

PRACTICE WITHOUT PHYSICIAN REFERRAL

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

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

(1) Holds a current license to practice physical therapy in this Commonwealth.

(2) Has done one of the following:

(i) Passed the National Physical Therapy Examination (NPTE) after January 1, 1990.

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

(3) Has done one of the following:

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

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

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

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

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

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

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

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

- (1) Cases where symptoms are present for which physical therapy is a contraindication.
- (2) Cases for which treatment is outside the scope of practice of physical therapy.
- (3) Cases for which treatment is beyond the education, expertise or experience of the physical therapist.

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

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

§ 40.62. Professional liability insurance.

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

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

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

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

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

(2) Personally purchased professional liability insurance.

- (3) Professional liability insurance, coverage provided by the licensee's employer.
- (4) A similar type of coverage.

§ 40.63. Continuing education.

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

Certificate holder--A licensed physical therapist who holds a certificate of authorization to practice physical therapy without a referral.

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

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

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

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

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

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

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

- (i) Offers courses or programs, or both, with specific learning objectives geared to improve the professional competence of the participant.

(ii) Verifies attendance of the course.

(iii) Provides each attendee with a certificate which includes participant's name, date, place, course title, presenter and number of contact hours.

(4) The Board may withdraw approval of a sponsor for cause. The sponsor will be notified in writing of the reasons for withdrawal of approval.

(e) *Distance education.* A certificate holder may accrue all required hours in distance education courses offered by approved sponsors of continuing education as long as the course sponsor evaluates and assesses the extent of learning that has taken place.

(f) *Reinstatement of certificate.* Reinstatement of certificate shall be subject to the following conditions:

(1) A person whose certificate has lapsed or been inactive shall show compliance with the continuing education requirement during the biennium immediately preceding the request for reinstatement.

(2) A person whose certificate has been suspended or restricted shall show compliance with the continuing education requirement during the entire period of suspension or restriction.

(g) *Waivers; exemptions for continuing education.* The Board may, in individual cases involving physical disability or illness, or undue hardship, grant a waiver of the continuing education requirements or grant an extension of time to complete the requirements. No waiver or extension of time will be granted unless a written request is submitted by the licensee; or in cases of physical disability or illness, by a physician licensed in this state or another state or territory of the United States or the District of Columbia and whose license is in good standing, or both. All necessary documentation must be received by the Board no later than 90 days preceding the biennial renewal. If the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the licensee shall reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the applicant to make up all or part of the CE waived.

(Practice Act begins on next page)

Pennsylvania Board of Physical Therapy
PHYSICAL THERAPY PRACTICE ACT

“Direct Access” Provisions

Section 9. Practice of Physical Therapy.

(a) Except as provided in subsection (b), no person licensed under this act as a physical therapist shall treat human ailments by physical therapy or otherwise except by the referral of a person licensed as a physician; however, a physical therapist shall be permitted to accept the referral of a dentist or podiatrist licensed, for the treatment of a condition that is within the scope of practice of dentistry or podiatry. Nothing in this act shall be construed as authorization for a physical therapist to practice any branch of the healing arts except as described in this act. Any person violating the provisions of this act shall be guilty of a misdemeanor as described in section 12.

(b) Licensees who meet the standards set forth in this subsection may apply to the board for a **certificate of authorization to practice physical therapy under this act without the required referral** under subsection (a). A certificate of authorization to practice physical therapy without a referral under subsection (a) shall not authorize a physical therapist either to treat a condition in any person which is a nonneurologic, nonmuscular or nonskeletal condition or to treat a person who has an acute cardiac or acute pulmonary condition unless the physical therapist has consulted with the person's licensed physician, dentist or podiatrist regarding the person's condition and the physical therapy treatment plan or has referred the person to a licensed physician, dentist or podiatrist for diagnosis and referral. The certificate of authorization shall be issued only to licensed physical therapists practicing physical therapy. The certificate of authorization shall be displayed by the certificate holder in a manner conspicuous to the public. The renewal of the certificate of authorization shall coincide with the renewal of the license of the licensee. Licensees making application for a certificate of authorization shall present satisfactory evidence to the board of all of the following:

(1) That the licensee has:

(i) passed an examination for licensure to practice physical therapy, which examination included testing on the appropriate evaluative procedures to treat a person without a referral; or

(ii) passed an examination for licensure to practice physical therapy prior to 1990 and successfully completed a course approved by the board on the appropriate evaluative procedures to treat a person without a referral.

(2) That the licensee has:

(i) practiced physical therapy as a licensed physical therapist in the delivery of patient care in accordance with this act on a continuous basis for at least two years immediately preceding the application for a certificate of authorization;

(ii) been licensed under section 6(d.1) and has practiced physical therapy in the delivery of patient care as a licensed physical therapist in a reciprocal state on a continuous basis for at least two years immediately preceding the application for a certificate of authorization; or

(iii) provided proof of meeting the standards of clause (i) or (ii) of this paragraph through the application of any combination thereof.

(3) That the license of that licensee has been maintained in good standing.

(4) That the licensee has professional liability insurance in accordance with the following provisions:

(i) Beginning with the first license renewal period at least two years after the effective date of this subsection or upon first making application for a certificate of authorization, whichever occurs earlier, any licensee applying for and obtaining a certificate of authorization shall obtain and maintain, to the satisfaction of the board, professional liability insurance coverage in the minimum amounts required to be maintained by physicians pursuant to the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act." The professional liability insurance coverage shall remain in effect as long as that licensee has a certificate of authorization.

(ii) A licensee shall notify the board within 30 days of the licensee's failure to be covered by the required insurance. Failure to notify the board shall be actionable under section 11 or 12. Further, the certificate of authorization of that licensee shall automatically be suspended upon failure to be covered by the required insurance and shall not be restored until submission to the board of satisfactory evidence that the licensee has the required professional liability insurance coverage.

(iii) The board shall accept from licensees as satisfactory evidence of insurance coverage under this subsection any or all of the following: self-insurance, personally purchased professional liability insurance, professional liability insurance coverage provided by the licensee's employer or any similar type of coverage.

(iv) The board shall adopt, by regulation, standards and procedures established by the Insurance Commissioner for self-insurance. In the absence of these standards and procedures, the board, after consultation with the Insurance Commissioner, shall establish standards and procedures by regulation for self-insurance under this subsection.

(c) (1) For each renewal of the certificate of authorization, the licensee shall complete within the immediately preceding two-year period at least 20 hours of continuing physical therapy education related to keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least ten of the 20 hours shall be in appropriate evaluative procedures to treat a person without a referral. The licensee shall provide the board with evidence of the completion of the continuing education.

(2) Continuing education programs and program providers under this subsection shall be approved by the board in accordance with standards and criteria established by the board by regulation. The regulation shall include any fees necessary to implement this provision and provide for waiver of the continuing education requirement due to illness or hardship in any licensing renewal period.

(3) The requirements for continuing physical therapy education shall not apply until the first renewal of the certificate of authorization at least two years after the effective date of this subsection. No credit shall be given for any course in office management or practice building.

(d) A physical therapist practicing physical therapy under this act shall refer patients to a licensed physician or other appropriate health care practitioner in any of the following cases:

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

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

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

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

(f) Nothing in this section shall be construed to require or preclude third-party insurance reimbursement. Nothing herein shall preclude an insurer or other third-party payor from requiring that a physical therapist obtain a referral from a licensed physician, dentist or podiatrist or that a physical therapist file an evaluation and treatment plan with the insurer or third-party payor as a precondition of reimbursement.

(9 amended Feb. 21, 2002, P.L.90, No.6)