

(e) A license or certificate holder shall not engage in sexual harassment of patients. Sexual Harassment includes, but is not limited to, making sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature that results in:

- (i) Withholding physical therapy services to a patient;
- (ii) Creating an intimidating, hostile, or offensive environment for the patient; or
- (iii) Interfering with the patient's ability to recover.
- (f) A license or certificate holder shall not falsify, alter, or destroy patient/client records, medical records, or billing records without authorization, or fail to maintain accurate patient or billing records.
- (g) A license or certificate holder shall not practice physical therapy while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability. If a license or certificate holder's ability to practice is in question, the license or certificate holder shall submit to a physical or mental examination or drug/alcohol screen as requested by the Board to determine the applicant's or licensee's qualifications to practice physical therapy.
- (h) A license or certificate holder shall not obtain, attempt to obtain, or deliver medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge.
- (i) A licensee shall transfer the continuum of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the licensee.
- (j) A license or certificate holder shall not aid, abet, authorize, condone, or allow the practice of physical therapy by any person not legally authorized to provide services.
- (k) A license or certificate holder shall not permit another person to use an individual's wall certificate, pocket identification card, or license/certificate number for any illegal purpose.

Section 4. Reporting requirements. A license or certificate holder shall self-report to the Board, within thirty days, any of the items outlined in paragraphs (a) to (e) of this rule. Failure to comply with this rule may be grounds for disciplinary action pursuant to W.S. 33-25-111.

- (a) Impairment by illness, chemical use, or chemical dependency that affects the applicant's or license or certificate holder's ability to practice with reasonable skill and safety.
- (b) Conviction of a felony.
- (c) Conviction of a misdemeanor when the act that constituted the misdemeanor occurred during the practice of physical therapy.

(d) The termination, revocation, or suspension of a license, certificate, or membership by a state or national physical therapy professional association.

(e) A positive drug and/or alcohol screening.

CHAPTER 5

FEEES

Section 1. General information.

(a) Fees shall be payable in the exact amount, by money order or cashier's check for all services and shall be paid in advance of the services rendered. Fees for renewal of license or certification may be paid by personal check. License or certificate holders renewing online shall use a credit card.

(b) All fees collected by the Board are non-refundable

(c) In accordance with W.S. 1-1-115 the Board may charge a collection fee for any returned checks.

Section 2. Fees.

(a) Application fee for a physical therapist is \$240.00.

(b) Application fee for a physical therapist assistant is \$190.00.

(c) Annual renewal fee for a physical therapist is \$75.00.

(d) Annual renewal fee for a physical therapist assistant is \$50.00.

(e) Duplicate certificate or pocket card is \$25.00.

(f) License verification to another jurisdiction is \$25.00

CHAPTER 5

FEEES

Section 1. General information.

(a) Fees shall be payable in the exact amount, by money order or cashier's check for all services and shall be paid in advance of the services rendered. Fees for renewal of license or certification may be paid by personal check. License or certificate holders renewing online shall use a credit card.

(b) All fees collected by the Board are non-refundable

(c) In accordance with W.S. 1-1-115 the Board may charge a collection fee for any returned checks.

Section 2. Fees.

(a) Application fee for a physical therapist is ~~\$125.00~~ 240.00.

(b) Application fee for a physical therapist assistant is ~~\$100.00~~ 190.00.

(c) Annual renewal fee for a physical therapist is ~~\$50.00~~ 75.00.

(d) Annual renewal fee for a physical therapist assistant is ~~\$35.00~~ 50.00.

(e) Duplicate certificate or pocket card is \$25.00.

(f) License verification to another jurisdiction is \$25.00

CHAPTER 8

APPLICATIONS, COMPLAINTS, AND HEARING PROCEDURES

Section 1. Application review process.

(a) Upon receipt of a complete application, the Board office shall review the application and, if it is complete and there are no known grounds for denial of the license or certified requested, issue the license or certificate. If there are known grounds for denial, the Board office may forward the application to the Application Review Committee (ARC) to provide recommendations to the Board.

(b) The ARC shall review the application and all other information available and following the review may:

(i) Recommend that the Board approve the application if the applicant meets all requirements, or;

(ii) Recommend that the Board forward the application and the ARC report to the Assistant Attorney General assigned to the Board for prosecution of hearing matters for review if there are questions as to whether denial is appropriate.

(c) If, after review, and following consultation with the assigned Attorney General, the ARC concludes that grounds exist to recommend denial of an application:

(i) A preliminary denial letter shall be sent to the applicant, which shall:

(A) State the basis for the denial including relevant statutes and rules; and;

(B) Advise the applicant of the right to request reconsideration.

(ii) If the applicant fails to request reconsideration in writing within thirty (30) days of the date of the preliminary denial letter, the preliminary denial becomes final.

(iii) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the ARC, the Attorney General, and the applicant.

(iv) Following a reconsideration conference, the ARC shall either approve or deny the application and notify the applicant.

(v) If denied, the applicant must submit a written request for a hearing, before the Board within thirty (30) days of the date of the denial letter or the denial is final.

Section 2. Notice of Hearing for Denied Applicants.

(a) If a written request for hearing is received by the Board office from the applicant within the thirty (30) day period, the Board office shall service a Notice of Hearing by certified or regular mail at least thirty (30) days prior to the date set for hearing. Such service shall be made to the last address provided to the Board by the applicant.

(b) There shall be a presumption of lawful service when the Notice of Hearing is sent to the last address of the applicant by certified or regular mail.

(c) The Notice of Hearing shall contain:

(i) The name and last address of the applicant;

(ii) A statement in ordinary and concise language, of the matters asserted, which shall contain the nature of the issues relating to the denial of the application, the facts upon which the denial is based, the specific statutory provisions, and the specific Board rules and regulations the applicant is alleged to have violated or with which the applicant has failed to comply;

(iii) The time, place and nature of the hearing;

(iv) The legal authority and jurisdiction under which the hearing is being held;

(d) Members of the ARC or Board staff may attend a contested case hearing.

(e) The Board may enter an order dismissing an applicant's hearing and denying the application in any case where the applicant or the applicant's representative has not appeared at a scheduled, properly noticed hearing.

Section 3. Application Denial Hearings.

(a) An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act and applicable provisions of the formal hearing procedures established later in this Chapter.

(b) The hearing is to be conducted in the presence of a quorum of the Board, with a hearing officer presiding.

(c) The applicant has the burden of proving that he/she meets all requirements for the license requested.

Section 4. Incomplete Applications.

(a) An incomplete application requires no action by the Board, until such time as the application is deemed "complete" by Board staff on behalf of the Board, and has been

reviewed for recommendations by the ARC. Any new application, which remains incomplete, one year from the date of its original receipt by the Board office, shall expire.

(b) An application is “incomplete” when material and requisite information has not been provided as part of the application process. Such information may include, but is not limited to:

(i) Failure by the applicant to complete or answer any information requested on the application form;

(ii) Failure by the applicant to demonstrate lawful presence in accordance with Federal Law;

(iii) Failure by the applicant to respond to any Board staff or ARC inquiry or to produce any documents or information requested by Board staff or the ARC;

(iv) Failure by the applicant to provide payment for application fees. If any payment is made by the applicant, processed, and rejected or returned to the Board, then the applicant has failed to provide proper payment for application fees.

Section 5. Renewal Applications.

(a) A renewal applicant is an individual who currently holds a license or certificate, and has timely and sufficiently submitted an application for renewal of the license or certificate.

(b) If the renewal application of a licensee reveals any information which merits further investigation, the matter shall be assigned to the ARC, and the investigative process shall apply as if a written complaint form had been filed against the licensee or certificate holder, subject to procedures for contested case hearing in application matters.

(c) If the license or certificate was current when the renewal application was submitted, the licensee or certificate holder may continue to practice on the license or certificate subject to renewal pending investigation or further action of the Board.

(d) Practice after failure to timely renew, resulting in an expired license or certificate shall constitute the unauthorized practice of physical therapy in violation of the Act and further may constitute an independent ground for denial of an application or discipline of a license or certificate.

Section 6. Reinstatement Applications. Any application for reinstatement by a licensee or certificate holder who was the subject of prior disciplinary action shall be subject to investigation by the ARC to determine satisfaction of any conditions previously imposed by the Board. The investigative process shall apply as if a written complaint form had been filed against the licensee and also shall apply to a person whose license or certificate was subject to restrictions, or was suspended, surrendered or revoked.

(a) To the extent possible, if the licensee was subject to prior disciplinary action, the ARC should consist of the same Board member(s) who originally participated in the disciplinary matter;

(b) The ARC shall make a preliminary determination to recommend or deny reinstatement, which may also include recommended restrictions or other sanctions authorized by the Board or these rules;

(c) A licensee who disagrees with or disputes the recommendation by the ARC shall be entitled to a contested case hearing as in other application matters.

Section 7. Administrative Complaint in Discipline Matters. If any information concerning a possible violation of the Act or these rules is received or obtained by a Board member or members of the staff, the Board shall investigate that information in accordance with the Wyoming Administrative Procedure Act. The Board may initiate an investigation on its own motion. Any administrative complaint against a licensee shall be submitted in writing to or initiated by the Board office and should provide the following information, as may be applicable:

(a) Name, address, place of employment, and position of the individual alleged to have violated the Act or Board rules and regulations;

(b) The nature of the complaint and a description of the incident(s) involved including date(s), time(s), location(s), and any observed behavior of the licensee or certificate holder;

(c) The name and address of other witnesses, if any;

(d) The signature and address of the person(s) making the complaint.

Section 8. Review of Administrative Complaint.

(a) If an administrative complaint is filed or if any information concerning a possible violation of the Act or these rules is received or obtained by the Board, an investigation may be conducted prior to the initiation of formal proceedings.

(b) One or more Board members, known as the Investigative Board Member(s) (IBM), appointed by the Chairperson of the Board or Board designee will make recommendations to the Board concerning the findings of the investigation. The Chairperson of the Board or Board designee may also appoint one or more past Board members or other professionals to a committee to assist the IBM(s) in the investigation of the administrative complaint. The IBM(s) appointed shall not take part in the consideration of any contested case in which they participated in the investigation of the complaint, although they may attend any disciplinary hearing.

(c) Following review and/or investigation of a complaint, the IBM(s) may bring the Board a recommendation for any appropriate action, including but not necessarily limited to the following:

(i) Forward the complaint filed by the complainant to the Board attorney assigned for prosecution purposes with a recommendation that formal disciplinary proceedings commence;

(ii) Send a written letter of warning to the individual listed in the complaint;

(iii) Accept the voluntary surrender of a certificate or license;

(iv) Recommend terms for a conditional certificate or license; or

(v) Dismiss the complaint.

(d) The IBM(s) shall send appropriate notice to the licensee or certificate holder of its intent to take action as provided in these rules.

Section 9. Investigation.

(a) Upon the filing and initial review of an administrative complaint, the IBM(s) shall be responsible for investigation, or the IBM(s) may select a retained investigator or assist in the investigation of the administrative complaint. The retained investigator may be a licensed physical therapist in good standing in the profession.

(b) The purpose of the investigation shall be to determine if there is sufficient evidence to warrant any action against the license or certificate holder.

(c) The Executive Director shall contact the retained investigator and inform the investigator that a complaint has been filed and shall tell the retained investigator the name of the licensee and the allegations contained in the complaint. The Executive Director shall ask if the retained investigator has any conflict of interest that would prevent the investigator from fully and impartially investigating the complaint. The retained investigator may accept the investigation task only if the investigator can do so without a conflict of interest.

(d) The Board may reimburse the retained investigator for all necessary and reasonable expenses incurred conducting an investigation and shall pay for services under the terms of a Contract to be entered into by and between the investigator and the Board.

Section 10. Conduct of Investigation

(a) The IBM(s) or retained investigator are empowered to conduct a full and complete investigation.

(b) In pursuit of the investigation, the IBM(s) or retained investigator may review documents and interview the complainant and other witnesses, the IBM(s) or retained investigator may interview the license or certificate holder only if the license or certificate holder voluntarily agrees and if the license or certificate holder has been furnished a copy of the complaint.

(c) As part of the investigation, the IBM(s) or retained investigator shall be authorized to serve an administrative subpoena on any person who is in possession of any documents or records relevant to the allegations in the administrative complaint or from facts discovered during the investigation.

Section 11. Investigative Report.

(a) Upon completing the investigation, the retained investigator shall submit a written report to the IBM(s) setting forth the facts discovered.

(b) The IBM(s) may prepare an investigative report as part of the investigation, which may be provided to the assigned Assistant Attorney General for review if a recommendation is made that formal disciplinary proceedings commence.

(c) Investigation files of any investigation which is pending are confidential and not subject to public inspection until a formal hearing is concluded or until final disciplinary action is taken if not hearing is commenced.

Section 12. Informal Conference Procedures.

(a) Upon notification of the findings of an investigation, a license or certificate holder may be asked to attend an informal conference with the IBM(s), Executive Director and/or the Board attorney assigned for prosecution purposes. The license or certificate holder may appear either with or without counsel. The purpose of the informal conference will be to discuss formal or informal settlement of the investigative matter.

(b) At any time either before or after formal disciplinary proceedings have been instituted against a license or certificate holder, the license or certificate holder and IBM(s) may submit to the Board an offer of settlement whereby, in lieu of formal disciplinary action by the Board the license or certificate holder agrees to accept certain sanctions such as suspension, civil penalties, enrolling in continuing education courses, limiting the scope of the license or certificate holder's practice, submitting the license or certification holder's work product for professional peer review, or other sanctions authorized by the Act or these rules. If the Board determines that the proposed settlement will adequately protect the public welfare, the Board may accept the offer and enter a decision that is consented to by the license or certificate holder and incorporates the proposed settlement.

Section 13. Service of Notice of Intent and Opportunity to Show Compliance.

(a) Prior to commencing formal proceedings for discipline of a license or certificate holder, the Executive Director, on behalf of the IBM(s), shall send a notice of intent to initiate formal disciplinary action by regular or certified mail to the last address provided by the license or certificate holder to the Board. The notice of intent shall include a brief description of the facts or conduct which warrant the intended action, and provide the license or certificate holder an opportunity to show compliance with all lawful requirements for the retention of the license or certificate without any disciplinary action against the license or certificate holder.

(b) The opportunity to show compliance shall expire fifteen (15) days from the date of mailing the notice of intent.

Section 14. Formal Hearing Procedures. Formal proceedings for board disciplinary action against a license or certificate holder shall be commenced by notice issued by the Board.

(a) The complaint and/or notice shall be served pursuant to the Wyoming Rules of Civil Procedure, and by any traceable delivery method of mail. The complaint shall, at a minimum, contain the following information:

(i) The name and license or certificate number of the license or certificate holder;

(ii) The name, address, and phone number of the Board's attorney assigned to assist in prosecution of the complaint;

(iii) A statement of the legal authority and jurisdiction of the Board;

(iv) A statement of the particular sections of the statutes and rules involved;

(v) A statement, in ordinary and concise language, of the nature of the complaint and the facts upon which the complaint is based;

(vi) The time in which the license or certificate holder must respond to the complaint;

(vii) A statement that failure to respond may result in entry of judgment by default for the relief demanded in the complaint.

(b) At any time following the expiration of the period in which the licensee or certificate holder must respond to the complaint, the Board or the Executive Director may set the matter for hearing. The Complaint and Notice of Hearing shall be mailed to the license or certificate holder at least thirty (30) calendar days prior to the date set for the hearing, or such shorter time as may be agreed to by the parties.

Section 15. Default. The Board may enter an order based on the allegations of a complaint in any case where the license or certificate holder has not responded within the time

limits contained in Section 14(a)(vi) above or in any case in which the license or certificate holder or his/her representative has not appeared at a scheduled hearing of which he/she had notice.

Section 16. Motions. All motions made to the Board shall be made in writing and submitted at least ten (10) business days prior to the date set for hearing.

(a) The Board may, within its discretion and upon good cause shown, allow a motion to be filed at any time.

(b) For purposes of this rule, any request for settlement of a contested case shall be considered a motion before the Board.

Section 17. Docket.

(a) When formal proceedings are initiated and notice has been provided, the case shall be assigned a number and entered upon a docket provided for such purpose.

(b) A separate file shall be established for each docketed case, in which all papers and evidence shall be systematically placed.

Section 18. Contested Case Hearings. The Office of Administrative Hearings (OAH) shall act as the hearing officer and shall preside over the formal contested case hearing which shall be conducted pursuant to the Wyoming Administrative Procedure Act and Chapter 2 of the OAH rules concerning contested case proceedings.

CHAPTER 8

APPLICATIONS, COMPLAINTS, AND HEARING PROCEDURES

Section 1. Application review process.

(a) Upon receipt of a complete application, the Board office shall review the application and, if it is complete and there are no known grounds for denial of the license or certified requested, issue the license or certificate. If there are known grounds for denial, the Board office may forward the application to the Application Review Committee (ARC) to provide recommendations to the Board.

(b) The ARC ~~may~~ shall review the application and all other information available and following the review may:

(i) Recommend that the Board Approve the application if the applicant meets all requirements, or;

(ii) Recommend that the Board Forward the application and the ARC report to the Assistant Attorney General assigned to the Board for prosecution of hearing matters for review if there are application raises questions as to whether denial is appropriate.

(c) If, after review, and following consultation with the assigned the ARC and Attorney General, the ARC concludes that grounds exist to recommend denial of an application:

(i) A preliminary denial letter shall be sent to the applicant, which. ~~The letter~~ shall:

(A) State the basis for the denial including relevant statutes and rules; and;

(B) Advise the applicant of the right to request reconsideration.

(ii) If the applicant fails to request reconsideration in writing within thirty (30) days of the date of the preliminary denial letter, the preliminary denial becomes final.

(iii) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the ARC, the Attorney General, and the applicant.

(iv) Following a reconsideration conference, the ARC shall either approve or deny the application and notify the applicant.

(v) If denied, the applicant must submit a written request for a hearing, before the Board within thirty (30) days of the date of the denial letter or the denial is final.

~~(d) — Application denial hearings~~

~~(i) — An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act.~~

~~(ii) — The hearing is to be conducted in the presence of a quorum of the Board, with a hearing officer presiding.~~

Section 2. ~~Information and complaints~~ Notice of Hearing for Denied Applicants.

~~(a) Information. If information concerning a possible violation of the Act or rules is received or obtained by a Board member or members of the staff, the Board may, on its own motion, initiate proceedings under the Act and in accordance with the Wyoming Administrative Procedure Act. The license or certificate holder will be notified of proceedings initiated under this section. If a written request for hearing is received by the Board office from the applicant within the thirty (30) day period, the Board office shall service a Notice of Hearing by certified or regular mail at least thirty (30) days prior to the date set for hearing. Such service shall be made to the last address provided to the Board by the applicant.~~

~~(b) Complaint. Persons or entities other than the Board may initiate a disciplinary action against a license or permit holder by submitting a written complaint to the Board office. Nothing in the section shall be construed to prohibit the Board or the Board's staff from filing a written complaint. The written complaint should provide as much of the following information as may be applicable: There shall be a presumption of lawful service when the Notice of Hearing is sent to the last address of the applicant by certified or regular mail.~~

~~(i) — The name, address and other contact information for the complainant;~~

~~(ii) — The name, address, place of employment, and telephone number of the license or certificate holder against whom the charges are made;~~

~~(iii) — The specific conduct alleged to constitute the violation;~~

~~(iv) — The signature of the complainant.~~

(c) The Notice of Hearing shall contain:

(i) The name and last address of the applicant;

(ii) A statement in ordinary and concise language, of the matters asserted, which shall contain the nature of the issues relating to the denial of the application, the facts upon which the denial is based, the specific statutory provisions, and the specific Board rules and regulations the applicant is alleged to have violated or with which the applicant has failed to comply;

(iii) The time, place and nature of the hearing;

(iv) The legal authority and jurisdiction under which the hearing is being held;

(d) Members of the ARC or Board staff may attend a contested case hearing.

(e) The Board may enter an order dismissing an applicant's hearing and denying the application in any case where the applicant or the applicant's representative has not appeared at a scheduled, properly noticed hearing.

Section 3. ~~Review of written complaint~~ Application Denial Hearings.

(a) ~~Written complaints shall be referred to the Discipline Committee (DC). If the DC recommends, the Board may hire an independent investigator to conduct the investigation, the names of the DC members, and the nature of the complaint~~ An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act and applicable provisions of the formal hearing procedures established later in this Chapter.

(b) The hearing is to be conducted in the presence of a quorum of the Board, with a hearing officer presiding.

(c) The applicant has the burden of proving that he/she meets all requirements for the license requested.

(i) ~~The DC members shall not take part in the consideration of any contested case.~~

(ii) ~~Members of the DC shall not by this rule be barred from attending any disciplinary hearing.~~

Section 4. ~~Investigations and Board action~~ Incomplete Applications. ~~The DC shall investigate those written complaints received by the Board which merit further investigation.~~

(a) ~~Upon completion of the investigation, the DC shall prepare an investigative report~~ An incomplete application requires no action by the Board, until such time as the application is deemed "complete" by Board staff on behalf of the Board, and has been reviewed for recommendations by the ARC. Any new application, which remains incomplete, one year from the date of its original receipt by the Board office, shall expire.

(i) ~~The report shall include:~~

(A) ~~The findings of the committee;~~

(B) ~~Recommended action;~~

~~(C) — A list of statutes and/or Board rules believed to have been violated;~~

~~(D) — Any additional information that is relevant to the report.~~

(b) ~~Upon completion of the investigation, the committee may~~ An application is “incomplete” when material and requisite information has not been provided as part of the application process. Such information may include, but is not limited to:

(i) ~~Send the notice required by Section 5~~ Failure by the applicant to complete or answer any information requested on the application form;

(ii) ~~Prepare and file formal petition and notice of hearing with the Board, setting the matter for a contested case hearing~~ Failure by the applicant to demonstrate lawful presence in accordance with Federal Law;

(iii) ~~Recommend an offer of conditional terms for settlement, which may include educational courses, to the Board~~ Failure by the applicant to respond to any Board staff or ARC inquiry or to produce any documents or information requested by Board staff or the ARC;

(iv) ~~Recommend the Board dismiss the complaint~~ Failure by the applicant to provide payment for application fees. If any payment is made by the applicant, processed, and rejected or returned to the Board, then the applicant has failed to provide proper payment for application fees.

~~(e) — The Board may resolve a complaint at any time by:~~

~~(i) — Accepting a voluntary surrender of a license or permit;~~

~~(ii) — Accepting conditional terms for settlement;~~

~~(iii) — Dismissal.~~

Section 5. Service of notice and opportunity to show compliance **Renewal Applications.**

(a) ~~Prior to commencement of a formal hearing, the DC shall give notice by mail to the license or certificate holder of the facts or conduct which warrant its intended action. The notice shall give the license or certificate holder an opportunity to show compliance with all lawful requirements for retention of the license or certificate within twenty (20) days of the mailing of the notice. Such notice shall be sent to the license or certificate holder’s last known address by certified mail with return receipt requested and by first class mail~~ A renewal applicant is an individual who currently holds a license or certificate, and has timely and sufficiently submitted an application for renewal of the license or certificate.

(b) If the renewal application of a licensee reveals any information which merits further investigation, the matter shall be assigned to the ARC, and the investigative process shall apply as if a written complaint form had been filed against the licensee or certificate holder, subject to procedures for contested case hearing in application matters.

(c) If the license or certificate was current when the renewal application was submitted, the licensee or certificate holder may continue to practice on the license or certificate subject to renewal pending investigation or further action of the Board.

(d) Practice after failure to timely renew, resulting in an expired license or certificate shall constitute the unauthorized practice of physical therapy in violation of the Act and further may constitute an independent ground for denial of an application or discipline of a license or certificate.

Section 6. Formal hearing procedures Reinstatement Applications. Any application for reinstatement by a licensee or certificate holder who was the subject of prior disciplinary action shall be subject to investigation by the ARC to determine satisfaction of any conditions previously imposed by the Board. The investigative process shall apply as if a written complaint form had been filed against the licensee and also shall apply to a person whose license or certificate was subject to restrictions, or was suspended, surrendered or revoked.

~~(a) Formal proceedings for a hearing before the Board regarding action against a license or certificate holder shall be commenced by petition and notice of hearing, served in person, or by certified mail and first class mail sent to the address last known by the Board at least thirty (30) days prior to the date set for the hearing. The petition and notice shall contain at least: To the extent possible, if the licensee was subject to prior disciplinary action, the ARC should consist of the same Board member(s) who originally participated in the disciplinary matter;~~

~~(i) The name and address of the license or certificate holder;~~

~~(ii) A statement, in ordinary and concise language, of the nature of the complaint filed with the Board, and the facts upon which the complaint is based, as well as the specific statute(s) or Board rules and regulations alleged to have been violated;~~

~~(iii) The time, place, and nature of the hearing;~~

~~(iv) That the hearing is being held pursuant to the authority provided by W.S. 33-25-111 and 112; and~~

~~(v) The license or certificate holder shall file an Answer or Notice of Appearance, which must be received by the Board at least ten (10) working days prior to the date set for hearing or the applicant, license or certificate holder will be in default.~~

(b) The ARC shall make a preliminary determination to recommend or deny reinstatement, which may also include recommended restrictions or other sanctions authorized by the Board or these rules;

(c) A licensee who disagrees with or disputes the recommendation by the ARC shall be entitled to a contested case hearing as in other application matters.

Section 7. Continuance Administrative Complaint in Discipline Matters. ~~For good cause shown, extensions and continuances may be granted or denied at the discretion of the Board or the hearing officer. If any information concerning a possible violation of the Act or these rules is received or obtained by a Board member or members of the staff, the Board shall investigate that information in accordance with the Wyoming Administrative Procedure Act. The Board may initiate an investigation on its own motion. Any administrative complaint against a licensee shall be submitted in writing to or initiated by the Board office and should provide the following information, as may be applicable:~~

(a) Name, address, place of employment, and position of the individual alleged to have violated the Act or Board rules and regulations;

(b) The nature of the complaint and a description of the incident(s) involved including date(s), time(s), location(s), and any observed behavior of the license or certificate holder;

(c) The name and address of other witnesses, if any;

(d) The signature and address of the person(s) making the complaint.

Section 8. Default Review of Administrative Complaint. ~~The Board may enter an order based on the allegations in a petition in any case where the applicant, license or certificate holder has not either answered or appeared in writing ten (10) working days before the hearing, or in any case in which the applicant, license or certificate holder or his representative has not appeared at a scheduled hearing for which they had notice.~~

(a) If an administrative complaint is filed or if any information concerning a possible violation of the Act or these rules is received or obtained by the Board, an investigation may be conducted prior to the initiation of formal proceedings.

(b) One or more Board members, known as the Investigative Board Member(s) (IBM), appointed by the Chairperson of the Board or Board designee will make recommendations to the Board concerning the findings of the investigation. The Chairperson of the Board or Board designee may also appoint one or more past Board members or other professionals to a committee to assist the IBM(s) in the investigation of the administrative complaint. The IBM(s) appointed shall not take part in the consideration of any contested case in which they participated in the investigation of the complaint, although they may attend any disciplinary hearing.

(c) Following review and/or investigation of a complaint, the IBM(s) may bring the Board a recommendation for any appropriate action, including but not necessarily limited to the following:

(i) Forward the complaint filed by the complainant to the Board attorney assigned for prosecution purposes with a recommendation that formal disciplinary proceedings commence;

(ii) Send a written letter of warning to the individual listed in the complaint;

(iii) Accept the voluntary surrender of a certificate or license;

(iv) Recommend terms for a conditional certificate or license; or

(v) Dismiss the complaint.

(d) The IBM(s) shall send appropriate notice to the licensee or certificate holder of its intent to take action as provided in these rules.

Section 9. ~~Hearing officer~~ Investigation. ~~The Board may appoint a hearing officer to take evidence at the hearing or the Chairperson or a Board member may serve as the hearing officer.~~

(a) Upon the filing and initial review of an administrative complaint, the IBM(s) shall be responsible for investigation, or the IBM(s) may select a retained investigator or assist in the investigation of the administrative complaint. The retained investigator may be a licensed physical therapist in good standing in the profession.

(b) The purpose of the investigation shall be to determine if there is sufficient evidence to warrant any action against the license or certificate holder.

(c) The Executive Director shall contact the retained investigator and inform the investigator that a complaint has been filed and shall tell the retained investigator the name of the licensee and the allegations contained in the complaint. The Executive Director shall ask if the retained investigator has any conflict of interest that would prevent the investigator from fully and impartially investigating the complaint. The retained investigator may accept the investigation task only if the investigator can do so without a conflict of interest.

(d) The Board may reimburse the retained investigator for all necessary and reasonable expenses incurred conducting an investigation and shall pay for services under the terms of a Contract to be entered into by and between the investigator and the Board.

Section 10. ~~Discovery~~ Conduct of Investigation. ~~In all formal proceedings before the Board, discovery shall be afforded in accordance with the Wyoming Administrative Procedure Act.~~

(a) The IBM(s) or retained investigator are empowered to conduct a full and complete investigation.

(b) In pursuit of the investigation, the IBM(s) or retained investigator may review documents and interview the complainant and other witnesses, the IBM(s) or retained investigator may interview the license or certificate holder only if the license or certificate holder voluntarily agrees and if the license or certificate holder has been furnished a copy of the complaint.

(c) As part of the investigation, the IBM(s) or retained investigator shall be authorized to serve an administrative subpoena on any person who is in possession of any documents or records relevant to the allegations in the administrative complaint or from facts discovered during the investigation.

Section 11. Subpoenas Investigative Report.

(a) A Board member or the hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Upon completing the investigation, the retained investigator shall submit a written report to the IBM(s) setting forth the facts discovered.

(b) Service of a subpoena must be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions. The IBM(s) may prepare an investigative report as part of the investigation, which may be provided to the assigned Assistant Attorney General for review if a recommendation is made that formal disciplinary proceedings commence.

(c) Investigation files of any investigation which is pending are confidential and not subject to public inspection until a formal hearing is concluded or until final disciplinary action is taken if not hearing is commenced.

Section 12. Witnesses Informal Conference Procedures.

(a) All persons testifying at any hearing before the Board shall be administered a standard oath or affirmation. Upon notification of the findings of an investigation, a license or certificate holder may be asked to attend an informal conference with the IBM(s), Executive Director and/or the Board attorney assigned for prosecution purposes. The license or certificate holder may appear either with or without counsel. The purpose of the informal conference will be to discuss formal or informal settlement of the investigative matter.

(b) The party calling a witness shall bear the costs associated with the witness's appearance. At any time either before or after formal disciplinary proceedings have been instituted against a license or certificate holder, the license or certificate holder and IBM(s) may submit to the Board an offer of settlement whereby, in lieu of formal disciplinary action by the Board the license or certificate holder agrees to accept certain sanctions such as suspension, civil

penalties, enrolling in continuing education courses, limiting the scope of the license or certificate holder's practice, submitting the license or certification holder's work product for professional peer review, or other sanctions authorized by the Act or these rules. If the Board determines that the proposed settlement will adequately protect the public welfare, the Board may accept the offer and enter a decision that is consented to by the license or certificate holder and incorporates the proposed settlement.

~~(c) — The Board and hearing officer shall have an opportunity to examine any witness.~~

Section 13. Representation Service of Notice of Intent and Opportunity to Show Compliance.

~~(a) An applicant, license or certificate holder may represent himself or be represented by counsel, provided that such counsel is licensed to practice law in the State of Wyoming, or is associated at the hearing with one or more attorneys licensed to practice law in the State of Wyoming. Prior to commencing formal proceedings for discipline of a license or certificate holder, the Executive Director, on behalf of the IBM(s), shall send a notice of intent to initiate formal disciplinary action by regular or certified mail to the last address provided by the license or certificate holder to the Board. The notice of intent shall include a brief description of the facts or conduct which warrant the intended action, and provide the license or certificate holder an opportunity to show compliance with all lawful requirements for the retention of the license or certificate without any disciplinary action against the license or certificate holder.~~

~~(b) In any case before the Board, an appearance in person of the filing of an answer or other pleading shall constitute an appearance of record by an attorney. The opportunity to show compliance shall expire fifteen (15) days from the date of mailing the notice of intent.~~

~~(c) — A request for withdrawal from representation by an attorney shall be submitted to the Board in writing.~~

~~(d) — A representative of the Attorney General's office may present all matters in a contested case on behalf of the ARC or DC.~~

Section 14. Prehearing conference Formal Hearing Procedures. Formal proceedings for board disciplinary action against a license or certificate holder shall be commenced by notice issued by the Board.

~~(a) The hearing officer may direct the parties to appear before him to consider. The complaint and/or notice shall be served pursuant to the Wyoming Rules of Civil Procedure, and by any traceable delivery method of mail. The complaint shall, at a minimum, contain the following information:~~

~~(i) The simplification of the issues. The name and license or certificate number of the license or certificate holder;~~

(ii) ~~The necessity of desirability of amending the pleadings~~ The name, address, and phone number of the Board's attorney assigned to assist in prosecution of the complaint;

(iii) ~~The possibility of obtaining admissions of fact and of documents to avoid unnecessary proof~~ A statement of the legal authority and jurisdiction of the Board;

(iv) ~~Formulating procedures to govern the hearing; or~~ A statement of the particular sections of the statutes and rules involved;

(v) ~~Such other matters as may aid in the disposition of the case.~~ A statement, in ordinary and concise language, of the nature of the complaint and the facts upon which the complaint is based;

(vi) The time in which the license or certificate holder must respond to the complaint;

(vii) A statement that failure to respond may result in entry of judgment by default for the relief demanded in the complaint.

(b) ~~Prehearing conferences shall be conducted informally. An order will be prepared which recites the actions taken at the conference, amendments allowed, and agreements of the parties, and the issues to be determined at the hearing~~ At any time following the expiration of the period in which the licensee or certificate holder must respond to the complaint, the Board or the Executive Director may set the matter for hearing. The Complaint and Notice of Hearing shall be mailed to the license or certificate holder at least thirty (30) calendar days prior to the date set for the hearing, or such shorter time as may be agreed to by the parties.

Section 15. Order of procedure at hearing Default. ~~The hearing will be conducted in substantially the following order:~~ The Board may enter an order based on the allegations of a complaint in any case where the license or certificate holder has not responded within the time limits contained in Section 14(a)(vi) above or in any case in which the license or certificate holder or his/her representative has not appeared at a scheduled hearing of which he/she had notice.

(a) ~~Opening announcements are made by the hearing officer, including case name and docket number, the issue(s) to be considered, parties and counsel present, and subpoenas issued;~~

(b) ~~Witnesses should be identified and sworn;~~

(c) ~~Opening statements may be made at the discretion of the hearing officer. In cases of license denial, the applicant should go first. In disciplinary cases the DC should go first;~~

~~(d) — Presentation of Evidence. The order above will be followed with each party, the hearing officer, and the Board having the opportunity to cross-examine the witnesses. Rebuttal evidence may be presented;~~

~~(e) — Exhibits offered in evidence by the applicant, or the license or holder will be marked with letters of the alphabet. Those offered by the ARC or DC will be marked numerically;~~

~~(f) — Closing arguments may be made at the discretion of the hearing officer. Time may be limited, the order of presentation is as above, and brief rebuttal time may be allowed. The hearing and the evidence are then closed, unless reopened by the hearing officer for good cause shown.~~

Section 16. ~~Decisions~~ Motions. All motions made to the Board shall be made in writing and submitted at least ten (10) business days prior to the date set for hearing.

(a) ~~Proposed Decisions:~~ The Board may, within its discretion and upon good cause shown, allow a motion to be filed at any time.

~~(i) — At the discretion and direction of the Board, the parties may file proposed findings of fact, conclusions of law, and order after the hearing and before the deadline announced at the hearing's closing announcements.~~

~~(ii) — At the discretion and direction of the Board, the hearing officer shall prepare proposed findings of fact, conclusions of law, and order.~~

(b) ~~Final Decisions:~~ Proposed decisions will be given consideration but are not binding upon the Board. All final decisions will be issued by the Board and be based exclusively upon the evidence in the record and matters officially noticed. All final decisions issued by the Board will be served to all parties by first class mail. For purposes of this rule, any request for settlement of a contested case shall be considered a motion before the Board.

Section 17. Appeals Docket. ~~A Petition for Judicial Review of the Board decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure.~~

(a) When formal proceedings are initiated and notice has been provided, the case shall be assigned a number and entered upon a docket provided for such purpose.

(b) A separate file shall be established for each docketed case, in which all papers and evidence shall be systematically placed.

Section 18. ~~Transcripts~~ Contested Case Hearings. ~~If a Petition for Judicial Review is filed in the district court, the petitioner shall arrange the preparation and pay for the transcript of the testimony, or reimburse the Board for the cost of the transcript if previously prepared at Board expense. The Office of Administrative Hearings (OAH) shall act as the hearing officer and shall preside over the formal contested case hearing which shall be conducted pursuant to the~~

Wyoming Administrative Procedure Act and Chapter 2 of the OAH rules concerning contested case proceedings.

CHAPTER 10

MISCELLANEOUS

Section 1. Terms and titles.

(a) The designations "SPT" and "SPTA" should be used for physical therapist students and physical therapist assistant students, respectively, up to the time of graduation.

(b) In order to promote consistent communication of the presentation of credentials and letter designations, the preferred order of credentials should be:

(i) PT/PTA.

(ii) Highest earned physical therapy-related degree.

(iii) Other earned academic degrees.

(iv) Specialist certification credentials in alphabetical order (specific to the American Board of physical therapy specialties).

Section 2. Standards of practice for medications.

(a) A physical therapist may purchase, store, and administer topical medications, including topical aerosol medications, as part of the practice of physical therapy. A physical therapist shall comply with any protocols of the United States pharmacopoeia for storage of medications.

(b) A valid order or prescription for medication classified as a legend drug is needed before administration to a patient. Physical therapy facilities must work with a pharmacist to assist with proper protocols for storage of medications. A record of dosage form, quantity, and strength of medication administered to each patient is required in the medical record.

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