

1 AN ACT relating to physical therapy.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO
4 READ AS FOLLOWS:

5 *The General Assembly finds and declares that:*

- 6 *(1) The practice of physical therapy should be regulated and controlled by this*
7 *chapter and administrative regulations promulgated thereunder in order to*
8 *protect and safeguard the health and safety of the citizens of the Commonwealth*
9 *of Kentucky; and*
10 *(2) Each individual licensed or privileged under this chapter shall be responsible and*
11 *accountable for making decisions that are based upon the individual's*
12 *educational preparation and experience in physical therapy and shall practice*
13 *physical therapy with reasonable skill and safety.*

14 ➔SECTION 2. KRS 327.010 IS REPEALED AND REENACTED TO READ
15 AS FOLLOWS:

16 *As used in this chapter, unless the context otherwise requires:*

- 17 *(1) "Active patient" means a person who is or has been under a physical therapy*
18 *plan of care unless care is transferred or terminated in writing;*
19 *(2) "Board" means the Board of Physical Therapy established in Section 5 of this*
20 *Act;*
21 *(3) "Physical therapist" means a professional person who has met the educational*
22 *requirements of this chapter and is licensed to practice physical therapy pursuant*
23 *to this chapter;*
24 *(4) "Physical therapist assistant" means a person who is licensed pursuant to this*
25 *chapter and provides physical therapy services under the direction and*
26 *supervision of a licensed physical therapist;*
27 *(5) "Physical therapy":*

1 (a) Means the use of selected knowledge and skills in planning, organizing, and
2 directing programs for the care of individuals whose ability to function is
3 impaired or threatened by disease or injury, which encompasses preventive
4 measures, screening, tests in aid of diagnosis and evaluation, and invasive
5 or noninvasive procedures with emphasis on the skeletal system,
6 integumentary system, neuromuscular and cardiopulmonary function, as it
7 relates to physical therapy;

8 (b) Includes:

9 1. Screening or evaluations performed to determine the degree of
10 impairment of relevant aspects such as but not limited to nerve and
11 muscle function, including subcutaneous bioelectrical potentials,
12 motor development, functional capacity, and respiratory or circulatory
13 efficiency; and

14 2. Physical therapy treatment, including but not limited to:

15 a. Exercises for increasing or restoring strength, endurance,
16 coordination and range of motion;

17 b. Stimuli to facilitate motor activity and learning;

18 c. Instruction in activities of daily living; and

19 d. The use of assistive devices and the application of physical
20 agents to relieve pain or alter physiological status; and

21 (c) Does not include the use of:

22 1. Roentgen rays and radium for diagnostic or therapeutic purposes; or

23 2. Electricity for surgical purposes, including cauterization and colonic
24 irrigations;

25 which are not authorized as physical therapy in this chapter;

26 (6) "Provisional license" means a license granted by the board to an applicant who
27 has not yet successfully completed the board-approved examination;

1 (7) "Refer" or "referral" means the procedure by which a licensed doctor of
 2 medicine, osteopathy, dentistry, chiropractic, or podiatry designates the initiation
 3 of physical therapy treatment by a licensed physical therapist; and

4 (8) "Test" means a standard method or technique used to gather data about the
 5 patient or client, including but not limited to imaging, electrodiagnostic, and
 6 electrophysiologic tests and measures.

7 ➔Section 3. KRS 327.020 is amended to read as follows:

8 (1) ~~A [No]~~ person shall **not** practice, **work**, or hold himself or herself out as being able
 9 to practice physical therapy **or work as a physical therapist assistant** unless the
 10 person:

11 (a) 1. Meets the educational requirements of this chapter;

12 2. Is licensed in accordance with the provisions of this chapter;

13 3. Is in good standing with the board; and

14 4. Holds a license that is not suspended or revoked; or

15 (b) Is eligible to practice or work through a compact privilege granted under KRS
 16 327.300.

17 (2) ~~[Nothing contained in]~~ This chapter shall **not be construed to:**

18 **(a)** Prohibit any person licensed in this state under any other law from engaging
 19 in the practice for which that person is duly licensed; ~~[- Nothing contained in~~
 20 ~~this chapter shall -]~~

21 **(b)** Prohibit routine and restorative services performed by personnel employed by
 22 hospitals, physicians, or licensed health care facilities as relates to physical
 23 therapists; ~~[- This chapter does not -]~~

24 **(c)** Preclude certified occupational therapists, respiratory technicians, or
 25 respiratory therapists from practicing as defined in the United States
 26 Department of Health, Education and Welfare, Public Health Service, Health
 27 Resources Administration, Bureau of Health Manpower, DHEW publication

1 No. (HRA) 80-28, "A Report On Allied Health Personnel[-]"; or

2 (d) Affect or prevent:

3 1. A physical therapist student from engaging in clinical practice under
4 the supervision of a licensed physical therapist, as part of the student's
5 educational program;

6 2. A physical therapist assistant student from engaging in clinical
7 practice under the supervision of a licensed physical therapist or of a
8 physical therapist assistant consistent with administrative regulations
9 promulgated by the board, as part of the student's educational
10 program;

11 3. A physical therapist or a physical therapist assistant who is licensed to
12 practice in another state or country from conducting or participating
13 in a clinical residency under the supervision of a physical therapist
14 licensed in Kentucky and for a period of not more than ninety (90)
15 days;

16 4. A physical therapist or a physical therapist assistant who is licensed to
17 practice in another state or country from conducting or participating
18 in the teaching of physical therapy in connection with an educational
19 program and for a period of not more than ninety (90) days;

20 5. A physical therapist or a physical therapist assistant licensed in
21 another state or country from performing physical therapy on
22 members of an out-of-state sports or entertainment group they
23 accompany to Kentucky;

24 6. The practice of chiropractic as defined in KRS 312.015;

25 7. The practice of occupational therapy as defined in KRS 319A.010; or

26 8. a. A physical therapist or a physical therapist assistant who is
27 practicing in the United States Armed Services, United States

1 Public Health Service, or United States Department of Veterans
 2 Affairs pursuant to federal regulations for jurisdictional
 3 licensure of healthcare providers.

4 b. If a person described in subdivision a. of this subparagraph
 5 engages in the practice of physical therapy outside the course
 6 and scope of his or her federal employment as a physical
 7 therapist or a physical therapist assistant, he or she shall then be
 8 required to obtain a license in accordance with this chapter and
 9 administrative regulations promulgated by the board~~Persons~~
 10 ~~regularly employed by the United States shall be exempted from~~
 11 ~~the provisions of this chapter while engaged in this employment].~~

12 (3) A licensed physical therapist may:

13 (a) Hold~~hold~~ himself or herself out as a "physical therapist" or "licensed
 14 physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part
 15 of or immediately following the physical therapist's name, in connection with
 16 the physical therapist's~~his or her~~ profession; and

17 (b) Refer a patient for tests or examination to aid in patient management
 18 decisions.

19 (4) A licensed physical therapist assistant may hold himself or herself out as a
 20 "physical therapist assistant" or "licensed physical therapist assistant" and may
 21 use the abbreviations "P.T.A." or "L.P.T.A." as a part of or immediately
 22 following the physical therapist assistant's name, in connection with the physical
 23 therapist assistant's profession.

24 (5) It shall be unlawful for any person, or for any business entity, its employees, agents,
 25 or representatives to use in connection with the person's or entity's name or business
 26 activity the words "physical therapy," "physical therapist," "physiotherapy,"
 27 "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T.," or any

1 other words, letters, abbreviations, or insignia indicating or implying directly or
 2 indirectly that physical therapy is provided or supplied or to bill for physical
 3 therapy unless that physical therapy is provided by or under the supervision of a
 4 physical therapist licensed and practicing in accordance with this chapter.

5 ~~(6)~~~~(5)~~ The provisions of subsections (1), (2), and ~~(5)~~~~(4)~~ of this section shall not
 6 apply to volunteer health practitioners providing services under KRS 39A.350 to
 7 39A.366.

8 ➔Section 4. KRS 327.025 is amended to read as follows:

9 Any physical therapist, physical therapist~~therapist's~~ assistant, or employer of physical
 10 therapy practitioners having knowledge of facts by actual or direct knowledge shall report
 11 to the board ~~of physical therapy~~ a physical therapist or physical therapist~~therapist's~~
 12 assistant who:

- 13 (1) Has been convicted of any~~a~~ felony, or of a misdemeanor as referenced by
 14 subsection (2)(f) of Section 10 of this Act that involved acts that bear directly on
 15 the qualifications or ability of the applicant or~~,~~ licensee~~, or certificate holder~~ to
 16 practice physical therapy;
- 17 (2) Is suspected of fraud or deceit in procuring or attempting to procure a license to
 18 practice physical therapy or of negligently performing actions that justify action
 19 against a physical therapist or physical therapist~~therapist's~~ assistant's license as
 20 identified in KRS 327.070(2);
- 21 (3) Has had a license to practice as a physical therapist or a license~~certificate~~ to work
 22 as a physical therapist~~therapist's~~ assistant denied, limited, suspended, probated, or
 23 revoked in another jurisdiction on grounds sufficient to cause a license ~~for~~
 24 ~~certificate~~ to be denied, limited, suspended, probated, or revoked in this
 25 Commonwealth; or
- 26 (4) Is practicing physical therapy without a current active license, compact
 27 privilege~~certificate~~, or valid provisional license~~temporary permit~~ issued by the

1 board.

2 ➔Section 5. KRS 327.030 is amended to read as follows:

3 (1) There is hereby established a Board of Physical Therapy which shall consist of
4 seven (7) members who shall be appointed by the Governor as follows:

5 (a)~~(1)~~ One (1) board member shall be a resident of Kentucky who is not
6 affiliated with or does not have more than five percent (5%) financial interest
7 in any health care profession or business; and

8 (b)~~(2)~~ All other board members shall:

9 1.~~(a)~~ Be residents of Kentucky;

10 2.~~(b)~~ Have engaged in the practice of physical therapy in Kentucky for
11 the past five (5) years; and

12 3.~~(c)~~ Not have been disciplined by the board, or have been under any
13 disciplinary action, in the past five (5)~~two (2)~~ years.

14 (2)~~(3)~~ All vacancies shall be filled by the Governor from a list of at least three (3)
15 persons ~~per position~~ submitted by the American~~Kentucky~~ Physical Therapy
16 Association Kentucky Chapter or as provided by KRS 12.070.

17 (3)~~(4)~~ Appointments~~For appointments~~ to the board ~~after December 31, 2008, the~~
18 ~~first two (2) appointments shall be for a term of two (2) years. The third~~
19 ~~appointment shall be for a term of three (3) years. All other subsequent~~
20 ~~appointments~~ shall be for a term of four (4) years. All members shall serve until
21 their successors are appointed and qualify. No member shall serve for more than
22 two (2) consecutive terms.

23 (4)~~(5)~~ The Governor may remove any member of the board for misconduct,
24 incompetence, or neglect of duty.

25 (5)~~(6)~~ The board may request the removal of a board member by the Governor.

26 (6)~~(7)~~ The board shall annually elect a chair and chair-elect.

27 (7)~~(8)~~ The board shall provide orientation to all new board members regarding the

1 duties of the board.

2 **(8) The board may employ an executive director and other personnel and may**
3 **purchase materials and supplies it deems necessary for the proper discharge of its**
4 **duties.**

5 (9) There shall be no liability on the part of, and no action for damages against, any
6 current or former board member, representative, agent, or employee of the board,
7 when the person is functioning within the scope of board duties, acting without
8 malice and with the reasonable belief that the actions taken by him or her are
9 warranted by law.

10 **(10) The board may purchase professional liability insurance for its members, staff,**
11 **investigators, general counsel, consultants, agents, and employees. The purchase**
12 **of or failure to purchase insurance shall not be deemed a waiver of any immunity**
13 **already conferred on the board, its members, staff, investigators, general counsel,**
14 **consultants, agents, and employees.**

15 ~~(11)~~ Each board member shall receive, in addition to travel, lodging, and other
16 actual and necessary expenses, a per diem not to exceed ~~one~~ **two hundred fifty**
17 ~~hundred twenty~~ dollars ~~(\$120)~~ **(\$250)** for each day the member is actually
18 engaged in the discharge of official duties approved by the board. The board shall,
19 by promulgation of administrative regulations, set the amount of the per diem.

20 **(12) The board may utilize the Attorney General's Office pool of hearing officers in**
21 **accordance with KRS 13B.030. However, if the Attorney General's office cannot**
22 **provide a hearing officer, the board may employ or contract with a hearing**
23 **officer of its choice.**

24 **(13) With the approval of the board, the executive director may hire additional officers**
25 **and other personnel necessary for the proper functioning of the board, fix their**
26 **salaries, and prescribe their duties. Any person employed under this section shall**
27 **not be subject to the provisions of KRS Chapter 18A.**

1 ➔Section 6. KRS 327.040 is amended to read as follows:

2 (1) *The board shall:*

3 *(a) Administer and enforce this chapter and set and evaluate the qualifications*
 4 *of applicants for licensure and for provisional licenses; and*

5 *(b) Promulgate administrative regulations in accordance with KRS Chapter*
 6 *13A to:*

7 *1. Effectively carry out and enforce the provisions of this chapter,*
 8 *including the regulation of physical therapists, physical therapist*
 9 *assistants, and the use of supportive personnel; and*

10 *2. Establish the fee amounts for all fees required by this chapter and the*
 11 *fees for services provided by the board, which shall not exceed*
 12 *amounts necessary to generate sufficient funds to effectively carry out*
 13 *and enforce the provisions of this chapter, including costs related to*
 14 *administration, overhead, staffing, information technology,*
 15 *investigations, inspections, administrative procedures, court costs,*
 16 *supplies, equipment, travel, educational awards, education and*
 17 *outreach efforts, and reserve funds for capital, operational, and*
 18 *programmatic expenses*~~[It shall be the duty of the State Board of~~

19 ~~Physical Therapy to receive applications from persons desiring to~~
 20 ~~become physical therapists and to determine whether said applicants~~
 21 ~~meet the qualifications and standards required by this chapter of all~~
 22 ~~physical therapists. The board shall also be charged with enforcement of~~
 23 ~~the provisions of this chapter].~~

24 (2) The board is an agency of state government with the power to institute criminal
 25 proceedings in the name of the Commonwealth against violators of this chapter, and
 26 to institute civil proceedings to enjoin any violation of this chapter. The board shall
 27 investigate every alleged violation of this chapter coming to its notice *by the*

1 **complaint procedure set forth in administrative regulations promulgated by the**
2 **board,** and shall take action as it may deem appropriate. It shall be the duty of the
3 Attorney General, the Commonwealth's attorneys, and the county attorneys to assist
4 the board in prosecuting all violations of this chapter.

5 (3) The board shall meet at least once each quarter at such place in this state as may be
6 selected by the board. Four (4) members of the board shall constitute a quorum for
7 the transaction of business. All meetings shall be held at the call of the **board**
8 **chair**~~[chairman]~~ or at a call of a quorum of members upon not less than ten (10)
9 days' written notice, unless notice shall be waived. The presence of any member at
10 any meeting of the board shall constitute a waiver of notice thereof by the member.

11 (4) The board may conduct investigations and schedule and conduct administrative
12 hearings in accordance with KRS Chapter 13B, to enforce the provisions of this
13 chapter or administrative regulations promulgated pursuant to this chapter. The
14 board **may**~~[shall have the authority to]~~ administer oaths, receive evidence, interview
15 persons, issue subpoenas, and require the production of books, papers, documents,
16 or other evidence. In case of disobedience to a subpoena, the board may invoke the
17 aid of the Franklin Circuit Court. Any order or subpoena of the court requiring the
18 attendance or testimony of witnesses or the production of documentary evidence
19 may be enforced and shall be valid anywhere in the Commonwealth.

20 (5) The board shall keep **minutes**~~[a minute book]~~ containing a record of all meetings of
21 the board.

22 (6) The board shall maintain **an electronic record**~~[a register]~~ of all persons licensed ~~for~~
23 ~~certified~~ under this chapter. This **record**~~[register]~~ shall show the name of every
24 licensee ~~for certificate holder~~ in this state, **the licensee's**~~[his]~~ current business
25 **or**~~[and]~~ residence address and telephone numbers, **email address,** and the date and
26 number of **the licensee's**~~[his]~~ license ~~or certificate~~. A licensee ~~for certificate~~
27 ~~holder~~ shall notify the board of a change of name, address, **email address,** or

1 telephone number, within thirty (30) days of the change.

2 (7) ~~{The board's records shall be updated annually.}~~

3 ~~{(8) }The board shall ~~{publish annually and }~~make available~~{,}~~ a current directory of all~~

4 licensed physical therapists and ~~{certified }~~physical ***therapist***~~{therapists'}~~ assistants.

5 ~~(8)~~~~{(9)}~~ The board shall adopt a seal which shall be affixed to every license ~~{and~~

6 ~~certificate }~~granted by it.

7 ~~(9)~~~~{(10)}~~ The board may promulgate administrative regulations establishing a measure

8 of continued competency as a condition of license renewal.~~{~~

9 ~~(11) The board may promulgate and enforce reasonable administrative regulations for~~

10 ~~the effectuation of the purposes of this chapter pursuant to the provisions of KRS~~

11 ~~Chapter 13A.}~~

12 ~~(10)~~~~{(12)}~~ The board shall promulgate by administrative regulation a code of ethical

13 standards and standards of practice.

14 **(11) The board may issue advisory opinions and declaratory rulings related to this**

15 **chapter and the administrative regulations promulgated thereunder as**

16 **established by administrative regulations.**

17 ~~(12)~~~~{(13)}~~ The board ***may***~~{shall have the right to}~~ regulate physical ***therapist***~~{therapists'}~~

18 assistants and may promulgate reasonable administrative regulations regarding

19 ***licensure***~~{certification}~~, limitations of activities, supervision, and educational

20 qualifications for physical ***therapist***~~{therapists'}~~ assistants. The board may establish

21 reasonable fees for the ***licensure***~~{certification}~~, renewal, and endorsement of

22 physical ***therapist***~~{therapists'}~~ assistants. The fees shall not exceed corresponding

23 fees for physical therapists.

24 **(13) (a)**~~{(14)}~~ The board shall promulgate administrative regulations governing the

25 physical and mental examination of physical therapists, physical

26 ***therapist***~~{therapists'}~~ assistants, or applicants, who may be impaired by reason

27 of a mental, physical, or other condition that impedes their ability to practice

1 competently.

2 **(b)** For purposes of enforcing this **subsection and carrying out other duties**
 3 **prescribed in this chapter**~~[section]~~, the board shall have the power to order an
 4 immediate temporary suspension in accordance with KRS 13B.125 if there is
 5 a reasonable cause to believe that a physical therapist, physical
 6 **therapist**~~[therapist's]~~ assistant, or applicant may be impaired by reason of a
 7 mental, physical, or other condition **or presents an immediate danger to the**
 8 **health, welfare, or safety of the public**~~[that impedes his or her ability to~~
 9 ~~practice competently]~~.

10 **(14) The board may convene committees and task forces to review and advise the**
 11 **board on pertinent issues of public protection of the practice of physical therapy**
 12 **in the Commonwealth.**

13 ➔Section 7. KRS 327.045 is amended to read as follows:

14 (1) The board shall establish an impaired physical therapy practitioners committee to
 15 promote the early identification, intervention, treatment, and rehabilitation of
 16 physical therapists and physical **therapist**~~[therapists]~~ assistants who may be
 17 impaired by reason of illness or of alcohol or drug abuse, or as a result of any
 18 physical or mental condition.

19 (2) The board may enter into a contractual agreement with a nonprofit corporation,
 20 physical therapy professional organization, or similar organization for the purpose
 21 of creating, supporting, and maintaining an impaired physical therapy practitioners
 22 committee.

23 (3) The board may promulgate administrative regulations in accordance with KRS
 24 Chapter 13A to effectuate and implement a committee formed by the provisions of
 25 this section.

26 (4) **The**~~[Beginning January 1, 2001, the]~~ board shall collect an assessment fee~~[not to~~
 27 ~~exceed twenty dollars (\$20)]~~ per licensee~~[or certificate holder]~~, payable to the

1 board, to be added to each licensure ~~[and certification]~~ renewal application fee.
2 Proceeds from the assessment shall be expended on the operation of an impaired
3 physical therapy practitioners committee formed by the provisions of this section.
4 The fee shall be set by the promulgation of administrative regulations.

5 (5) Members of an impaired physical therapy practitioners committee, any
6 administrator, staff member, consultant, agent, volunteer, or employee of the
7 committee acting within the scope of their duties and without actual malice, and all
8 other persons who furnish information to the committee in good faith and without
9 actual malice shall not be liable for any claim or damages as a result of any
10 statement, decision, opinion, investigation, or action taken by the committee or by
11 an individual member of the committee.

12 (6) All information, interviews, reports, statements, memoranda, or other documents
13 furnished to or produced by the impaired physical therapy practitioners committee,
14 all communication to or from the committee, and all proceedings, findings, and
15 conclusions of the committee, including those relating to intervention, treatment, or
16 rehabilitation, which in any way pertain or refer to a physical therapist or physical
17 therapist~~[therapist's]~~ assistant who is or may be impaired, shall be privileged and
18 confidential.

19 (7) All records and proceedings of the committee that pertain or refer to a licensee~~[or a~~
20 ~~certificate holder]~~ who may be, or actually is, impaired shall be privileged and
21 confidential and shall be used by the committee and its members only in the
22 exercise of the proper function of the committee and shall not be considered public
23 records and shall not be subject to court subpoena and subject to discovery or
24 introduction as evidence in any civil, criminal, or administrative proceedings except
25 as described in subsection (8) of this section.

26 (8) The committee may disclose information relative to an impaired physical therapist
27 or physical therapist~~[therapist's]~~ assistant only when:

- 1 (a) It is essential to disclose the information to persons or organizations needing
2 the information in order to address the intervention, treatment, or
3 rehabilitation needs of the impaired practitioner;
- 4 (b) Its release is authorized in writing by the impaired physical therapist or
5 physical ~~therapist~~therapist's assistant; or
- 6 (c) The information is subject to court order or the disclosure is otherwise
7 authorized by law.
- 8 (9) The impaired physical therapy practitioners committee shall make an annual report
9 to the board.
- 10 ➔Section 8. KRS 327.050 is amended to read as follows:
- 11 (1) Before the board may issue a license to a physical therapist applicant or a
12 physical therapist assistant applicant~~[applying for licensure by the board as a~~
13 ~~physical therapist],~~ the applicant~~[a person]~~ shall have successfully completed an
14 accredited program in physical therapy approved by the board. No school shall be
15 approved by the board unless it has been approved for the educational preparation
16 of physical therapists or physical therapist assistants by the recognized national
17 accrediting agency for physical therapy educational programs.
- 18 (2) Any person who possesses the qualifications required by this chapter and who
19 desires to apply for licensure as a physical therapist or physical therapist assistant
20 in Kentucky shall make written application to the board, on forms to be provided by
21 the board. The application shall be accompanied by a nonrefundable application fee
22 in an amount to be determined by the board~~[, but not to exceed two hundred fifty~~
23 ~~dollars (\$250)]~~.
- 24 (3) If it appears from the application that the applicant possesses the qualifications
25 required by this chapter and has not yet successfully completed the board-approved
26 examination, the applicant shall be allowed to sit for the examination and tested in
27 the subjects the board may determine to be necessary.

- 1 (4) Examinations shall be held within the state at least once a year at the time and place
2 as the board shall determine.
- 3 (5) An applicant who is admitted to the examination or an applicant who has submitted
4 satisfactory evidence that the applicant~~he~~ has been accepted as a candidate for
5 licensure by examination in a state which offers an examination approved by the
6 board may be granted a provisional license~~temporary permit~~ which shall be valid
7 until the applicant's~~his~~ examination is graded and the applicant~~he~~ is notified by
8 the board of the applicant's~~his~~ score. The board may summarily withdraw a
9 provisional license~~temporary permit~~ upon determination that the person has made
10 any false statement to the board on the application, or the person fails to pass an
11 examination approved by the board.
- 12 (6) An applicant who receives a passing score as determined by the board and who
13 meets the other qualifications required by this chapter shall be licensed as a
14 physical therapist or physical therapist assistant.
- 15 (7) An applicant who fails to receive a passing score on the~~his~~ examination shall not
16 be licensed, but the board may, by administrative regulation, permit applicants to
17 take the examination more than once.
- 18 (8) All licenses~~and certificates~~ shall be renewed biennially~~,~~ upon payment on or
19 before March 31 of each odd-numbered~~uneven-numbered~~ year of a renewal fee in
20 an amount to be promulgated by the board by administrative regulations.
- 21 (9) Licenses~~and certificates~~ which are not renewed by March 31 of each odd-
22 numbered~~uneven-numbered~~ year shall lapse.~~†~~
- 23 ~~(10) This chapter shall not be construed to affect or prevent:~~
- 24 ~~(a) A student of physical therapy from engaging in clinical practice under the~~
25 ~~supervision of a licensed physical therapist, as part of the student's~~
26 ~~educational program;~~
- 27 ~~(b) A physical therapist who is licensed to practice in another state or country~~

1 from conducting or participating in a clinical residency under the supervision
2 of a physical therapist licensed in Kentucky and for a period of not more than
3 ninety (90) days;

4 (c) ~~A physical therapist who is licensed to practice in another state or country~~
5 ~~from conducting or participating in the teaching of physical therapy in~~
6 ~~connection with an educational program and for a period of not more than~~
7 ~~ninety (90) days;~~

8 (d) ~~A physical therapist licensed in another state or country from performing~~
9 ~~therapy on members of the out of state sports or entertainment group they~~
10 ~~accompany to Kentucky; or~~

11 (e) ~~The practice of chiropractic as defined in KRS 312.015(3).]~~

12 ➔Section 9. KRS 327.060 is amended to read as follows:

13 (1) The board shall issue a license to:

14 (a) An individual who holds a valid license from another state, who meets
15 requirements specified in KRS 327.050 and who has no imposed or pending
16 disciplinary actions.

17 (b) An individual who has been educated as a physical therapist *or physical*
18 *therapist assistant* outside the United States and who has:

- 19 1. Completed the application process;
- 20 2. Provided satisfactory evidence to the board that his or her education is
21 substantially equivalent to the requirements for physical therapists *or*
22 *physical therapist assistants* educated in United States accredited
23 educational programs;
- 24 3. Provided written proof that the school of physical therapy education
25 outside the United States is recognized by its own ministry of education;
- 26 4. Successfully completed the examinations provided for in KRS 327.050;
- 27 5. Passed the board-approved English language proficiency examinations

- 1 if English is not the applicant's~~[his or her]~~ native language;
- 2 6. Successfully completed, prior to licensure, a board-approved, supervised
3 practice period of not less than three (3) months nor more than six (6)
4 months, under the direct supervision of a physical therapist who holds
5 an unrestricted~~[Kentucky]~~ license. This requirement may be satisfied by
6 at least three (3) months of supervised practice as a physical therapist in
7 a state with license requirements comparable to or more stringent than
8 those of Kentucky;
- 9 7. Provided proof of legal authorization to reside and seek employment in
10 the United States or its territories;
- 11 8. Provided proof of authorization to practice as a physical therapist or
12 physical therapist assistant without limitations in the country where the
13 professional education occurred;
- 14 9. Submitted to a prescreening process by an agency approved by the
15 board; and
- 16 10. Submitted educational credentials to the board for evaluation by an
17 agency approved by the board.
- 18 (2) The board may approve an agency to prescreen applicants for initial licensure under
19 this section.
- 20 (3) The board may approve one (1) or more services to provide an evaluation of the
21 applicant's educational credentials for board approval for licensing under this
22 section.
- 23 (4) The board may waive the requirements of subsection (1)(b) 3., 9., and 10. of this
24 section if the applicant is a graduate of a professional physical therapy education
25 program preapproved by the board.
- 26 (5) The board may waive the requirements of subsection (1)(b)6. of this section for
27 an applicant for credentialing by endorsement pursuant to administrative

1 **regulations of the board.**

2 ➔Section 10. KRS 327.070 is amended to read as follows:

- 3 (1) The board, after due notice and an opportunity for an administrative hearing
 4 conducted in accordance with KRS Chapter 13B may take any one (1) or a
 5 combination of the following actions against any licensee, **licensee of another**
 6 **member state as defined in KRS 327.300**~~[certificate holder]~~, or applicant:
- 7 (a) Refuse to license~~[or certify]~~ any applicant;
- 8 (b) Refuse to renew the license~~[or certificate]~~ of any person;
- 9 (c) **Permanently revoke, suspend,**~~[Suspend or revoke]~~ or place on probation the
 10 license~~[or certificate]~~ of any person;
- 11 (d) Impose restrictions on the scope of practice of any person;
- 12 (e) Issue an administrative reprimand to any person; **and**
- 13 (f) Issue a private admonishment to any person~~[-; and~~
- 14 ~~(g) Impose fines for violations of this chapter not to exceed two thousand five~~
 15 ~~hundred dollars (\$2,500)].~~
- 16 (2) The following acts by a licensee, **licensee of another member state as defined in**
 17 **KRS 327.300**~~[certificate holder]~~, or applicant may be considered cause for
 18 disciplinary action:
- 19 (a) Indulgence in excessive use of alcoholic beverages or abusive use of
 20 controlled substances;
- 21 (b) Engaging in, permitting, or attempting to engage in or permit the performance
 22 of substandard patient care by himself or by persons working under his
 23 supervision due to a deliberate or negligent act or failure to act, regardless of
 24 whether actual injury to the patient is established;
- 25 (c) **1. Having engaged in or attempted to engage in sexual contact as defined**
 26 **in KRS 510.010, whether consensual or nonconsensual, with any**
 27 **active patient of record, or with the parent or legal guardian of the**

- 1 *active patient of record, unless a consensual sexual relationship exists*
 2 *between, and predated, the patient and therapist relationship; or*
 3 *2. Requesting sexual favors or physical contact of a sexual nature unless*
 4 *a prior consensual sexual relationship exists with any active patient of*
 5 *record of the physical therapist or physical therapist assistant* [~~Having~~
 6 engaged in or attempted to engage in a course of lewd or immoral
 7 conduct with any person:
- 8 1. ~~While that person is a patient of a health care facility defined by KRS~~
 9 ~~216B.015 where the physical therapist or physical therapist's assistant~~
 10 ~~provides physical therapy services; or~~
- 11 2. ~~While that person is a patient or client of the physical therapist or~~
 12 ~~physical therapist's assistant];~~
- 13 (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of
 14 both parties, with *any individual* [~~an employee or coworker of the licensee or~~
 15 ~~certificate holder];~~
- 16 (e) Sexually harassing *any individual* [~~an employee or coworker of the licensee or~~
 17 ~~certificate holder];~~
- 18 (f) Conviction of a felony or misdemeanor in the courts of this state or any other
 19 state, territory, or country which *impedes a person's* [~~affects his~~] ability [~~to~~
 20 ~~continue~~] to practice competently and safely on the public, if in accordance
 21 with KRS Chapter 335B. "Conviction," as used in this paragraph, shall
 22 include a *deferred conviction, deferred prosecution, deferred sentence,*
 23 finding or verdict of guilt, *an Alford plea,* an admission of guilt, or a plea of
 24 nolo contendere;
- 25 (g) Obtaining or attempting to obtain a license [~~or certificate~~] by fraud or material
 26 misrepresentation or making any other false statement to the board;
- 27 (h) Engaging in fraud or material deception in the delivery of professional

- 1 services, including reimbursement, or advertising services in a false or
2 misleading manner;
- 3 (i) Evidence of gross negligence or gross incompetence in his practice of
4 physical therapy;
- 5 (j) Documentation of being declared mentally disabled by a court of competent
6 jurisdiction and not thereafter having had his rights restored;
- 7 (k) Failing or refusing to obey any lawful order or administrative regulation of the
8 board;
- 9 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or
10 service, or directing or requiring a patient to purchase a device, treatment,
11 procedure, or service from a facility or business in which he has a financial
12 interest;
- 13 (m) Being impaired by reason of a mental, physical, or other condition that
14 impedes his or her ability to practice competently;
- 15 **(n) Having had a license revoked or suspended, other disciplinary action taken,**
16 **or an application for licensure refused, revoked, or suspended by the proper**
17 **authorities of another state, territory, or country;**
- 18 **(o) Interfering with an investigation or disciplinary proceeding by failure to**
19 **cooperate, by willful misrepresentation of facts, or by the use of threats or**
20 **harassment against any patient or witness to prevent that patient or witness**
21 **from providing evidence in a disciplinary proceeding or any legal action;**
- 22 **(p) Failing to maintain patient confidentiality without documented**
23 **authorization of the patient or authorized decision maker, or unless**
24 **otherwise required by law;**
- 25 **(q) Engaging, or attempting to engage, in conduct that subverts or undermines**
26 **the integrity of the licensure examination process;**
- 27 **(r)**~~(n)~~ Violation of KRS 304.39-215; and

- 1 ~~(s)(e)~~ Conduct that is subject to the penalties under KRS 304.99-060(4) or (5).
- 2 (3) A private admonishment shall not:
- 3 (a) Be subject to disclosure to the public under KRS 61.878(1)(l); ~~[- A private~~
- 4 ~~admonishment shall not]~~
- 5 (b) Constitute disciplinary action, but may be used by the board for statistical
- 6 purposes or in subsequent disciplinary action against the same licensee,
- 7 ~~certificate holder,~~ or applicant; or
- 8 (c) *Be admissible in any proceeding under KRS Chapter 13B, except as*
- 9 *provided in paragraph (b) of this subsection.*
- 10 (4) (a) *The board shall develop specific guidelines through the promulgation of*
- 11 *administrative regulations in accordance with KRS Chapter 13A to follow*
- 12 *upon receipt of an allegation of sexual misconduct by a physical therapist*
- 13 *or physical therapist assistant licensed by the board or granted a compact*
- 14 *privilege under KRS 327.300.*
- 15 (b) *The guidelines shall include investigation, inquiry, and hearing procedures*
- 16 *which ensure that the process does not revictimize the alleged victim or*
- 17 *cause harm if a physical therapist or physical therapist assistant is falsely*
- 18 *accused.*
- 19 (5) *The board, staff, and investigators may receive periodic education on pertinent*
- 20 *issues, including but not limited to topics affecting the practice of physical*
- 21 *therapy and public protection.*
- 22 (6) (a) *The board may, by administrative regulation promulgated in accordance*
- 23 *with KRS Chapter 13A, establish which disciplinary action records may be*
- 24 *expunged.*
- 25 (b) *Any records that are expunged shall be exempt from disclosure under the*
- 26 *Kentucky Open Records Act, KRS 61.870 to 61.884.*
- 27 (c) *The board shall not report its disciplinary actions for any purpose other*

1 than statistical.

2 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) The board shall establish the amounts, limits, or ranges for any fines imposed
5 under this chapter through the promulgation of administrative regulations in
6 accordance with KRS Chapter 13A and shall fine any person who:

7 (a) Violates or aids in the violation of Section 3, 4, 8, or 9 of this Act for
8 practicing or for performing services without a license required by the
9 board;

10 (b) Is issued a notice of violation by the board for failure to comply with this
11 chapter or administrative regulations promulgated under this chapter;

12 (c) Exercises or attempts to exercise control over, interferes with, or attempts to
13 influence the professional judgment of a licensee in any manner, including
14 through coercion, collusion, extortion, inducement, or intimidation;

15 (d) 1. Violates any ruling of the board or hinders any agent of the board in
16 carrying out the duties assigned to the agent;

17 2. Is an officer who refuses to enforce the provisions of this chapter
18 when called upon by the board to do so; or

19 3. Attempts in any way to hinder or obstruct the board in carrying out the
20 provisions of this chapter; or

21 (e) Willfully refuses to obey its lawful orders and resists, obstructs, interferes
22 with, threatens, attempts to intimidate, or in any other manner interferes
23 with an agent of the board.

24 (2) Each day or part of a day that a violation continues is a separate violation and
25 subject to daily penalties.

26 (3) For any violation of this chapter, in addition to any other fines designated in this
27 section, the board may impose on any person fines in an amount equal to the cost

1 of investigative and legal fees incurred by the board in processing the case.
 2 (4) The board may seek an injunction in the Circuit Court of the county in which the
 3 alleged violation occurred against any individual who practices physical therapy
 4 without a license issued by the board under this chapter or a compact privilege
 5 granted under KRS 327.300.

6 ➔Section 12. KRS 327.075 is amended to read as follows:

- 7 (1) The board may reinstate within three (3) years a license~~[or certificate]~~ which has
 8 lapsed~~[,]~~ upon payment of the prescribed renewal fee and, in addition, the payment
 9 of a reinstatement fee to be promulgated by the board by administrative regulations.
- 10 (2) The board may reinstate a license~~[or certificate]~~ which has been lapsed for more
 11 than three (3) years~~[,]~~ upon a showing that the applicant is able to practice with
 12 reasonable competency. In determining competency, the board may require the
 13 applicant to successfully complete additional requirements established by the
 14 board by promulgation of an administrative regulation in accordance with KRS
 15 Chapter 13A~~[all or any part of the required examination].~~
- 16 (3) The board may reinstate a license which has been suspended or revoked under
 17 provisions of this chapter if, after a hearing conducted in accordance with KRS
 18 Chapter 13B, the board determines the applicant is able to practice the profession
 19 with reasonable competency and is able to maintain the ethical code and standards
 20 of practice promulgated by administrative regulation. As a condition of
 21 reinstatement, the board may impose reasonable restrictions under which the
 22 licensee~~[or certificate holder]~~ shall practice.
- 23 (4) Any person aggrieved by a final order of the board denying, suspending, or
 24 revoking that person's~~[his]~~ license~~[or certificate]~~ may appeal to the Franklin
 25 Circuit Court in accordance with KRS Chapter 13B.

26 ➔SECTION 13. KRS 327.080 IS REPEALED AND REENACTED TO READ
 27 AS FOLLOWS:

1 (1) All fees and other moneys received by the board pursuant to this chapter shall be
 2 deposited in the State Treasury to the credit of a revolving fund for the use of the
 3 board.

4 (2) (a) No part of this revolving fund shall revert to the general fund of this
 5 Commonwealth.

6 (b) Notwithstanding KRS 45.229, fund amounts not expended at the close of a
 7 fiscal year shall not lapse but shall be carried forward into the next fiscal
 8 year.

9 (3) All expenses incurred by the board shall be paid from this revolving fund,
 10 including:

11 (a) The compensation of members of the board;

12 (b) Salaries, wages, and benefits of the employees of the board;

13 (c) Payment of contractors hired by the board;

14 (d) Administrative services provided to the board;

15 (e) Investigative and legal services;

16 (f) Court costs;

17 (g) Technology expenses related to administration of this chapter; and

18 (h) All other expenses incurred by board.

19 ➔Section 14. KRS 327.200 is amended to read as follows:

20 (1) A treating physical therapist or physical therapist assistant who provides or
 21 facilitates the use of telehealth shall ensure:

22 (a) That the informed consent of the patient, or another appropriate person with
 23 authority to make the health care treatment decision for the patient, is
 24 obtained before services are provided through telehealth; and

25 (b) That the confidentiality of the patient's medical information is maintained as
 26 required by this chapter and other applicable law. At a minimum,
 27 confidentiality shall be maintained through appropriate processes, practices,

1 and technology as designated by the board and that conform to applicable
2 federal law.

3 (2) The board shall promulgate administrative regulations in accordance with KRS
4 Chapter 13A to implement this section and as necessary to:

- 5 (a) Prevent abuse and fraud through the use of telehealth services;
- 6 (b) Prevent fee-splitting through the use of telehealth services; and
- 7 (c) Utilize telehealth in the provision of physical therapy and in the provision of
8 continuing education.

9 (3) For purposes of this section, "telehealth" means the use of interactive audio, video,
10 or other electronic media to deliver health care. It includes the use of electronic
11 media for ***physical therapy*** diagnosis, consultation, treatment, transfer of health or
12 medical data, and continuing education.

13 ➔Section 15. KRS 327.310 is amended to read as follows:

14 The Board of Physical Therapy established in KRS 327.030 shall require a national and
15 state criminal background investigation for every applicant seeking a license~~,~~
16 ~~certificate,~~ or ***provisional license***~~[temporary permit]~~ issued by the board permitting the
17 applicant to engage in a profession authorized by the board. The criminal background
18 investigation shall be by means of a fingerprint check by the Department of Kentucky
19 State Police and Federal Bureau of Investigation, pursuant to the following requirements:

- 20 (1) The applicant shall provide ***the applicant's***~~[his or her]~~ fingerprints to the
21 Department of Kentucky State Police for submission to the Federal Bureau of
22 Investigation after a state criminal background check is conducted;
- 23 (2) The results of the national and state criminal background check shall be sent to the
24 board for the screening of applicants;
- 25 (3) The board shall be prohibited from releasing any criminal history record
26 information to any private entity or other licensing board, or authorizing receipt by
27 such entity or board; and

1 (4) Any fee charged by the Department of Kentucky State Police or the Federal Bureau
2 of Investigation shall be an amount no greater than the actual cost of processing the
3 request and conducting the background check. The board may charge this fee to the
4 applicant for licensure ~~or certification~~.