

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 11-0119.01 Jery Payne

SENATE BILL 11-169

SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

Summers,

Senate Committees

Health and Human Services
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PEOPLE WORKING WITHIN A**
102 **PHYSICAL THERAPIST'S SCOPE OF PRACTICE, AND MAKING AN**
103 **APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - Senate Health and Human Services Committee. The bill implements the following recommendations of the department of regulatory agencies in its sunset review of the regulation of physical therapists:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 29, 2011

SENATE
Amended 2nd Reading
March 25, 2011

- ! The regulation of physical therapists is continued until 2018.
- ! The board of physical therapy (board) is reestablished and the physical therapy advisory committee is repealed.
- ! Physical therapists are permitted to use an automated external defibrillator.
- ! The program of "All-inclusive Care for the Elderly" is added to the list of physical therapy work settings that are exempt from the corporate practice law.
- ! A physical therapist's failure to properly address a physical or mental condition is established as grounds for discipline, and the board is authorized to create confidential agreements with physical therapists to address these conditions.
- ! Physical therapists are required to maintain professional liability insurance.
- ! The standard for discipline for inappropriate drug use is changed to be triggered by acts, not status.
- ! Physical therapists who have had their licenses revoked or who have surrendered their licenses, in lieu of disciplinary action, are required to wait 2 years to reapply.
- ! Failure to respond to a complaint is established as grounds for discipline.
- ! The provision denying renewal of an existing physical therapist license is repealed.

In addition, the scope of a physical therapist's practice is expanded to include wound care.

The bill authorizes the heir of a shareholder of a physical therapy practice to own the practice for up to 2 years even if the heir is not a physical therapist. The physical therapy board is directed to promulgate rules covering the supervision of assistants and nurse aides.

The bill authorizes the physical therapy board to certify physical therapist assistants. Certification is needed to hold oneself out to be a physical therapist assistant. In order to qualify to be certified as a physical therapist assistant, an applicant must pass an examination and complete a training program. Alternatively, the applicant must have qualified to take the examination or qualified for certification by endorsement. Grounds for withholding or denial of a certificate are established.

An applicant for licensure must submit an application and pay a fee established by the board.

A physical therapist assistant must be under the supervision of a physical therapist to assist in the clinical practice of physical therapy. Grounds for discipline and discipline procedures are established.

The bill establishes standards for mental and physical competency

and for judicial review of board actions resulting in the surrender of a physical therapist assistant's certificate. A person who violates the qualification standards for physical therapist assistants is subject to penalties. The board may initiate injunction proceedings against a person practicing in violation of the certification requirements.

The functions of the board are subject to review and potential repeal under the sunset law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Repeal.** 24-34-104 (42) (e), Colorado Revised
3 Statutes, is repealed as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 (42) The following agencies, functions, or both, shall terminate on July
7 1, 2011:

8 ~~(e) The licensing of physical therapists by the director of the~~
9 ~~division of registrations in accordance with article 41 of title 12, C.R.S.;~~

10 **SECTION 2.** 24-34-104 (49.5), Colorado Revised Statutes, is
11 amended to read:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for termination, continuation, or reestablishment.**

14 (49.5) The following agencies, functions, or both, shall terminate on
15 September 1, 2018:

16 (a) The automobile theft prevention authority and the automobile
17 theft prevention board, created in section 42-5-112, C.R.S.;

18 (b) THE LICENSING OF PHYSICAL THERAPISTS BY THE PHYSICAL
19 THERAPY BOARD IN ACCORDANCE WITH ARTICLE 41 OF TITLE 12, C.R.S.;

20 (c) THE CERTIFICATION OF PHYSICAL THERAPIST ASSISTANTS BY
21 THE PHYSICAL THERAPY BOARD IN ACCORDANCE WITH ARTICLE 41 OF
22 TITLE 12, C.R.S.

1 **SECTION 3.** 12-41-130 (1) and (2) (a), Colorado Revised
2 Statutes, are amended to read:

3 **12-41-130. Repeal of article.** (1) This ~~article~~ PART 1 is repealed,
4 effective ~~July 1, 2011~~ SEPTEMBER 1, 2018.

5 (2) (a) The licensing functions of the ~~director of the division of~~
6 ~~registrations~~ BOARD as set forth in this ~~article~~ PART 1 are terminated ~~July~~
7 ~~1, 2011~~ SEPTEMBER 1, 2018.

8 **SECTION 4.** 12-41-103, Colorado Revised Statutes, is amended
9 **BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to**
10 **read:**

11 **12-41-103. Definitions.** As used in this article, unless the context
12 otherwise requires:

13 (1.5) "BOARD" MEANS THE PHYSICAL THERAPY BOARD CREATED
14 IN SECTION 12-41-103.3.

15 (5.5) "PHYSICAL THERAPIST ASSISTANT" MEANS A PERSON WHO IS
16 REQUIRED TO BE CERTIFIED UNDER PART 2 OF THIS ARTICLE AND WHO
17 ASSISTS A PHYSICAL THERAPIST IN SELECTED COMPONENTS OF PHYSICAL
18 THERAPY.

19 **SECTION 5.** 12-41-103 (6) (a) (II), Colorado Revised Statutes,
20 is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH
21 to read:

22 **12-41-103. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (6) (a) (II) For purposes of this article "physical therapy" includes:

25 (F) GENERAL WOUND CARE, INCLUDING THE ASSESSMENT AND
26 MANAGEMENT OF SKIN LESIONS, SURGICAL INCISIONS, OPEN WOUNDS, AND
27 AREAS OF POTENTIAL SKIN BREAKDOWN IN ORDER TO MAINTAIN OR

1 RESTORE THE INTEGUMENTARY SYSTEM.

2 **SECTION 6.** Article 41 of title 12, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **12-41-103.3. Physical therapy board - created - repeal.**

5 (1)(a) THE STATE PHYSICAL THERAPY BOARD IS HEREBY CREATED AS THE
6 AGENCY FOR REGULATION OF THE PRACTICE OF PHYSICAL THERAPY IN THIS
7 STATE AND TO CARRY OUT THE PURPOSES OF THIS ARTICLE. THE BOARD
8 CONSISTS OF FIVE PHYSICAL THERAPIST MEMBERS AND TWO MEMBERS
9 FROM THE PUBLIC AT LARGE, EACH MEMBER TO BE APPOINTED BY THE
10 GOVERNOR BY NO LATER THAN JANUARY 1, 2012, FOR TERMS OF FOUR
11 YEARS. A MEMBER SHALL NOT SERVE MORE THAN TWO CONSECUTIVE
12 TERMS OF FOUR YEARS. THE GOVERNOR SHALL GIVE DUE CONSIDERATION
13 TO HAVING A GEOGRAPHIC, POLITICAL, URBAN, AND RURAL BALANCE
14 AMONG THE BOARD MEMBERS.

15 (b) EACH MEMBER OF THE BOARD RECEIVES THE COMPENSATION
16 PROVIDED FOR IN SECTION 24-34-102 (13), C.R.S.

17 (c) THE BOARD EXERCISES ITS POWERS AND PERFORMS ITS DUTIES
18 AND FUNCTIONS UNDER THE DIVISION OF REGISTRATIONS AS IF THE
19 POWERS, DUTIES, AND FUNCTIONS WERE TRANSFERRED TO THE DIVISION BY
20 A TYPE 1 TRANSFER, AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION
21 ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S. THE DIVISION SHALL
22 PROVIDE NECESSARY MANAGEMENT SUPPORT TO THE BOARD UNDER
23 SECTION 24-34-102, C.R.S.

24 (d) (I) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION
25 (1), THE INITIAL TERMS OF THE PHYSICAL THERAPIST MEMBERS ARE AS
26 FOLLOWS:

27 (A) ONE MEMBER SERVES A TWO-YEAR TERM;

1 (B) TWO MEMBERS SERVE THREE-YEAR TERMS; AND

2 (C) TWO MEMBERS SERVE FOUR-YEAR TERMS.

3 (II) THE INITIAL TERMS FOR THE PUBLIC MEMBERS ARE AS
4 FOLLOWS:

5 (A) ONE MEMBER SERVES A TWO-YEAR TERM; AND

6 (B) ONE MEMBER SERVES A FOUR-YEAR TERM.

7 (III) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE SEPTEMBER 1,
8 2016.

9 (2) A PERSON IS QUALIFIED TO BE APPOINTED TO THE BOARD IF THE
10 PERSON:

11 (a) IS A LEGAL RESIDENT OF COLORADO; AND

12 (b) IS CURRENTLY LICENSED IN GOOD STANDING, WITH NO
13 RESTRICTIONS, AS A PHYSICAL THERAPIST AND ACTIVELY ENGAGED IN THE
14 PRACTICE OF PHYSICAL THERAPY IN THIS STATE FOR AT LEAST FIVE YEARS
15 PRECEDING HIS OR HER APPOINTMENT, IF FULFILLING THE POSITION OF
16 PHYSICAL THERAPIST ON THE BOARD.

17 (3) SHOULD A VACANCY OCCUR IN ANY BOARD MEMBERSHIP
18 BEFORE THE EXPIRATION OF THE MEMBER'S TERM, THE GOVERNOR SHALL
19 FILL SUCH VACANCY BY APPOINTMENT FOR THE REMAINDER OF THE TERM
20 IN THE SAME MANNER AS IN THE CASE OF ORIGINAL APPOINTMENTS. A
21 MEMBER OF THE BOARD SHALL REMAIN ON THE BOARD UNTIL HIS OR HER
22 SUCCESSOR HAS BEEN APPOINTED. A MEMBER MAY BE REMOVED BY THE
23 GOVERNOR FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY.

24 **SECTION 7.** Article 41 of title 12, Colorado Revised Statutes, is
25 amended BY THE ADDITION OF A NEW SECTION CONTAINING
26 RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

27 **12-41-103.6. [Formerly 12-41-125] Powers and duties of**

1 **board - reports - publications - rules - repeal.** (1) (a) The ~~director is~~
2 ~~authorized to~~ BOARD SHALL administer and enforce the provisions of this
3 article and ~~any rules and regulations~~ adopted under this article.

4 (b) THE DIRECTOR RETAINS THE AUTHORITY GRANTED TO THE
5 BOARD UNTIL A BOARD IS CONSTITUTED AND RULES ARE PROMULGATED.
6 THE DIRECTOR'S RULES REMAIN IN EFFECT UNTIL REPEALED BY THE
7 DIRECTOR. THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2013.

8 (2) In addition to any other powers and duties given the ~~director~~
9 BOARD by this article, the ~~director shall have~~ BOARD HAS the following
10 powers and duties:

11 (a) To evaluate the qualifications of applicants for licensure,
12 administer examinations, issue and renew ~~the~~ licenses and permits
13 authorized under this article, and to take ~~the~~ disciplinary actions
14 authorized under this article;

15 (b) To adopt all reasonable and necessary rules for the
16 administration and enforcement of this article, including ~~but not limited~~
17 ~~to~~, rules regarding:

18 (I) The supervision of unlicensed persons by physical therapists,
19 taking into account the education and training of ~~such~~ THE unlicensed
20 individuals; and

21 (II) Physical therapy of animals, including, without limitation,
22 educational and clinical requirements for the performance of physical
23 therapy of animals and the procedure for handling complaints to the
24 department of regulatory agencies regarding physical therapy of animals.
25 In adopting such rules, the ~~director~~ BOARD shall consult ~~with the physical~~
26 ~~therapy advisory committee established pursuant to section 12-41-126 and~~
27 with the state board of veterinary medicine established ~~pursuant to~~ BY

1 section 12-64-105.

2 (c) (I) To conduct hearings upon charges for discipline of a
3 licensee and cause the prosecution and enjoinder of all persons violating
4 this article;

5 (II) (A) To administer oaths, take affirmations of witnesses, and
6 issue subpoenas to compel the attendance of witnesses and the production
7 of all relevant papers, books, records, documentary evidence, and
8 materials in any hearing, investigation, accusation, or other matter coming
9 before the ~~director~~ BOARD. The ~~director~~ BOARD may appoint an
10 administrative law judge pursuant to part 10 of article 30 of title 24,
11 C.R.S., to take evidence and to make findings and report them to the
12 ~~director~~ BOARD.

13 ~~(HH)~~ (B) Upon failure of ~~any~~ A witness to comply with ~~such~~ A
14 subpoena or process, the district court of the county in which the
15 subpoenaed person or ~~licensee~~ LICENSEE resides or conducts business,
16 upon application by the board ~~or director~~ with notice to the subpoenaed
17 person or licensee, may issue to the person or licensee an order requiring
18 that person or licensee to appear before the ~~director~~ BOARD; to produce
19 the relevant papers, books, records, documentary evidence, or materials
20 if so ordered; or to give evidence touching the matter under investigation
21 or in question. THE COURT MAY PUNISH A failure to obey ~~the~~ ITS order ~~of~~
22 ~~the court may be punished by the court~~ as a contempt of court.

23 (d) To maintain a register listing the name of every physical
24 therapist, ~~licensed to practice in this state~~, including the ~~last-known place~~
25 ~~of business~~ CONTACT ADDRESS, last-known place of residence, and the
26 license number of each licensee; AND

27 ~~(e) Repealed.~~

1 ~~(f) Subject to the provisions of section 12-41-128 and section~~
2 ~~24-34-105, C.R.S., to establish fines, set fees, and make such~~
3 ~~expenditures as the director may deem necessary for the administration~~
4 ~~of the provisions of this article;~~

5 ~~(g) Repealed.~~

6 ~~(h) To ensure that publications issued or circulated by the director~~
7 ~~in quantity outside the executive branch are in accordance with the~~
8 ~~provisions of section 24-1-136, C.R.S.;~~

9 ~~(i) (e) To promote consumer protection and consumer education~~
10 ~~by such means as the director BOARD finds appropriate. and~~

11 ~~(j) To appoint advisory committees to assist in the performance of~~
12 ~~the director's duties. Members of any such advisory committee shall~~
13 ~~receive no compensation for their services but shall be reimbursed for~~
14 ~~actual and necessary expenses which they may incur in the performance~~
15 ~~of their duties. Such reimbursement shall be cash funded and shall not~~
16 ~~exceed the amount anticipated to be raised from fees collected pursuant~~
17 ~~to this article.~~

18 **SECTION 8.** The introductory portion to 12-41-105 (1) and
19 12-41-105 (1) (b), Colorado Revised Statutes, are amended to read:

20 **12-41-105. Limitations on authority.** (1) Nothing in this article
21 ~~shall be construed as authorizing~~ AUTHORIZES a physical therapist to
22 perform any of the following acts:

23 (b) Use of roentgen rays and radioactive materials for therapeutic
24 purposes; the use of electricity for surgical purposes; ~~or lifesaving~~
25 ~~measures;~~ or the diagnosis of disease.

26 **SECTION 9.** 12-41-106, Colorado Revised Statutes, is amended
27 to read:

1 **12-41-106. License required.** Except as otherwise provided by
2 this article, any person who practices physical therapy or who represents
3 oneself as being able to practice physical therapy in this state must
4 possess a valid license issued by the director in accordance with this
5 article and any rules and regulations adopted under this article.

6 **SECTION 10.** 12-41-107, Colorado Revised Statutes, is amended
7 to read:

8 **12-41-107. Licensure by examination.** (1) Every applicant for
9 a license by examination shall:

10 (a) Successfully complete a physical therapy program:

11 (I) ~~Which~~ THAT is accredited by a nationally recognized
12 accrediting agency; or

13 (II) ~~Which~~ THAT the director, after consultation with the advisory
14 ~~committee created in section 12-41-126,~~ BOARD has determined to be
15 substantially equivalent. ~~It is the intent of~~ The general assembly INTENDS
16 that ~~such~~ THIS determination be liberally construed to ensure qualified
17 applicants seeking licensure under this article the right to take the
18 qualifying examination. ~~authorized under this article.~~ It is not the intent
19 of The general assembly ~~that~~ DOES NOT INTEND FOR technical barriers TO
20 be used to deny such applicants the right to take ~~such~~ THE examination.

21 (b) Pass a written examination ~~administered by the director in~~
22 accordance with subsection (2) of this section THAT IS:

23 (I) APPROVED BY THE BOARD; AND

24 (II) A NATIONAL EXAMINATION ACCREDITED BY A NATIONALLY
25 RECOGNIZED ACCREDITING AGENCY;

26 (c) Submit an application in the form and manner designated by
27 the director; and

1 (d) Pay a fee in an amount determined by the director.

2 (2) ~~(a) The director shall prepare and develop or acquire the~~
3 ~~examination required for licensing. In developing or acquiring such~~
4 ~~examination, the director or the director's designee is authorized to~~
5 ~~consult with persons or organizations knowledgeable in the requirements~~
6 ~~necessary for minimal competency in the practice of physical therapy.~~

7 ~~(b) The examination shall be held within the state at such times~~
8 ~~and places as the director shall determine.~~

9 ~~(c) The director shall determine the passing score to reflect a~~
10 ~~standard of minimum competency for the practice of physical therapy.~~

11 ~~(d) The director~~ BOARD may refuse to ~~examine~~ PERMIT an
12 applicant TO TAKE THE EXAMINATION if the application is incomplete, if
13 ~~it indicates that the applicant is not qualified to sit for the examination, or~~
14 if the applicant has committed any act which would be grounds for
15 disciplinary action under section 12-41-115.

16 ~~(e) Written notice stating whether the applicant passed or failed~~
17 ~~the examination shall be mailed to each applicant who takes the~~
18 ~~examination.~~

19 (3) When the applicant has fulfilled all the requirements of
20 subsection (1) of this section, the ~~director~~ BOARD shall issue a license to
21 the applicant; except that the ~~director~~ BOARD may deny ~~such~~ THE license
22 if the applicant has committed ~~any~~ AN act which would be grounds for
23 disciplinary action under section 12-41-115.

24 **SECTION 11.** 12-41-109 (1) (a), (2), (4), and (5), Colorado
25 Revised Statutes, are amended to read:

26 **12-41-109. Licensure by endorsement.** (1) An applicant for
27 licensure by endorsement shall:

1 (a) Possess an active, A valid license in good standing from
2 another state or territory of the United States;

3 (2) Upon receipt of all documents required by subsection (1) of
4 this section, the director shall review the application and ~~make a~~
5 ~~determination of~~ DETERMINE IF the applicant's qualification APPLICANT IS
6 QUALIFIED to be licensed by endorsement.

7 (4) The director shall notify the applicant in writing of the denial
8 or approval of the application.

9 (5) The ~~director~~ BOARD may deny ~~such~~ A license if the applicant
10 has committed ~~any~~ AN act which would be grounds for disciplinary action
11 under section 12-41-115.

12 **SECTION 12.** The introductory portion to 12-41-109 (3) and
13 12-41-109 (3) (c) (I), as it will become effective July 1, 2011, Colorado
14 Revised Statutes, are amended to read:

15 **12-41-109. Licensure by endorsement.** (3) The ~~director~~ BOARD
16 shall issue a license if the applicant fulfills the requirements of subsection
17 (1) of this section and meets any one of the following qualifying
18 standards enumerated in paragraphs (a) to (c) of this subsection (3):

19 (c) The applicant has not practiced as a licensed physical therapist
20 at least two of the last five years immediately preceding the date of the
21 receipt of the application, and:

22 (I) The applicant passed an examination in another jurisdiction
23 ~~which examination~~ THAT is substantially equivalent to ~~that~~ THE
24 EXAMINATION specified in section 12-41-107 (1) (b), and has
25 demonstrated competency through successful completion of an internship
26 or demonstrated competency as a physical therapist ~~that fulfills~~ BY
27 FULFILLING the requirements established by rules of the ~~director~~ BOARD.

1 **SECTION 13.** The introductory portion to 12-41-111 (1) and
2 12-41-111 (1) (c), (2), and (3), Colorado Revised Statutes, are amended
3 to read:

4 **12-41-111. Licensing of foreign-trained applicants.** (1) Every
5 foreign-trained applicant for licensing by examination shall:

6 (c) Pass a written examination ~~administered~~ APPROVED by the
7 director BOARD in accordance with section 12-41-107 ~~(2)~~ (1) (b);

8 (2) ~~When the director has verified the credentials and documents~~
9 ~~required to be submitted by the foreign-trained applicant pursuant to~~
10 ~~paragraphs (a), (b), (d), and (e) of subsection (1) of this section, he shall~~
11 ~~qualify such applicant to take the examination required in paragraph (c)~~
12 ~~of subsection (1) of this section~~ UPON RECEIPT OF ALL DOCUMENTS
13 REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL
14 REVIEW THE APPLICATION AND DETERMINE IF THE APPLICANT IS QUALIFIED
15 TO BE LICENSED.

16 (3) When the applicant has fulfilled all requirements of subsection
17 (1) of this section, the director BOARD shall issue a license to the
18 applicant; except that the director BOARD may deny the application if the
19 applicant has committed ~~any~~ AN act which would be grounds for
20 disciplinary action under section 12-41-115.

21 **SECTION 14.** 12-41-112, Colorado Revised Statutes, is
22 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

23 **12-41-112. Expiration and renewal of licenses.** AN APPLICANT
24 FOR LICENSURE SHALL PAY LICENSE, RENEWAL, AND REINSTATEMENT FEES
25 ESTABLISHED BY THE DIRECTOR IN THE SAME MANNER AS IS AUTHORIZED
26 IN SECTION 24-34-105, C.R.S. A LICENSEE SHALL RENEW A LICENSE IN
27 ACCORDANCE WITH A SCHEDULE ESTABLISHED BY THE DIRECTOR

1 PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY
2 ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT
3 UNDER SECTION 24-34-105, C.R.S. IF A PERSON FAILS TO RENEW A
4 LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR,
5 THE LICENSE EXPIRES. A PERSON WHOSE LICENSE HAS EXPIRED IS SUBJECT
6 TO THE PENALTIES PROVIDED IN THIS ARTICLE AND SECTION 24-34-102 (8),
7 C.R.S.

8 **SECTION 15.** Part 1 of article 41 of title 12, Colorado Revised
9 **Statutes, is amended BY THE ADDITION OF A NEW SECTION to**
10 **read:**

11 **12-41-112.5 Inactive license.** A PHYSICAL THERAPIST MAY
12 **REQUEST THAT THE BOARD INACTIVATE OR ACTIVATE THE PHYSICAL**
13 **THERAPIST'S LICENSE. THE BOARD SHALL PROMULGATE RULES GOVERNING**
14 **THE ACTIVATION AND INACTIVATION OF LICENSES. NOTWITHSTANDING**
15 **ANY LAW TO THE CONTRARY, THE BOARD'S RULES MAY LIMIT THE**
16 **APPLICABILITY OF STATUTORY REQUIREMENTS FOR MAINTAINING**
17 **PROFESSIONAL LIABILITY INSURANCE AND CONTINUING PROFESSIONAL**
18 **COMPETENCE FOR A LICENSEE WHOSE LICENSE IS CURRENTLY INACTIVE.**
19 **THE BOARD NEED NOT REACTIVATE AN INACTIVE LICENSE IF THE PHYSICAL**
20 **THERAPIST HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR**
21 **DISCIPLINARY ACTION UNDER SECTION 12-41-115. A PHYSICAL THERAPIST**
22 **WHOSE LICENSE IS CURRENTLY INACTIVE SHALL NOT PRACTICE PHYSICAL**
23 **THERAPY.**

24 **SECTION 16.** 12-41-113 (1), Colorado Revised Statutes, is
25 amended to read:

26 **12-41-113. Special practice authorities and requirements -**
27 **rules. (1) Supervising persons not licensed as a physical therapist.**

1 ~~A physical therapist may utilize the services of not more than three~~
2 ~~unlicensed individuals to assist in that therapist's practice. Such~~
3 ~~individuals shall at all times be under the direct supervision of the~~
4 ~~physical therapist unless such individuals are physical therapist assistants~~
5 ~~who shall be under responsible direction and supervision of the physical~~
6 ~~therapist~~ A PHYSICAL THERAPIST MAY SUPERVISE UP TO FOUR INDIVIDUALS
7 AT ONE TIME WHO ARE NOT PHYSICAL THERAPISTS, INCLUDING CERTIFIED
8 NURSE AIDES, TO ASSIST IN THE THERAPIST'S CLINICAL PRACTICE; EXCEPT
9 THAT THIS LIMIT DOES NOT INCLUDE STUDENT PHYSICAL THERAPISTS AND
10 STUDENT PHYSICAL THERAPIST ASSISTANTS SUPERVISED BY A PHYSICAL
11 THERAPIST FOR EDUCATIONAL PURPOSES. THE BOARD SHALL
12 PROMULGATE RULES GOVERNING THE REQUIRED SUPERVISION. THIS
13 SUBSECTION (1) DOES NOT AFFECT OR LIMIT THE INDEPENDENT PRACTICE
14 OR JUDGEMENT OF OTHER PROFESSIONS REGULATED UNDER THIS TITLE.

15 For purposes of this subsection (1), a "physical therapist assistant" means
16 a person ~~who has successfully completed a physical therapist assistant~~
17 ~~program accredited by the commission on accreditation in physical~~
18 ~~therapy education or any comparable successor entity; who is registered,~~
19 ~~licensed, or certified as a physical therapist assistant in another state; or~~
20 ~~who has otherwise qualified to take the physical therapy examination.~~

21 For purposes of this subsection (1), "direct supervision" shall mean
22 supervision that is on the premises where any such unlicensed individuals
23 are practicing CERTIFIED UNDER PART 2 OF THIS ARTICLE.

24 **SECTION 17.** The introductory portion to 12-41-114 (1) and
25 12-41-114 (1) (f), (1) (g), and (1) (h), Colorado Revised Statutes, are
26 amended to read:

27 **12-41-114. Scope of article - exclusions.** (1) Nothing contained

1 in this article ~~shall prohibit~~ PROHIBITS:

2 (f) The practice of physical therapy in this state by ~~any~~ A legally
3 qualified physical therapist from another state or country when providing
4 services in the absence of a physical therapist licensed in this state, so
5 long as ~~said~~ THE unlicensed physical therapist is acting in accordance with
6 rules ~~and regulations~~ established by the ~~director~~. ~~Such unlicensed~~
7 ~~practice~~ BOARD. A PERSON shall not ~~be of~~ PRACTICE WITHOUT A LICENSE
8 UNDER THIS PARAGRAPH (f) FOR more than four weeks' duration ~~and no~~
9 ~~person shall be authorized by the director to undertake such practice~~ OR
10 more than once in any twelve-month period.

11 (g) The practice of physical therapy in this state by ~~any~~ A legally
12 qualified physical therapist from another state or country for the purpose
13 of participating in an educational program of not more than ~~six~~ SIXTEEN
14 weeks' duration. ~~Prior notice of intent to participate shall be given to the~~
15 ~~director and is subject to the director's approval. Upon written~~
16 ~~application by the participant, an extension may be granted by the~~
17 ~~director.~~

18 (h) The provision of physical therapy services in this state by ~~any~~
19 AN individual from another country who is engaged in a physical therapy
20 related educational program if ~~said~~ THE program is sponsored by an
21 institution, agency, or individual approved by the ~~director if said~~ BOARD,
22 THE program is under the direction and supervision of a physical therapist
23 licensed in this state, and ~~if said~~ THE program does not exceed twelve
24 consecutive months' duration without the specific approval of the ~~director~~
25 BOARD;

26 **SECTION 18.** Article 41 of title 12, Colorado Revised Statutes,
27 is amended BY THE ADDITION OF THE FOLLOWING NEW

1 SECTIONS to read:

2 **12-41-114.5. Professional liability insurance required - rules.**

3 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PERSON
4 SHALL NOT PRACTICE PHYSICAL THERAPY UNLESS THE PERSON PURCHASES
5 AND MAINTAINS PROFESSIONAL LIABILITY INSURANCE OF AT LEAST ONE
6 MILLION DOLLARS PER CLAIM AND AT LEAST THREE MILLION DOLLARS PER
7 YEAR FOR ALL CLAIMS UNLESS THE CORPORATION THAT EMPLOYS THE
8 PHYSICAL THERAPIST MAINTAINS THE INSURANCE REQUIRED BY SECTION
9 12-41-124 IF THE INSURANCE COVERS AT LEAST ONE MILLION DOLLARS
10 PER CLAIM AND AT LEAST THREE MILLION DOLLARS PER YEAR.

11 (2) THE BOARD MAY BY RULE ESTABLISH LESSER FINANCIAL
12 RESPONSIBILITY STANDARDS FOR A CLASS OF PHYSICAL THERAPISTS
13 WHOSE PRACTICE DOES NOT REQUIRE THE LEVEL OF PUBLIC PROTECTION
14 ESTABLISHED BY SUBSECTION (1) OF THIS SECTION. THE BOARD SHALL
15 NOT ESTABLISH GREATER FINANCIAL RESPONSIBILITY STANDARDS THAN
16 THOSE ESTABLISHED IN SUBSECTION (1) OF THIS SECTION.

17 (3) THIS SECTION DOES NOT APPLY TO A PHYSICAL THERAPIST WHO
18 IS A PUBLIC EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE
19 PUBLIC EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY UNDER THE
20 "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24,
21 C.R.S.

22 **12-41-114.6. Continuing professional competency.** (1) (a) A
23 LICENSED PHYSICAL THERAPIST SHALL MAINTAIN CONTINUING
24 PROFESSIONAL COMPETENCY TO PRACTICE.

25 (b) THE BOARD SHALL ADOPT RULES ESTABLISHING A CONTINUING
26 PROFESSIONAL COMPETENCY PROGRAM THAT INCLUDES, AT A MINIMUM,
27 THE FOLLOWING ELEMENTS:

1 (I) A SELF-ASSESSMENT OF THE KNOWLEDGE AND SKILLS OF A
2 PHYSICAL THERAPIST SEEKING TO RENEW OR REINSTATE A LICENSE;

3 (II) DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A
4 LEARNING PLAN BASED ON THE ASSESSMENT; AND

5 (III) PERIODIC DEMONSTRATION OF KNOWLEDGE AND SKILLS
6 THROUGH DOCUMENTATION OF ACTIVITIES NECESSARY TO ENSURE AT
7 LEAST MINIMAL ABILITY TO SAFELY PRACTICE THE PROFESSION; EXCEPT
8 THAT A LICENSED PHYSICAL THERAPIST NEED NOT RETAKE ANY
9 EXAMINATION REQUIRED BY SECTION 12-41-107 FOR INITIAL LICENSURE.

10 (c) THE BOARD SHALL ESTABLISH THAT A LICENSED PHYSICAL
11 THERAPIST SATISFIES THE CONTINUING COMPETENCY REQUIREMENTS OF
12 THIS SECTION IF THE PHYSICAL THERAPIST MEETS THE CONTINUING
13 PROFESSIONAL COMPETENCY REQUIREMENTS OF ONE OF THE FOLLOWING
14 ENTITIES:

15 (I) A STATE DEPARTMENT, INCLUDING CONTINUING PROFESSIONAL
16 COMPETENCY REQUIREMENTS IMPOSED THROUGH A CONTRACTUAL
17 ARRANGEMENT WITH A PROVIDER;

18 (II) AN ACCREDITING BODY RECOGNIZED BY THE BOARD; OR

19 (III) AN ENTITY APPROVED BY THE BOARD.

20 (d) (I) AFTER THE PROGRAM IS ESTABLISHED, A LICENSED
21 PHYSICAL THERAPIST SHALL SATISFY THE REQUIREMENTS OF THE
22 PROGRAM IN ORDER TO RENEW OR REINSTATE A LICENSE TO PRACTICE
23 PHYSICAL THERAPY.

24 (II) THE REQUIREMENTS OF THIS SECTION APPLY TO INDIVIDUAL
25 LICENSED PHYSICAL THERAPISTS, AND NOTHING IN THIS SECTION REQUIRES
26 A PERSON WHO EMPLOYS OR CONTRACTS WITH A PHYSICAL THERAPIST TO
27 COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

1 (2) RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION
2 DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING
3 PROFESSIONAL COMPETENCY PROGRAM ARE CONFIDENTIAL AND NOT
4 SUBJECT TO INSPECTION BY THE PUBLIC OR DISCOVERY IN CONNECTION
5 WITH A CIVIL ACTION AGAINST A LICENSED PHYSICAL THERAPIST. A
6 PERSON OR THE BOARD SHALL NOT USE THE RECORDS OR DOCUMENTS
7 UNLESS USED BY THE BOARD TO DETERMINE WHETHER A LICENSED
8 PHYSICAL THERAPIST IS MAINTAINING CONTINUING PROFESSIONAL
9 COMPETENCY TO ENGAGE IN THE PROFESSION.

10 (3) AS USED IN THIS SECTION, "CONTINUING PROFESSIONAL
11 COMPETENCY" MEANS THE ONGOING ABILITY OF A PHYSICAL THERAPIST TO
12 LEARN, INTEGRATE, AND APPLY THE KNOWLEDGE, SKILL, AND JUDGMENT
13 TO PRACTICE AS A PHYSICAL THERAPIST ACCORDING TO GENERALLY
14 ACCEPTED STANDARDS AND PROFESSIONAL ETHICAL STANDARDS.

15 **SECTION 19.** The introductory portion to 12-41-115 (1) and
16 12-41-115 (1) (c), (1) (d), (1) (g), (1) (j), (1) (l), (1) (m), (1) (n), (1) (o),
17 (1) (p), (1) (q), and (1) (u), Colorado Revised Statutes, are amended, and
18 the said 12-41-115 (1) is further amended BY THE ADDITION OF THE
19 FOLLOWING NEW PARAGRAPHS, to read:

20 **12-41-115. Grounds for disciplinary action.** (1) The ~~director~~
21 ~~is authorized to~~ BOARD MAY take disciplinary action in accordance with
22 section 12-41-116 against ~~any~~ A person who has:

23 (c) Failed to refer a patient to the appropriate licensed health care
24 practitioner PROFESSIONAL when the services required by the patient are
25 beyond the level of competence of the physical therapist or beyond the
26 scope of physical therapy practice;

27 (d) Abandoned a patient by any means, including but not limited

1 to failure to provide a referral to another physical therapist or to other
2 ANOTHER appropriate health care practitioners PROFESSIONAL when the
3 provision of such referral was necessary to meet generally accepted
4 standards of physical therapy care;

5 (g) Engaged in any of the following activities and practices:
6 Ordering or performance, without clinical justification, of demonstrably
7 unnecessary laboratory tests or studies; the administration, without
8 clinical justification, of treatment ~~which~~ THAT is demonstrably
9 unnecessary; or ordering or performing, without clinical justification, any
10 service, X ray, or treatment ~~which~~ THAT is contrary to recognized
11 standards of the practice of physical therapy as interpreted by the ~~director~~
12 BOARD;

13 (j) Offered, given, or received commissions, rebates, or other
14 forms of remuneration for the referral of clients; ~~Notwithstanding this~~
15 ~~provision~~, EXCEPT THAT a licensee may pay an independent advertising
16 or marketing agent compensation for advertising or marketing services
17 rendered ~~on his behalf~~ by ~~such~~ AN agent ON THE LICENSEE'S BEHALF,
18 including compensation for referrals of clients identified through such
19 services on a per-client basis;

20 (l) ~~A dependence on or addiction to alcohol or any habit-forming~~
21 ~~drug or abuses or engages in~~ ENGAGED IN the habitual or excessive use
22 OR ABUSE of ~~any such~~ ALCOHOL, A habit-forming drug, or ~~any~~ A
23 controlled substance as defined in section 12-22-303;

24 (m) (I) ~~A physical or mental condition or disability which renders~~
25 ~~such licensee unable to treat patients with reasonable skill and safety or~~
26 ~~which may endanger the health or safety of persons under the licensee's~~
27 ~~care~~ FAILED TO NOTIFY THE BOARD, AS REQUIRED BY SECTION

1 12-41-118.5, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT
2 IMPACTS THE LICENSEE'S ABILITY TO PERFORM PHYSICAL THERAPY WITH
3 REASONABLE SKILL AND SAFETY TO PATIENTS;

4 (II) FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
5 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
6 LICENSEE UNABLE TO PERFORM PHYSICAL THERAPY WITH REASONABLE
7 SKILL AND SAFETY TO THE PATIENT; OR

8 (III) FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER
9 A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-41-118;

10 (n) Refused to submit to a physical or mental examination when
11 so ordered by the ~~director~~ BOARD pursuant to section 12-41-118;

12 (o) Failed to notify the ~~director~~, BOARD in writing of the entry of
13 a final judgment by a court of competent jurisdiction ~~in favor of any party~~
14 ~~and~~ against the licensee for malpractice of physical therapy or ~~any~~ A
15 settlement by the licensee in response to charges or allegations of
16 malpractice of physical therapy, ~~Such~~ WHICH notice ~~shall~~ MUST be given
17 within ninety days ~~of~~ AFTER the entry of ~~such~~ judgment or ~~such~~ settlement
18 and, in the case of a judgment, ~~shall~~ MUST contain the name of the court,
19 the case number, and the names of all parties to the action;

20 (p) Violated or aided or abetted a violation of ~~any provision of this~~
21 article, ~~any~~ A rule or regulation adopted under this article, or ~~any~~ A lawful
22 order of the ~~director~~ BOARD;

23 (q) Been convicted of, ~~a felony or~~ pled guilty, or PLED nolo
24 contendere to ANY CRIME RELATED TO THE LICENSEE'S PRACTICE OF
25 PHYSICAL THERAPY OR a felony or committed ~~any~~ AN act specified in
26 section 12-41-121. A certified copy of the judgment of a court of
27 competent jurisdiction of such conviction or plea ~~shall be~~ IS conclusive

1 evidence of such conviction or plea. In considering the disciplinary
2 action, the ~~director shall be~~ BOARD IS governed by the ~~provisions of~~
3 section 24-5-101, C.R.S.

4 (u) Practiced physical therapy during the time the person's license
5 was INACTIVE, EXPIRED, suspended, or revoked;

6 (v) FAILED TO MAINTAIN THE INSURANCE REQUIRED BY SECTION
7 12-41-114.5 OR A RULE PROMULGATED THEREUNDER;

8 (w) FAILED TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
9 AND TIMELY MANNER TO A COMPLAINT ISSUED UNDER THIS ARTICLE;

10 (x) FAILED TO KNOW THE CONTENTS OF THIS PART 1 AND ANY
11 RULES PROMULGATED UNDER THIS PART 1;

12 (y) FAILED TO EITHER:

13 (I) CONFIRM THAT A PATIENT IS UNDER THE CARE OF A PHYSICIAN
14 OR OTHER HEALTH CARE PROFESSIONAL FOR THE UNDERLYING MEDICAL
15 CONDITION WHEN PROVIDING GENERAL WOUND CARE WITHIN THE SCOPE
16 OF THE PHYSICAL THERAPIST'S PRACTICE; OR

17 (II) REFER THE PATIENT TO A PHYSICIAN OR OTHER APPROPRIATE
18 HEALTH CARE PROFESSIONAL FOR THE TREATMENT OF THE UNDERLYING
19 MEDICAL CONDITION WHEN PROVIDING GENERAL WOUND CARE WITHIN THE
20 SCOPE OF THE PHYSICAL THERAPIST'S PRACTICE.

21 SECTION 20. Article 41 of title 12, Colorado Revised Statutes,
22 is amended BY THE ADDITION OF A NEW SECTION to read:

23 12-41-115.5. Protection of medical records - licensee's
24 obligations - verification of compliance - noncompliance grounds for
25 discipline - rules. (1) EACH LICENSED PHYSICAL THERAPIST
26 RESPONSIBLE FOR PATIENT RECORDS SHALL DEVELOP A WRITTEN PLAN TO
27 ENSURE THE SECURITY OF PATIENT MEDICAL RECORDS. THE PLAN MUST

1 ADDRESS AT LEAST THE FOLLOWING:

2 (a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL
3 RECORDS;

4 (b) THE DISPOSITION OF PATIENT MEDICAL RECORDS IN THE EVENT
5 THE LICENSEE DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR
6 PROVIDE PHYSICAL THERAPY CARE TO PATIENTS; AND

7 (c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN
8 THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN
9 PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

10 (2) UPON INITIAL LICENSURE UNDER THIS PART 1 AND UPON
11 RENEWAL OF A LICENSE, THE APPLICANT OR LICENSEE SHALL ATTEST TO
12 THE BOARD THAT HE OR SHE HAS DEVELOPED A PLAN IN COMPLIANCE WITH
13 THIS SECTION.

14 (3) A LICENSEE SHALL INFORM EACH PATIENT IN WRITING OF THE
15 METHOD BY WHICH THE PATIENT MAY ACCESS OR OBTAIN HIS OR HER
16 MEDICAL RECORDS IF AN EVENT DESCRIBED IN PARAGRAPH (b) OF
17 SUBSECTION (1) OF THIS SECTION OCCURS.

18 (4) THE BOARD MAY ADOPT RULES REASONABLY NECESSARY TO
19 IMPLEMENT THIS SECTION.

20 **SECTION 21.** 12-41-116 (1), (2) (a), (2) (b), (3), (3.5), and (4),
21 Colorado Revised Statutes, are amended, and the said 12-41-116 is
22 further amended BY THE ADDITION OF THE FOLLOWING NEW
23 SUBSECTIONS, to read:

24 **12-41-116. Disciplinary actions.** (1) (a) The director pursuant
25 ~~to the provisions of~~ BOARD, IN ACCORDANCE WITH article 4 of title 24,
26 C.R.S., may issue letters of admonition; ~~or may~~ deny, refuse to renew,
27 suspend, or revoke any license; ~~may~~ place a licensee on probation; ~~or may~~

1 impose public censure or a fine, if ~~after notice and hearing~~, the director
2 BOARD or the ~~director's~~ BOARD'S designee determines AFTER NOTICE AND
3 THE OPPORTUNITY FOR A HEARING that the licensee has committed ~~any of~~
4 ~~the acts~~ AN ACT specified in section 12-41-115.

5 (b) ~~The denial of an application to renew an existing license shall~~
6 ~~be treated in all respects as a revocation. If an application to renew a~~
7 ~~license is denied, the applicant, within sixty days after the date of the~~
8 ~~notice of such action, may request a hearing as provided in section~~
9 ~~24-4-105, C.R.S.~~

10 (c) The director may take disciplinary action on an emergency
11 basis as provided in section 24-4-105, C.R.S. IN THE CASE OF A
12 DELIBERATE AND WILLFUL VIOLATION OF THIS ARTICLE OR IF THE PUBLIC
13 HEALTH, SAFETY, AND WELFARE REQUIRE EMERGENCY ACTION, THE
14 BOARD MAY TAKE DISCIPLINARY ACTION ON AN EMERGENCY BASIS UNDER
15 SECTIONS 24-4-104 AND 24-4-105, C.R.S.

16 (2) (a) When a complaint or investigation discloses an instance of
17 misconduct that, in the opinion of the ~~director~~ BOARD, does not warrant
18 formal action ~~by the director~~ but that should not be dismissed as being
19 without merit, THE BOARD MAY SEND a letter of admonition ~~may be issued~~
20 ~~and sent, by certified mail,~~ to the licensee.

21 (b) When THE BOARD SENDS a letter of admonition ~~is sent by the~~
22 ~~director, by certified mail~~ to a licensee, ~~such licensee~~ THE BOARD shall be
23 ~~advised that he or she has the~~ NOTIFY THE LICENSEE OF THE LICENSEE'S
24 right to request in writing, within twenty days after receipt of the letter,
25 that formal disciplinary proceedings be initiated to adjudicate the
26 propriety of the conduct ~~upon which~~ DESCRIBED IN the letter of
27 admonition. ~~is based.~~

1 (3) In any disciplinary order ~~which~~ THAT allows a physical
2 therapist to continue to practice, the ~~director~~ BOARD may impose upon the
3 licensee such conditions as the ~~director~~ BOARD deems appropriate to
4 ensure that the physical therapist is physically, mentally, and
5 professionally qualified to practice physical therapy in accordance with
6 generally accepted professional standards. Such conditions may include
7 any or all of the following:

8 (a) Examination of the physical therapist to determine his OR HER
9 mental or physical condition, as provided in section 12-41-118, or to
10 determine professional qualifications;

11 (b) Any therapy, training, or education ~~which~~ THAT the ~~director~~
12 BOARD believes ~~to be~~ necessary to correct deficiencies found either
13 ~~pursuant to~~ IN a proceeding in compliance with section 24-34-106,
14 C.R.S., or through an examination ~~pursuant to~~ UNDER paragraph (a) of
15 this subsection (3);

16 (c) ~~Any~~ A review or supervision of a licensee's practice ~~which~~
17 THAT the ~~director~~ BOARD finds necessary to identify and correct
18 deficiencies therein;

19 (d) Restrictions upon the nature and scope of practice to ensure
20 that the licensee does not practice beyond the limits of ~~such~~ THE licensee's
21 capabilities.

22 (3.5) When a complaint or investigation discloses an instance of
23 conduct that does not warrant formal action by the ~~director~~ BOARD and,
24 in the opinion of the ~~director~~ BOARD, the complaint should be dismissed,
25 but the ~~director~~ BOARD has noticed indications of possible errant conduct
26 by the licensee that could lead to serious consequences if not corrected,
27 THE BOARD MAY SEND a confidential letter of concern ~~may be issued and~~

1 sent to the licensee.

2 (4) The ~~director~~ BOARD may take disciplinary action against a
3 physical therapist for failure to comply with any of the conditions
4 imposed by the ~~director pursuant to~~ BOARD UNDER subsection (3) of this
5 section.

6 (5) A PERSON WHOSE LICENSE HAS EXPIRED IS SUBJECT TO THE
7 PENALTIES PROVIDED IN THIS ARTICLE AND SECTION 24-34-102 (8), C.R.S.

8 (6) A PERSON WHOSE LICENSE TO PRACTICE PHYSICAL THERAPY IS
9 REVOKED OR WHO SURRENDERS HIS OR HER LICENSE TO AVOID DISCIPLINE
10 IS NOT ELIGIBLE TO APPLY FOR A LICENSE FOR TWO YEARS AFTER THE
11 LICENSE IS REVOKED OR SURRENDERED. THE TWO-YEAR WAITING PERIOD
12 APPLIES TO A PERSON WHOSE LICENSE TO PRACTICE PHYSICAL THERAPY,
13 OR TO PRACTICE ANY OTHER HEALTH CARE OCCUPATION, IS REVOKED BY
14 ANY OTHER LEGALLY QUALIFIED BOARD OR REGULATORY ENTITY.

15 **SECTION 22.** 12-41-117 (1), (2), (3), (5), (6), (7) (a), (8), (9),
16 (10), (11) (a), (12), (13), and (14), Colorado Revised Statutes, are
17 amended to read:

18 **12-41-117. Disciplinary proceedings - investigations - judicial**
19 **review.** (1) The ~~director~~ BOARD may commence a proceeding for the
20 discipline of a licensee when the ~~director~~ BOARD has reasonable grounds
21 to believe that a licensee has committed an act enumerated in section
22 12-41-115.

23 (2) In any proceeding held under this section, the ~~director~~ BOARD
24 may accept as prima facie evidence of grounds for disciplinary action any
25 disciplinary action taken against a licensee from another jurisdiction if the
26 violation ~~which~~ THAT prompted the disciplinary action in that jurisdiction
27 would be grounds for disciplinary action under this article.

1 (3) (a) The ~~director~~ BOARD may investigate potential grounds for
2 disciplinary action upon ~~his~~ ITS own motion or when ~~such director~~ THE
3 BOARD is informed of dismissal of ~~any~~ A person licensed ~~pursuant to~~
4 UNDER this article if ~~such~~ THE dismissal was for a matter ~~which would~~
5 ~~constitute~~ CONSTITUTING a violation of this article.

6 (b) ~~Any~~ A person who supervises a physical therapist shall report
7 to the ~~director~~ BOARD when ~~such~~ THE physical therapist has been
8 dismissed because of incompetence in physical therapy or failure to
9 comply with this article. ~~Any~~ A physical therapist who is aware that
10 another physical therapist is violating ~~any of the provisions of~~ this article
11 shall report such violation to the ~~director~~ BOARD.

12 (5) (a) The ~~director~~ BOARD or an administrative law judge ~~shall~~
13 ~~have the power to~~ MAY administer oaths, take affirmations of witnesses,
14 and issue subpoenas to compel the attendance of witnesses and the
15 production of all relevant papers, books, records, documentary evidence,
16 and materials in any hearing, investigation, accusation, or other matter
17 coming before the ~~director~~ BOARD pursuant to this article. The ~~director~~
18 BOARD may appoint an administrative law judge pursuant to part 10 of
19 article 30 of title 24, C.R.S., to take evidence and to make findings and
20 report them to the ~~director~~ BOARD.

21 (b) Upon failure of ~~any~~ A witness to comply with ~~such~~ A subpoena
22 or process, the district court of the county in which the subpoenaed
23 person or licensee resides or conducts business, upon application by the
24 board ~~or director~~ with notice to the subpoenaed person or licensee, may
25 issue to the person or licensee an order requiring that person or licensee
26 to appear before the ~~director~~ BOARD; to produce the relevant papers,
27 books, records, documentary evidence, or materials if so ordered; or to

1 give evidence touching the matter under investigation or in question.
2 Failure to obey the order of the court may be punished by the court as a
3 contempt of court.

4 (6) The ~~director~~ BOARD may keep any investigation authorized
5 under this article closed until the results of such investigation are known
6 and either the complaint is dismissed or notice of hearing and charges are
7 served upon the licensee.

8 (7) (a) The ~~director~~ BOARD, the director's staff, ~~any person acting~~
9 ~~as a witness or consultant to the director, any~~ BOARD, A witness testifying
10 in a proceeding authorized under this article, and ~~any~~ A person who
11 lodges a complaint ~~pursuant to~~ UNDER this article ~~shall be~~ IS immune from
12 liability in ~~any~~ A civil action brought against him or her for acts occurring
13 while acting in his or her capacity as ~~director~~ BOARD MEMBER, staff,
14 consultant, ~~or~~ witness, OR COMPLAINANT, respectively, if such individual
15 was acting in good faith within the scope of his or her respective capacity,
16 made a reasonable effort to obtain the facts of the matter as to which he
17 or she acted, and acted in the reasonable belief that the action taken by
18 him or her was warranted by the facts.

19 (8) The ~~director~~ BOARD, through the department of regulatory
20 agencies, may employ administrative law judges appointed pursuant to
21 part 10 of article 30 of title 24, C.R.S., on a full-time or part-time basis,
22 to conduct hearings ~~as provided by~~ UNDER this article or on any matter
23 within the ~~director's~~ BOARD'S jurisdiction upon such conditions and terms
24 as ~~such director~~ THE BOARD may determine.

25 (9) Final action of the ~~director~~ BOARD may be judicially reviewed
26 by the court of appeals by appropriate proceedings under section
27 24-4-106 (11), C.R.S., and judicial proceedings for the enforcement of an

1 order of the ~~director~~ BOARD may be instituted in accordance with section
2 24-4-106, C.R.S.

3 (10) When a complaint or an investigation discloses an instance
4 of misconduct that, in the opinion of the ~~director~~ BOARD, warrants formal
5 action, the complaint shall not be resolved by a deferred settlement,
6 action, judgment, or prosecution.

7 (11) (a) If it appears to the ~~director~~ BOARD, based upon credible
8 evidence as presented in a written complaint by any person, that a
9 licensee is acting in a manner that is an imminent threat to the health and
10 safety of the public, or a person is acting or has acted without the required
11 license, the ~~director~~ BOARD may issue an order to cease and desist such
12 activity. The order ~~shall~~ MUST set forth the statutes and rules alleged to
13 have been violated, the facts alleged to have constituted the violation, and
14 the requirement that all unlawful acts or unlicensed practices immediately
15 cease.

16 (12) (a) If it appears to the ~~director~~ BOARD, based upon credible
17 evidence as presented in a written complaint by any person, that a person
18 has violated ~~any other portion of~~ this article, then, in addition to any
19 specific powers granted pursuant to this article, the ~~director~~ BOARD may
20 issue to such person an order to show cause as to why the ~~director~~ BOARD
21 should not issue a final order directing such person to cease and desist
22 from the unlawful act or unlicensed practice.

23 (b) THE BOARD SHALL PROMPTLY NOTIFY a person against whom
24 an order to show cause has been issued ~~pursuant to~~ UNDER paragraph (a)
25 of this subsection (12) ~~shall be promptly notified by the director~~ of the
26 issuance of the order, along with a copy of the order, the factual and legal
27 basis for the order, and the date set by the ~~director~~ BOARD for a hearing

1 on the order. ~~Such notice~~ THE BOARD may ~~be served~~ SERVE THE NOTICE
2 by personal service, by first-class United States mail, postage prepaid, or
3 as may be practicable upon any person against whom such order is issued.
4 Personal service or mailing of an order or document pursuant to this
5 subsection (12) ~~shall constitute~~ CONSTITUTES notice thereof to the person.

6 (c) (I) The BOARD SHALL COMMENCE A hearing on an order to
7 show cause ~~shall be commenced~~ no sooner than ten and no later than
8 forty-five calendar days after the date of transmission or service of the
9 notification by the ~~director~~ BOARD as provided in paragraph (b) of this
10 subsection (12). The hearing may be continued by agreement of all
11 parties based upon the complexity of the matter, number of parties to the
12 matter, and legal issues presented in the matter, but in no event ~~shall~~ IS
13 the hearing TO commence later than sixty calendar days after the date of
14 transmission or service of the notification.

15 (II) If a person against whom an order to show cause has been
16 issued pursuant to paragraph (a) of this subsection (12) does not appear
17 at the hearing, the ~~director~~ BOARD may present evidence that notification
18 was properly sent or served upon such person pursuant to paragraph (b)
19 of this subsection (12) and such other evidence related to the matter as the
20 ~~director~~ BOARD deems appropriate. The ~~director~~ BOARD shall issue the
21 order within ten days after the ~~director's~~ BOARD'S determination related to
22 reasonable attempts to notify the respondent, and the order ~~shall become~~
23 BECOMES final as to that person by operation of law. ~~Such~~ THE BOARD
24 SHALL CONDUCT THE hearing ~~shall be conducted pursuant to~~ IN
25 ACCORDANCE WITH sections 24-4-104 and 24-4-105, C.R.S.

26 (III) If the ~~director~~ BOARD reasonably finds that the person against
27 whom the order to show cause was issued is acting or has acted without

1 the required license, or has or is about to engage in acts or practices
2 constituting violations of this article, a final cease-and-desist order may
3 be issued, directing such person to cease and desist from further unlawful
4 acts or unlicensed practices.

5 (IV) The ~~director~~ BOARD shall provide notice, in the manner set
6 forth in paragraph (b) of this subsection (12), of the final cease-and-desist
7 order within ten calendar days after the hearing conducted pursuant to this
8 paragraph (c) to each person against whom the final order has been
9 issued. The final order issued pursuant to subparagraph (III) of this
10 paragraph (c) ~~shall be~~ IS effective when issued and ~~shall be~~ IS a final order
11 for purposes of judicial review.

12 (13) If it appears to the ~~director~~ BOARD, based upon credible
13 evidence presented to the ~~director~~ BOARD, that a person has engaged in or
14 is about to engage in any unlicensed act or practice, any act or practice
15 constituting a violation of this article, any rule promulgated pursuant to
16 this article, any order issued pursuant to this article, or any act or practice
17 constituting grounds for administrative sanction pursuant to this article,
18 the ~~director~~ BOARD may enter into a stipulation with such person.

19 (14) If ~~any~~ A person fails to comply with a final cease-and-desist
20 order or a stipulation, the ~~director~~ BOARD may request the attorney general
21 or the district attorney for the judicial district in which the alleged
22 violation exists to bring ~~and if so requested such attorney shall bring~~, suit
23 for a temporary restraining order and for injunctive relief to prevent any
24 further or continued violation of the final order. UPON RECEIVING THE
25 REQUEST, THE ATTORNEY GENERAL OR DISTRICT ATTORNEY SHALL BRING
26 THE SUIT AS REQUESTED.

27 **SECTION 23.** 12-41-118, Colorado Revised Statutes, is amended

1 to read:

2 **12-41-118. Mental and physical examination of licensees.**

3 (1) If the ~~director~~ BOARD has reasonable cause to believe that a licensee
4 is unable to practice with reasonable skill and safety, the ~~director~~ BOARD
5 may require ~~such person~~ THE LICENSEE to take a mental or physical
6 examination by a ~~physician~~ HEALTH CARE PROVIDER designated by ~~said~~
7 ~~director~~ THE BOARD. If ~~such~~ THE licensee refuses to undergo such a
8 mental or physical examination, unless due to circumstances beyond the
9 licensee's control, the ~~director~~ BOARD may suspend such licensee's license
10 until the results of ~~any such~~ THE examination are known and the ~~director~~
11 BOARD has made a determination of the licensee's fitness to practice. The
12 ~~director~~ BOARD shall proceed with ~~any such~~ AN order for examination and
13 ~~such~~ determination in a timely manner.

14 (2) An order ISSUED to a licensee ~~pursuant to~~ UNDER subsection
15 (1) of this section to undergo a mental or physical examination ~~shall~~ MUST
16 contain the basis of the ~~director's~~ BOARD'S reasonable cause to believe that
17 the licensee is unable to practice with reasonable skill and safety. For the
18 purposes of ~~any~~ A disciplinary proceeding authorized ~~under~~ BY this
19 article, the licensee ~~shall be~~ IS deemed to have waived all objections to
20 the admissibility of the examining ~~physician's~~ HEALTH CARE PROVIDER'S
21 testimony or examination reports on the ground that they are privileged
22 communications.

23 (3) The licensee may submit to the ~~director~~ BOARD testimony or
24 examination reports from a ~~physician~~ HEALTH CARE PROVIDER chosen by
25 such licensee ~~and~~ pertaining to ~~any~~ THE condition ~~which~~ THAT the
26 ~~director~~ BOARD has alleged may preclude the licensee from practicing
27 with reasonable skill and safety. These may be considered by the ~~director~~

1 BOARD in conjunction with, but not in lieu of, testimony and examination
2 reports of the ~~physician~~ HEALTH CARE PROVIDER designated by the
3 ~~director~~ BOARD.

4 (4) A PERSON SHALL NOT USE the results of any mental or physical
5 examination ordered by the ~~director shall not be used~~ BOARD as evidence
6 in any proceeding other than one before the ~~director and shall not be~~
7 ~~deemed~~ BOARD. THE EXAMINATION RESULTS ARE NOT public records ~~nor~~
8 ~~made~~ AND ARE NOT available to the public.

9 **SECTION 24.** Article 41 of title 12, Colorado Revised Statutes,
10 is amended BY THE ADDITION OF A NEW SECTION to read:

11 **12-41-118.5. Examinations - notice - confidential agreements.**

12 (1) IF A PHYSICAL THERAPIST SUFFERS FROM A PHYSICAL OR MENTAL
13 ILLNESS OR CONDITION RENDERING THE LICENSEE UNABLE TO PRACTICE
14 PHYSICAL THERAPY OR PRACTICE AS A PHYSICAL THERAPIST WITH
15 REASONABLE SKILL AND PATIENT SAFETY, THE PHYSICAL THERAPIST SHALL
16 NOTIFY THE BOARD OF THE ILLNESS OR CONDITION IN A MANNER AND
17 WITHIN A PERIOD OF TIME DETERMINED BY THE BOARD. THE BOARD MAY
18 REQUIRE THE LICENSEE TO SUBMIT TO AN EXAMINATION OR TO EVALUATE
19 THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE
20 LICENSEE'S ABILITY TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO
21 PATIENTS.

22 (2) (a) UPON DETERMINING THAT A PHYSICAL THERAPIST WITH A
23 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED
24 PHYSICAL THERAPY WITH REASONABLE SKILL AND PATIENT SAFETY, THE
25 BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE PHYSICAL
26 THERAPIST IN WHICH THE PHYSICAL THERAPIST AGREES TO LIMIT HIS OR
27 HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS OR

1 CONDITION, AS DETERMINED BY THE BOARD.

2 (b) THE AGREEMENT MUST SPECIFY THAT THE LICENSEE IS SUBJECT
3 TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED
4 APPROPRIATE BY THE BOARD.

5 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
6 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
7 MONITORING.

8 (d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD UNDER
9 THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, THE LICENSEE IS NOT
10 ENGAGING IN UNPROFESSIONAL CONDUCT. THE AGREEMENT IS AN
11 ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE A RESTRICTION OR
12 DISCIPLINE BY THE BOARD. HOWEVER, IF THE LICENSEE FAILS TO COMPLY
13 WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS
14 SUBSECTION (2), THE FAILURE CONSTITUTES GROUNDS FOR DISCIPLINARY
15 ACTION UNDER SECTION 12-41-115 (1) (m) AND THE LICENSEE IS SUBJECT
16 TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-41-116.

17 (3) THIS SECTION DOES NOT APPLY TO A LICENSEE SUBJECT TO
18 DISCIPLINE UNDER SECTION 12-41-115 (1) (l).

19 **SECTION 25.** 12-41-119 (1) (a), (2), and (3), Colorado Revised
20 Statutes, are amended to read:

21 **12-41-119. Professional review committees - immunity.** (1) A
22 professional review committee may be established pursuant to this section
23 to investigate the quality of care being given by a person licensed under
24 this article. It shall include in its membership at least three persons
25 licensed under this article, but such committee may be authorized to act
26 only by:

27 (a) The ~~director~~ BOARD;

1 (2) Any professional review committee established pursuant to
2 subsection (1) of this section shall report to the ~~director~~ BOARD any
3 adverse findings that would constitute a possible violation of this article.

4 (3) The ~~director, any~~ BOARD, A member of a professional review
5 committee authorized by the ~~director, any~~ BOARD, A member of the
6 ~~director's~~ BOARD'S or committee's staff, ~~any~~ A person acting as a witness
7 or consultant to the ~~director~~ BOARD or committee, ~~any~~ A witness testifying
8 in a proceeding authorized under this article, and ~~any~~ A person who
9 lodges a complaint pursuant to this article ~~shall be~~ IS immune from
10 liability in any civil action brought against him or her for acts occurring
11 while acting in his or her capacity as ~~director~~ BOARD or committee
12 member, staff, consultant, or witness ~~respectively, if such~~ THE individual
13 was acting in good faith within the scope of his or her respective capacity,
14 made a reasonable effort to obtain the facts of the matter as to which he
15 or she acted, and acted in the reasonable belief that the action taken by
16 him or her was warranted by the facts. Any person participating in good
17 faith in lodging a complaint or participating in any investigative or
18 administrative proceeding pursuant to this article ~~shall be~~ IS immune from
19 any civil or criminal liability that may result from such participation.

20 **SECTION 26.** 12-41-120, Colorado Revised Statutes, is amended
21 to read:

22 **12-41-120. Reports by insurance companies.** (1) (a) Each
23 insurance company licensed to do business in this state and engaged in
24 the writing of malpractice insurance for physical therapists shall send to
25 the ~~director~~ BOARD information ~~relating to~~ ABOUT any malpractice claim
26 ~~which~~ THAT involves a physical therapist and ~~which~~ is settled or in which
27 judgment is rendered against the insured.

1 (b) In addition, the insurance company shall submit supplementary
2 reports ~~regarding~~ CONTAINING the disposition of ~~any such~~ THE claim as
3 ~~it is disposed. This information shall be submitted~~ to the ~~director~~ BOARD
4 within ninety days ~~of any~~ AFTER settlement or judgment.

5 (2) Regardless of the disposition of any claim, ~~said~~ THE insurance
6 company shall provide such information as the ~~director~~ BOARD finds
7 reasonably necessary to conduct ~~said director's~~ ITS own investigation and
8 hearing.

9 **SECTION 27.** 12-41-122 (1), Colorado Revised Statutes, is
10 amended to read:

11 **12-41-122. Violation - fines.** (1) Notwithstanding ~~the provisions~~
12 ~~of section 12-41-121, the director shall have authority to~~ BOARD MAY
13 assess a fine for ~~any~~ A violation ~~of the provisions~~ of this article or any
14 rule ~~or regulation~~ adopted by ~~the director~~ under this article.

15 **SECTION 28.** 12-41-123, Colorado Revised Statutes, is amended
16 to read:

17 **12-41-123. Injunctive proceedings.** The ~~director~~ BOARD may, in
18 the name of the people of ~~the state of~~ Colorado, through the attorney
19 general of ~~the state of~~ Colorado, apply for an injunction ~~in any~~ TO A court
20 ~~of competent jurisdiction~~ to enjoin ~~any~~ A person from committing ~~any~~ AN
21 act declared to be a misdemeanor by this article. If it is established that
22 the defendant has been or is committing an act declared to be a
23 misdemeanor by this article, the court shall enter a decree perpetually
24 enjoining ~~said~~ THE defendant from further committing ~~such~~ THE act. ~~In~~
25 ~~case of violation of any~~ IF A PERSON VIOLATES AN injunction issued under
26 ~~the provisions of~~ this section, the court may try and punish the offender
27 for contempt of court. ~~Such~~ AN injunction ~~proceedings shall be~~

1 PROCEEDING IS in addition to, and not in lieu of, all penalties and other
2 remedies provided in this article.

3 **SECTION 29.** The introductory portion to 12-41-124 (1),
4 12-41-124 (1) (b), (1) (d), (1) (g), (2), and (3), and the introductory
5 portion to 12-41-124 (5) (b), Colorado Revised Statutes, are amended to
6 read:

7 **12-41-124. Professional service corporations, limited liability**
8 **companies, and registered limited liability partnerships for the**
9 **practice of physical therapy - definitions.** (1) ~~Persons licensed to~~
10 ~~practice Physical therapy by the director~~ THERAPISTS may form
11 professional service corporations for the practice of physical therapy
12 under the "Colorado Business Corporation Act", articles 101 to 117 of
13 title 7, C.R.S., if such corporations are organized and operated in
14 accordance with ~~the provisions of~~ this section. The articles of
15 incorporation of such corporations ~~shall~~ MUST contain provisions
16 complying with the following requirements:

17 (b) The corporation ~~shall~~ MUST be organized solely for the
18 purposes of conducting the practice of physical therapy only through
19 persons licensed by the ~~director~~ BOARD to practice physical therapy. ~~in the~~
20 ~~state of Colorado.~~

21 (d) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
22 PARAGRAPH (d), all shareholders of the corporation ~~shall~~ MUST be persons
23 licensed by the ~~director~~ BOARD to practice physical therapy ~~in the state of~~
24 ~~Colorado~~ and who at all times own their shares in their own right. ~~They~~
25 ~~shall be individuals who, except for~~ WITH THE EXCEPTION OF illness,
26 accident, or time spent in the armed services, on vacations, or on leaves
27 of absence not to exceed one year, ~~are~~ THE INDIVIDUALS MUST BE actively

1 engaged in the practice of physical therapy in the offices of the
2 corporation.

3 (II) IF A PERSON LICENSED TO PRACTICE PHYSICAL THERAPY WHO
4 WAS A SHAREHOLDER OF THE CORPORATION DIES, AN UNLICENSED HEIR TO
5 THE DECEASED SHAREHOLDER MAY BECOME A SHAREHOLDER OF THE
6 CORPORATION FOR UP TO TWO YEARS. UNLESS THE HEIR IS THE ONLY
7 SHAREHOLDER OF THE CORPORATION, THE HEIR WHO BECOMES A
8 SHAREHOLDER IS A NONVOTING SHAREHOLDER. IF THE HEIR OF THE
9 DECEASED SHAREHOLDER CEASES TO BE A SHAREHOLDER, THE OWNER
10 WHO RECEIVED THE STOCKS FROM THE SHAREHOLDER SHALL DISPOSE OF
11 THE SHARES IN ACCORDANCE WITH THE PROVISIONS REQUIRED BY
12 PARAGRAPH (e) OF THIS SUBSECTION (1). AN HEIR WHO IS NOT LICENSED
13 UNDER THIS ARTICLE SHALL NOT EXERCISE ANY AUTHORITY OVER
14 PROFESSIONAL OR CLINICAL MATTERS.

15 (g) The articles of incorporation ~~shall~~ MUST provide, and all
16 shareholders of the corporation shall agree, that all shareholders of the
17 corporation ~~shall be~~ ARE jointly and severally liable for all acts, errors,
18 and omissions of the employees of the corporation or that all shareholders
19 of the corporation ~~shall be~~ ARE jointly and severally liable for all acts,
20 errors, and omissions of the employees of the corporation except ~~during~~
21 ~~periods of time~~ when THE SHAREHOLDERS MAINTAIN PROFESSIONAL
22 LIABILITY INSURANCE THAT MEETS THE STANDARDS OF SECTION
23 12-14-114.5 OR WHEN the corporation ~~shall maintain in good standing~~
24 MAINTAINS professional liability insurance ~~which shall meet~~ THAT MEETS
25 the following minimum standards:

26 (I) The ~~insurance~~ INSURER shall insure the corporation against
27 liability imposed upon the corporation by law for damages resulting from

1 any claim made against the corporation arising out of the performance of
2 professional services for others by those officers and employees of the
3 corporation who are licensed by the ~~director~~ BOARD to practice physical
4 therapy.

5 (II) ~~Such~~ THE policies ~~shall~~ MUST insure the corporation against
6 liability imposed upon it by law for damages arising out of the acts,
7 errors, and omissions of all nonprofessional employees.

8 (III) The insurance policy ~~shall~~ MUST provide for an amount for
9 each claim of at least one hundred thousand dollars multiplied by the
10 number of persons licensed to practice physical therapy employed by the
11 corporation. The policy ~~shall~~ MUST provide for an aggregate top limit of
12 liability per year for all claims of three hundred thousand dollars also
13 multiplied by the number of persons licensed to practice physical therapy
14 employed by the corporation, but no firm ~~shall be~~ IS required to carry
15 insurance in excess of three hundred thousand dollars for each claim with
16 an aggregate top limit of liability for all claims during the year of nine
17 hundred thousand dollars.

18 (IV) The policy may provide that it does not apply to:

19 (A) ~~any~~ A dishonest, fraudulent, criminal, or malicious act or
20 omission of the insured corporation or any stockholder or employee
21 thereof;

22 (B) The conduct of any business enterprise, ~~as distinguished from~~
23 NOT INCLUDING the practice of physical therapy, in which the insured
24 corporation under this section is not permitted to engage but ~~which~~ THAT
25 nevertheless may be owned by the insured corporation, ~~or~~ in which the
26 insured corporation may be a partner, or ~~which~~ THAT may be controlled,
27 operated, or managed by the insured corporation in its own or in a

1 fiduciary capacity, including the ownership, maintenance, or use of any
2 property in connection therewith, when not resulting from breach of
3 professional duty, bodily injury to, or sickness, disease, or death of any
4 person, or to injury to or destruction of any tangible property, including
5 the loss of use thereof; and

6 (V) The policy may contain reasonable provisions with respect to
7 policy periods, territory, claims, conditions, and other usual matters.

8 (2) The corporation shall do nothing ~~which~~ THAT, if done by a
9 person licensed to practice physical therapy ~~in the state of Colorado~~ and
10 employed by ~~it~~ THE CORPORATION, would constitute any ground for
11 disciplinary action, as set forth in section 12-41-115. Any violation by
12 the corporation of this section ~~shall be~~ IS grounds for the ~~director~~ BOARD
13 to terminate or suspend its right to practice physical therapy.

14 (3) Nothing in this section ~~shall be deemed to diminish or change~~
15 DIMINISHES OR CHANGES the obligation of each person licensed to practice
16 physical therapy employed by the corporation to ~~conduct his~~ practice in
17 accordance with the standards of professional conduct ~~provided for in~~
18 UNDER this article and ~~any rules and regulations~~ adopted under this
19 article. ~~Any person licensed by the director to practice Physical therapy~~
20 THERAPISTS who by act or omission causes the corporation to act or fail
21 to act in a way ~~which~~ THAT violates ~~such~~ THE standards of professional
22 conduct, including any provision of this section, ~~shall be deemed~~ IS
23 personally responsible for ~~such act or omission~~ THE VIOLATION and ~~shall~~
24 ~~be~~ subject to discipline ~~therefor~~ FOR THE VIOLATION.

25 (5) (b) ~~Employment of~~ THE CORPORATE PRACTICE OF PHYSICAL
26 THERAPY DOES NOT INCLUDE physical therapists EMPLOYED by a certified
27 or licensed hospital, licensed skilled nursing facility, certified home

1 health agency, licensed hospice, certified comprehensive outpatient
2 rehabilitation facility, certified rehabilitation agency, authorized health
3 maintenance organization, accredited educational entity, ORGANIZATION
4 PROVIDING CARE FOR THE ELDERLY UNDER SECTION 25.5-5-412, C.R.S.,
5 or other entity wholly owned and operated by ~~any~~ A governmental unit or
6 agency shall not be considered the corporate practice of physical therapy
7 if:

8 **SECTION 30.** **Repeal of provision being relocated in this**
9 **act.** 12-41-125, Colorado Revised Statutes, is repealed.

10 **SECTION 31.** **Repeal.** 12-41-126, Colorado Revised Statutes,
11 is repealed as follows:

12 **12-41-126. Advisory committee.** ~~The director shall appoint at~~
13 ~~least one advisory committee of at least seven members to assist in the~~
14 ~~performance of the director's duties under this article. Five of these~~
15 ~~members shall be physical therapists and two shall not be physical~~
16 ~~therapists but shall be persons having specific knowledge in the health~~
17 ~~care field. Such committee shall meet at least twice a year and at~~
18 ~~additional times at the discretion of the director. Members of such~~
19 ~~advisory committee shall receive compensation for their services pursuant~~
20 ~~to section 24-34-102 (13), C.R.S., and shall be reimbursed for actual and~~
21 ~~necessary expenses that they may incur in the performance of their duties.~~
22 ~~Such reimbursement shall be cash funded and shall not exceed the~~
23 ~~amount anticipated to be raised from fees collected pursuant to this~~
24 ~~article.~~

25 **SECTION 32.** 12-41-127, Colorado Revised Statutes, is amended
26 to read:

27 **12-41-127. Limitation on authority.** The authority granted the

1 ~~director under the provisions of~~ BOARD BY this article ~~shall not be~~
2 ~~construed to~~ DOES NOT authorize the ~~director~~ BOARD to arbitrate or
3 adjudicate fee disputes between licensees or between a licensee and any
4 other party.

5 **SECTION 33.** 12-64-105 (13), Colorado Revised Statutes, is
6 amended to read:

7 **12-64-105. Board of veterinary medicine.** (13) The board shall
8 ~~pursuant to section 12-41-125 (2) (b) (H),~~ consult with the ~~director of the~~
9 ~~division of registrations in the department of regulatory agencies~~ STATE
10 PHYSICAL THERAPY BOARD CREATED IN SECTION 12-41-103.3 concerning
11 rules that the director intends to adopt with regard to physical therapy of
12 animals.

13 **SECTION 34.** Article 41 of title 12, Colorado Revised Statutes,
14 is amended BY THE ADDITION OF A NEW PART to read:

15 PART 2

16 PHYSICAL THERAPIST ASSISTANTS

17 **12-41-201. Additional board authority - rules.** (1) IN ADDITION
18 TO ALL OTHER POWERS AND DUTIES GIVEN TO THE BOARD BY LAW, THE
19 BOARD MAY:

20 (a) CERTIFY PHYSICAL THERAPIST ASSISTANTS TO PRACTICE;

21 (b) EVALUATE THE QUALIFICATIONS OF APPLICANTS FOR
22 CERTIFICATION, ISSUE AND RENEW THE CERTIFICATIONS AUTHORIZED
23 UNDER THIS PART 2, AND TAKE THE DISCIPLINARY ACTIONS AUTHORIZED
24 UNDER THIS PART 2;

25 (c) CONDUCT HEARINGS UPON CHARGES FOR DISCIPLINE OF A
26 CERTIFIED PHYSICAL THERAPIST ASSISTANT AND CAUSE THE PROSECUTION
27 AND ENJOINER OF ALL PERSONS VIOLATING THIS PART 2;

1 (d) ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND
2 ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
3 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
4 EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION,
5 ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD;

6 (e) APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO PART
7 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE
8 FINDINGS AND REPORT THEM TO THE BOARD; AND

9 (f) ESTABLISH FINES UNDER SECTION 12-41-122.

10 (2) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR
11 PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
12 SUBPOENAED PERSON RESIDES OR CONDUCTS BUSINESS, UPON
13 APPLICATION BY THE BOARD WITH NOTICE TO THE SUBPOENAED PERSON,
14 MAY ISSUE TO THE PERSON AN ORDER REQUIRING THAT PERSON TO APPEAR
15 BEFORE THE BOARD; TO PRODUCE THE RELEVANT PAPERS, BOOKS,
16 RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR
17 TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN
18 QUESTION. THE COURT MAY PUNISH A FAILURE TO OBEY ITS ORDER AS A
19 CONTEMPT OF COURT.

20 (3) THE BOARD MAY PROMULGATE RULES NECESSARY TO
21 IMPLEMENT, ADMINISTER, AND ENFORCE THIS PART 2.

22 **12-41-202. Use of titles restricted.** A PERSON CERTIFIED AS A
23 PHYSICAL THERAPIST ASSISTANT MAY USE THE TITLE "PHYSICAL
24 THERAPIST ASSISTANT" OR THE LETTERS "P.T.A." OR ANY OTHER
25 GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT INDICATE THAT
26 THE PERSON IS A PHYSICAL THERAPIST ASSISTANT. NO OTHER PERSON
27 SHALL USE THE TERMS "PHYSICAL THERAPIST ASSISTANT", "CERTIFIED

1 PHYSICAL THERAPIST ASSISTANT", OR ANY LETTERS OR WORDS THAT
2 INDICATE THAT THE PERSON IS A PHYSICAL THERAPIST ASSISTANT.

3 **12-41-203. Limitations on authority.** (1) NOTHING IN THIS PART
4 2 AUTHORIZES A PHYSICAL THERAPIST ASSISTANT TO PERFORM ANY OF THE
5 FOLLOWING ACTS:

6 (a) PRACTICE OF MEDICINE, SURGERY, OR ANY OTHER FORM OF
7 HEALING EXCEPT AS AUTHORIZED BY THIS PART 2; OR

8 (b) USE OF ROENTGEN RAYS AND RADIOACTIVE MATERIALS FOR
9 THERAPEUTIC PURPOSES, USE OF ELECTRICITY FOR SURGICAL PURPOSES, OR
10 DIAGNOSIS OF DISEASE.

11 (2) A PHYSICAL THERAPIST ASSISTANT SHALL NOT PRACTICE
12 PHYSICAL THERAPY UNLESS THE ASSISTANT WORKS UNDER THE
13 SUPERVISION OF A LICENSED PHYSICAL THERAPIST.

14 **12-41-204. Certification required.** EFFECTIVE JUNE 1, 2012,
15 EXCEPT AS OTHERWISE PROVIDED BY THIS PART 2, A PERSON WHO
16 PRACTICES AS A PHYSICAL THERAPIST ASSISTANT OR WHO REPRESENTS
17 ONESELF AS BEING ABLE TO PRACTICE AS A PHYSICAL THERAPIST
18 ASSISTANT IN THIS STATE MUST POSSESS A VALID CERTIFICATION ISSUED
19 BY THE BOARD UNDER THIS PART 2 AND RULES ADOPTED UNDER THIS PART
20 2.

21 **12-41-205. Certification by examination - repeal.** (1) EVERY
22 APPLICANT FOR A CERTIFICATION BY EXAMINATION SHALL:

23 (a) (I) HAVE SUCCESSFULLY COMPLETED A PHYSICAL THERAPIST
24 ASSISTANT PROGRAM ACCREDITED BY THE COMMISSION ON
25 ACCREDITATION IN PHYSICAL THERAPY EDUCATION OR ANY COMPARABLE
26 ORGANIZATION AS DETERMINED BY THE BOARD; OR

27 (II) QUALIFY TO TAKE THE PHYSICAL THERAPY EXAMINATION

1 ESTABLISHED UNDER SECTION 12-41-107;
2 (b) PASS A WRITTEN EXAMINATION THAT IS:
3 (I) APPROVED BY THE BOARD; AND
4 (II) A NATIONAL EXAMINATION ACCREDITED BY A NATIONALLY
5 RECOGNIZED ACCREDITING AGENCY;
6 (c) SUBMIT AN APPLICATION IN THE FORM AND MANNER
7 DESIGNATED BY THE DIRECTOR; AND
8 (d) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.
9 (2) THE BOARD MAY REFUSE TO PERMIT AN APPLICANT TO TAKE
10 THE EXAMINATION IF THE APPLICATION IS INCOMPLETE OR INDICATES THAT
11 THE APPLICANT IS NOT QUALIFIED TO SIT FOR THE EXAMINATION, OR IF THE
12 APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR
13 DISCIPLINARY ACTION UNDER SECTION 12-41-210.
14 (3) WHEN THE APPLICANT HAS FULFILLED ALL THE REQUIREMENTS
15 OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A
16 CERTIFICATION TO THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY
17 CERTIFICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT WOULD
18 BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.
19 (4) (a) IN LIEU OF QUALIFYING UNDER SUBSECTION (1) OF THIS
20 SECTION, A PERSON MAY QUALIFY AS A PHYSICAL THERAPIST ASSISTANT
21 IF THE PERSON HAS AT LEAST FIVE YEARS OF EXPERIENCE PRACTICING AS
22 A PHYSICAL THERAPIST ASSISTANT OR IS OTHERWISE QUALIFIED AS
23 DETERMINED BY THE BOARD.
24 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JUNE 1, 2013.
25 **12-41-206. Certification by endorsement.** (1) AN APPLICANT
26 FOR CERTIFICATION BY ENDORSEMENT SHALL:
27 (a) POSSESS A VALID LICENSE, CERTIFICATION, OR REGISTRATION

1 IN GOOD STANDING FROM ANOTHER STATE OR TERRITORY OF THE UNITED
2 STATES;

3 (b) SUBMIT AN APPLICATION IN THE FORM AND MANNER
4 DESIGNATED BY THE DIRECTOR; AND

5 (c) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

6 (2) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY SUBSECTION
7 (1) OF THIS SECTION, THE DIRECTOR SHALL REVIEW THE APPLICATION AND
8 MAKE A DETERMINATION OF THE APPLICANT'S QUALIFICATION TO BE
9 CERTIFIED BY ENDORSEMENT.

10 (3) THE BOARD SHALL ISSUE A CERTIFICATION IF THE APPLICANT
11 FULFILLS THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION AND
12 MEETS ANY ONE OF THE FOLLOWING QUALIFYING STANDARDS:

13 (a) THE APPLICANT GRADUATED FROM AN ACCREDITED PROGRAM
14 WITHIN THE PAST TWO YEARS AND PASSED AN EXAMINATION
15 SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION SPECIFIED IN SECTION
16 12-41-205 (1) (b);

17 (b) THE APPLICANT HAS PRACTICED AS A LICENSED, CERTIFIED, OR
18 REGISTERED PHYSICAL THERAPIST ASSISTANT FOR AT LEAST TWO OF THE
19 FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION; OR

20 (c) THE APPLICANT HAS PASSED AN EXAMINATION IN ANOTHER
21 JURISDICTION THAT IS SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION
22 SPECIFIED IN SECTION 12-41-205 (1) (b), AND HAS DEMONSTRATED
23 COMPETENCY THROUGH SUCCESSFUL COMPLETION OF AN INTERNSHIP OR
24 DEMONSTRATED COMPETENCY AS A PHYSICAL THERAPIST ASSISTANT BY
25 FULFILLING THE REQUIREMENTS ESTABLISHED BY RULES OF THE BOARD.

26 (4) THE BOARD MAY DENY CERTIFICATION IF THE APPLICANT HAS
27 COMMITTED AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION

1 UNDER SECTION 12-41-210.

2 **12-41-207. Certification of foreign-trained applicants.**

3 (1) EVERY FOREIGN-TRAINED APPLICANT FOR CERTIFICATION SHALL:

4 (a) HAVE RECEIVED EDUCATION AND TRAINING AS A PHYSICAL
5 THERAPIST ASSISTANT THAT IS SUBSTANTIALLY EQUIVALENT TO THE
6 EDUCATION AND TRAINING REQUIRED BY ACCREDITED PHYSICAL
7 THERAPIST ASSISTANT PROGRAMS IN THE UNITED STATES;

8 (b) POSSESS AN ACTIVE, VALID LICENSE, CERTIFICATION, OR
9 REGISTRATION IN GOOD STANDING OR OTHER AUTHORIZATION TO
10 PRACTICE AS A PHYSICAL THERAPIST ASSISTANT FROM AN APPROPRIATE
11 AUTHORITY IN THE COUNTRY WHERE THE FOREIGN-TRAINED APPLICANT IS
12 PRACTICING OR HAS PRACTICED;

13 (c) PASS A WRITTEN EXAMINATION APPROVED BY THE BOARD IN
14 ACCORDANCE WITH SECTION 12-41-205 (1) (b);

15 (d) SUBMIT AN APPLICATION IN THE FORM AND MANNER
16 DESIGNATED BY THE DIRECTOR; AND

17 (e) PAY AN APPLICATION FEE IN AN AMOUNT DETERMINED BY THE
18 DIRECTOR.

19 (2) UPON RECEIPT OF ALL DOCUMENTS AND THE FEE REQUIRED BY
20 SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL REVIEW THE
21 APPLICATION AND DETERMINE IF THE APPLICANT IS QUALIFIED TO BE
22 CERTIFIED.

23 (3) WHEN THE APPLICANT HAS FULFILLED ALL THE REQUIREMENTS
24 OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A
25 CERTIFICATION TO THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY
26 THE APPLICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT WOULD
27 BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

1 **12-41-208. Expiration and renewal of certification.** AN
2 APPLICANT FOR CERTIFICATION SHALL PAY CERTIFICATION, RENEWAL, AND
3 REINSTATEMENT FEES ESTABLISHED BY THE DIRECTOR IN THE SAME
4 MANNER AS IS AUTHORIZED IN SECTION 24-34-105, C.R.S. A CERTIFIED
5 PHYSICAL THERAPIST ASSISTANT SHALL RENEW A CERTIFICATION IN
6 ACCORDANCE WITH A SCHEDULE ESTABLISHED BY THE DIRECTOR
7 PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY
8 ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT
9 UNDER SECTION 24-34-105, C.R.S. IF A PERSON FAILS TO RENEW A
10 CERTIFICATION PURSUANT TO THE SCHEDULE ESTABLISHED BY THE
11 DIRECTOR, THE CERTIFICATION EXPIRES. A PERSON WHOSE CERTIFICATION
12 HAS EXPIRED IS SUBJECT TO THE PENALTIES PROVIDED IN THIS PART 2 AND
13 SECTION 24-34-102 (8), C.R.S.

14 **12-41-209. Scope of part 2 - exclusions.** (1) THIS PART 2 DOES
15 NOT PROHIBIT:

16 (a) PRACTICE AS A PHYSICAL THERAPIST ASSISTANT IN THIS STATE
17 BY A LEGALLY QUALIFIED PHYSICAL THERAPIST ASSISTANT FROM ANOTHER
18 STATE OR COUNTRY WHOSE EMPLOYMENT REQUIRES THE PHYSICAL
19 THERAPIST ASSISTANT TO ACCOMPANY AND CARE FOR A PATIENT
20 TEMPORARILY RESIDING IN THIS STATE, BUT THE PHYSICAL THERAPIST
21 ASSISTANT SHALL NOT PROVIDE PHYSICAL THERAPY SERVICES FOR
22 ANOTHER INDIVIDUAL NOR SHALL THE PERSON REPRESENT OR HOLD
23 HIMSELF OR HERSELF OUT AS A PHYSICAL THERAPIST ASSISTANT CERTIFIED
24 TO PRACTICE IN THIS STATE;

25 (b) THE ADMINISTRATION OF MASSAGE, EXTERNAL BATHS, OR
26 EXERCISE THAT IS NOT A PART OF A PHYSICAL THERAPY REGIMEN;

27 (c) A PERSON REGISTERED, CERTIFIED, OR LICENSED IN THIS STATE

1 UNDER ANY OTHER LAW FROM ENGAGING IN THE PRACTICE FOR WHICH THE
2 PERSON IS REGISTERED, CERTIFIED, OR LICENSED;

3 (d) PRACTICE AS A PHYSICAL THERAPIST ASSISTANT IN THIS STATE
4 BY A LEGALLY QUALIFIED PHYSICAL THERAPIST ASSISTANT FROM ANOTHER
5 STATE OR COUNTRY FOR THE PURPOSE OF PARTICIPATING IN AN
6 EDUCATIONAL PROGRAM OF NOT MORE THAN SIXTEEN WEEKS' DURATION;
7 OR

8 (e) THE PRACTICE OF A PHYSICAL THERAPIST ASSISTANT LICENSED,
9 CERTIFIED, OR REGISTERED IN THIS OR ANY OTHER STATE OR TERRITORY
10 OF THE UNITED STATES WHO IS EMPLOYED BY THE UNITED STATES
11 GOVERNMENT OR A BUREAU, DIVISION, OR AGENCY THEREOF WHILE
12 WITHIN THE COURSE AND SCOPE OF THE PHYSICAL THERAPIST ASSISTANT'S
13 DUTIES.

14 **12-41-210. Grounds for disciplinary action. (1) THE BOARD**
15 **MAY TAKE DISCIPLINARY ACTION IN ACCORDANCE WITH SECTION**
16 **12-41-211 AGAINST A PERSON WHO HAS:**

17 (a) COMMITTED AN ACT THAT DOES NOT MEET GENERALLY
18 ACCEPTED STANDARDS OF PHYSICAL THERAPIST ASSISTANT PRACTICE OR
19 FAILED TO PERFORM AN ACT NECESSARY TO MEET GENERALLY ACCEPTED
20 STANDARDS OF PHYSICAL THERAPIST ASSISTANT PRACTICE;

21 (b) ENGAGED IN SEXUAL CONTACT, SEXUAL INTRUSION, OR SEXUAL
22 PENETRATION AS DEFINED IN SECTION 18-3-401, C.R.S., WITH A PATIENT
23 DURING THE PERIOD OF TIME BEGINNING WITH THE INITIAL EVALUATION
24 THROUGH THE TERMINATION OF TREATMENT;

25 (c) ABANDONED A PATIENT BY ANY MEANS;

26 (d) FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS OR
27 FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON

1 PATIENT RECORDS;
2 (e) (I) COMMITTED ABUSE OF HEALTH INSURANCE AS SET FORTH IN
3 SECTION 18-13-119, C.R.S.; OR
4 (II) ADVERTISED THROUGH NEWSPAPERS, MAGAZINES, CIRCULARS,
5 DIRECT MAIL, DIRECTORIES, RADIO, TELEVISION, OR OTHERWISE THAT THE
6 CERTIFIED PHYSICAL THERAPIST ASSISTANT WILL PERFORM AN ACT
7 PROHIBITED BY SECTION 18-13-119, C.R.S.;
8 (f) COMMITTED A FRAUDULENT INSURANCE ACT, AS DEFINED IN
9 SECTION 10-1-128, C.R.S.;
10 (g) FALSIFIED INFORMATION IN ANY APPLICATION OR ATTEMPTED
11 TO OBTAIN OR OBTAINED A CERTIFICATION BY FRAUD, DECEPTION, OR
12 MISREPRESENTATION;
13 (h) ENGAGED IN THE HABITUAL OR EXCESSIVE USE OR ABUSE OF
14 ALCOHOL, A HABIT-FORMING DRUG, OR A CONTROLLED SUBSTANCE AS
15 DEFINED IN SECTION 12-22-303;
16 (i) (I) FAILED TO NOTIFY THE BOARD, AS REQUIRED BY SECTION
17 12-41-214, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT
18 IMPACTS THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S ABILITY TO
19 PERFORM PHYSICAL THERAPY WITH REASONABLE SKILL AND SAFETY TO
20 PATIENTS;
21 (II) FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
22 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
23 CERTIFIED PHYSICAL THERAPIST ASSISTANT UNABLE TO PERFORM
24 PHYSICAL THERAPY WITH REASONABLE SKILL AND SAFETY TO THE
25 PATIENT; OR
26 (III) FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER
27 A CONFIDENTIAL AGREEMENT ENTERED INTO UNDER SECTION 12-41-214;

1 (j) REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION
2 WHEN SO ORDERED BY THE BOARD UNDER SECTION 12-41-213;

3 (k) FAILED TO NOTIFY THE BOARD IN WRITING OF THE ENTRY OF A
4 FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION AGAINST THE
5 CERTIFIED PHYSICAL THERAPIST ASSISTANT FOR MALPRACTICE OR A
6 SETTLEMENT BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IN
7 RESPONSE TO CHARGES OR ALLEGATIONS OF MALPRACTICE, WHICH NOTICE
8 MUST BE GIVEN WITHIN NINETY DAYS AFTER THE ENTRY OF JUDGMENT OR
9 SETTLEMENT AND, IN THE CASE OF A JUDGMENT, MUST CONTAIN THE NAME
10 OF THE COURT, THE CASE NUMBER, AND THE NAMES OF ALL PARTIES TO
11 THE ACTION;

12 (l) VIOLATED OR AIDED OR ABETTED A VIOLATION OF THIS PART 2,
13 A RULE ADOPTED UNDER THIS PART 2, OR A LAWFUL ORDER OF THE BOARD;

14 (m) BEEN CONVICTED OF, PLED GUILTY, OR PLED NOLO
15 CONTENDERE TO A CRIME RELATED TO THE CERTIFIED PHYSICAL
16 THERAPIST ASSISTANT'S PRACTICE OR A FELONY OR COMMITTED AN ACT
17 SPECIFIED IN SECTION 12-41-216. A CERTIFIED COPY OF THE JUDGMENT OF
18 A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS
19 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
20 DISCIPLINARY ACTION, THE BOARD IS GOVERNED BY SECTION 24-5-101,
21 C.R.S.

22 (n) FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD A PHYSICAL
23 THERAPIST ASSISTANT DIPLOMA, CERTIFICATE, RENEWAL OF CERTIFICATE,
24 OR RECORD, OR AIDED OR ABETTED ANY SUCH ACT;

25 (o) REPRESENTED, OR HELD HIMSELF OR HERSELF OUT AS, IN ANY
26 MANNER, A PHYSICAL THERAPIST ASSISTANT OR PRACTICED AS A PHYSICAL
27 THERAPIST ASSISTANT WITHOUT A CERTIFICATION, UNLESS OTHERWISE

1 AUTHORIZED UNDER THIS PART 2;

2 (p) USED IN CONNECTION WITH THE PERSON'S NAME A
3 DESIGNATION IMPLYING THAT THE PERSON IS A PHYSICAL THERAPIST
4 ASSISTANT WITHOUT BEING CERTIFIED UNDER THIS PART 2;

5 (q) PRACTICED AS A PHYSICAL THERAPIST ASSISTANT DURING THE
6 TIME THE PERSON'S CERTIFICATION WAS EXPIRED, SUSPENDED, OR
7 REVOKED; OR

8 (r) FAILED TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
9 AND TIMELY MANNER TO A COMPLAINT ISSUED UNDER THIS PART 2.

10 **12-41-211. Disciplinary actions.** (1) (a) THE BOARD, IN
11 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., MAY ISSUE LETTERS OF
12 ADMONITION; DENY, REFUSE TO RENEW, SUSPEND, OR REVOKE A
13 CERTIFICATION; PLACE A CERTIFIED PHYSICAL THERAPIST ASSISTANT ON
14 PROBATION; OR IMPOSE PUBLIC CENSURE OR A FINE, IF THE BOARD OR THE
15 BOARD'S DESIGNEE DETERMINES AFTER NOTICE AND THE OPPORTUNITY
16 FOR A HEARING THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT HAS
17 COMMITTED AN ACT SPECIFIED IN SECTION 12-41-210.

18 (b) IN THE CASE OF A DELIBERATE AND WILLFUL VIOLATION OF
19 THIS PART 2 OR IF THE PUBLIC HEALTH, SAFETY, AND WELFARE REQUIRE
20 EMERGENCY ACTION, THE BOARD MAY TAKE DISCIPLINARY ACTION ON AN
21 EMERGENCY BASIS UNDER SECTIONS 24-4-104 AND 24-4-105, C.R.S.

22 (2) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
23 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD, DOES
24 NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING
25 WITHOUT MERIT, THE BOARD MAY SEND A LETTER OF ADMONITION TO THE
26 CERTIFIED PHYSICAL THERAPIST ASSISTANT.

27 (b) WHEN THE BOARD SENDS A LETTER OF ADMONITION TO A

1 CERTIFIED PHYSICAL THERAPIST ASSISTANT, THE BOARD SHALL NOTIFY
2 THE CERTIFIED PHYSICAL THERAPIST ASSISTANT OF HIS OR HER RIGHT TO
3 REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE
4 LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
5 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
6 OF ADMONITION.

7 (c) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE
8 LETTER OF ADMONITION IS VACATED AND THE MATTER MUST BE
9 PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

10 (3) IN A DISCIPLINARY ORDER THAT ALLOWS A CERTIFIED PHYSICAL
11 THERAPIST ASSISTANT TO CONTINUE TO PRACTICE, THE BOARD MAY
12 IMPOSE UPON THE CERTIFIED PHYSICAL THERAPIST ASSISTANT CONDITIONS
13 THAT THE BOARD DEEMS APPROPRIATE TO ENSURE THAT THE CERTIFIED
14 PHYSICAL THERAPIST ASSISTANT IS PHYSICALLY, MENTALLY, AND
15 PROFESSIONALLY QUALIFIED TO PRACTICE IN ACCORDANCE WITH
16 GENERALLY ACCEPTED PROFESSIONAL STANDARDS. THE CONDITIONS MAY
17 INCLUDE THE FOLLOWING:

18 (a) EXAMINATION OF THE CERTIFIED PHYSICAL THERAPIST
19 ASSISTANT TO DETERMINE HIS OR HER MENTAL OR PHYSICAL CONDITION,
20 AS PROVIDED IN SECTION 12-41-213, OR TO DETERMINE PROFESSIONAL
21 QUALIFICATIONS;

22 (b) ANY THERAPY, TRAINING, OR EDUCATION THAT THE BOARD
23 BELIEVES NECESSARY TO CORRECT DEFICIENCIES FOUND EITHER IN A
24 PROCEEDING IN COMPLIANCE WITH SECTION 24-34-106, C.R.S., OR
25 THROUGH AN EXAMINATION UNDER PARAGRAPH (a) OF THIS SUBSECTION
26 (3);

27 (c) A REVIEW OR SUPERVISION OF A CERTIFIED PHYSICAL

1 THERAPIST ASSISTANT'S PRACTICE THAT THE BOARD FINDS NECESSARY TO
2 IDENTIFY AND CORRECT DEFICIENCIES THEREIN; OR

3 (d) RESTRICTIONS UPON THE NATURE AND SCOPE OF PRACTICE TO
4 ENSURE THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT DOES NOT
5 PRACTICE BEYOND THE LIMITS OF THE CERTIFIED PHYSICAL THERAPIST
6 ASSISTANT'S CAPABILITIES.

7 (4) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
8 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
9 BOARD AND, IN THE OPINION OF THE BOARD, THE COMPLAINT SHOULD BE
10 DISMISSED, BUT THE BOARD HAS NOTICED INDICATIONS OF POSSIBLE
11 ERRANT CONDUCT BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT
12 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE
13 BOARD MAY SEND A CONFIDENTIAL LETTER OF CONCERN TO THE CERTIFIED
14 PHYSICAL THERAPIST ASSISTANT.

15 (5) THE BOARD MAY TAKE DISCIPLINARY ACTION AGAINST A
16 CERTIFIED PHYSICAL THERAPIST ASSISTANT FOR FAILURE TO COMPLY WITH
17 ANY OF THE CONDITIONS IMPOSED BY THE BOARD UNDER SUBSECTION (3)
18 OF THIS SECTION.

19 (6) A PERSON WHOSE CERTIFICATION HAS EXPIRED IS SUBJECT TO
20 THE PENALTIES PROVIDED IN THIS PART 2 AND SECTION 24-34-102 (8),
21 C.R.S.

22 (7) A PHYSICAL THERAPIST ASSISTANT WHOSE CERTIFICATION IS
23 REVOKED OR WHO SURRENDERS HIS OR HER CERTIFICATION TO AVOID
24 DISCIPLINE IS NOT ELIGIBLE TO APPLY FOR A CERTIFICATION FOR TWO
25 YEARS AFTER THE CERTIFICATION IS REVOKED OR SURRENDERED. THE
26 TWO-YEAR WAITING PERIOD APPLIES TO A PERSON WHOSE CERTIFICATION
27 AS A PHYSICAL THERAPY ASSISTANT IS REVOKED BY ANY OTHER LEGALLY

1 QUALIFIED BOARD OR REGULATORY ENTITY.

2 **12-41-212. Disciplinary proceedings - investigations - judicial**

3 **review.** (1) THE BOARD MAY COMMENCE A PROCEEDING FOR THE
4 DISCIPLINE OF A PHYSICAL THERAPIST ASSISTANT WHEN THE BOARD HAS
5 REASONABLE GROUNDS TO BELIEVE THAT A PHYSICAL THERAPIST
6 ASSISTANT HAS COMMITTED AN ACT ENUMERATED IN SECTION 12-41-210.

7 (2) IN A PROCEEDING HELD UNDER THIS SECTION, THE BOARD MAY
8 ACCEPT AS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION
9 ANY DISCIPLINARY ACTION TAKEN AGAINST A PHYSICAL THERAPIST
10 ASSISTANT FROM ANOTHER JURISDICTION IF THE VIOLATION THAT
11 PROMPTED THE DISCIPLINARY ACTION IN THAT JURISDICTION WOULD BE
12 GROUNDS FOR DISCIPLINARY ACTION UNDER THIS PART 2.

13 (3) (a) THE BOARD MAY INVESTIGATE POTENTIAL GROUNDS FOR
14 DISCIPLINARY ACTION UPON ITS OWN MOTION OR WHEN THE BOARD IS
15 INFORMED OF DISMISSAL OF A PERSON CERTIFIED UNDER THIS PART 2 IF
16 THE DISMISSAL WAS FOR A MATTER CONSTITUTING A VIOLATION OF THIS
17 PART 2.

18 (b) A PERSON WHO SUPERVISES A PHYSICAL THERAPIST ASSISTANT
19 SHALL REPORT TO THE BOARD WHEN THE PHYSICAL THERAPIST ASSISTANT
20 HAS BEEN DISMISSED BECAUSE OF INCOMPETENCE OR FAILURE TO COMPLY
21 WITH THIS PART 2. A CERTIFIED PHYSICAL THERAPIST ASSISTANT WHO IS
22 AWARE THAT ANOTHER PERSON IS VIOLATING THIS PART 2 SHALL REPORT
23 THE VIOLATION TO THE BOARD.

24 (4) (a) THE BOARD OR AN ADMINISTRATIVE LAW JUDGE MAY
25 ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE
26 SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
27 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY

1 EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION,
2 ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD UNDER THIS
3 PART 2. THE BOARD MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
4 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE
5 EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE BOARD.

6 (b) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR
7 PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
8 SUBPOENAED PERSON OR CERTIFIED PHYSICAL THERAPIST ASSISTANT
9 RESIDES OR CONDUCTS BUSINESS, UPON APPLICATION BY THE BOARD WITH
10 NOTICE TO THE SUBPOENAED PERSON OR CERTIFIED PHYSICAL THERAPIST
11 ASSISTANT, MAY ISSUE AN ORDER REQUIRING THAT PERSON OR CERTIFIED
12 PHYSICAL THERAPIST ASSISTANT TO APPEAR BEFORE THE BOARD; TO
13 PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
14 EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE
15 TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. FAILURE
16 TO OBEY THE ORDER OF THE COURT MAY BE PUNISHED BY THE COURT AS
17 A CONTEMPT OF COURT.

18 (5) THE BOARD MAY KEEP ANY INVESTIGATION AUTHORIZED
19 UNDER THIS PART 2 CLOSED UNTIL THE RESULTS OF THE INVESTIGATION
20 ARE KNOWN AND EITHER THE COMPLAINT IS DISMISSED OR NOTICE OF
21 HEARING AND CHARGES ARE SERVED UPON THE CERTIFIED PHYSICAL
22 THERAPIST ASSISTANT.

23 (6) (a) THE BOARD, THE DIRECTOR'S STAFF, A WITNESS OR
24 CONSULTANT TO THE BOARD, A WITNESS TESTIFYING IN A PROCEEDING
25 AUTHORIZED UNDER THIS PART 2, OR A PERSON WHO LODGES A COMPLAINT
26 UNDER THIS PART 2 IS IMMUNE FROM LIABILITY IN A CIVIL ACTION
27 BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS

1 OR HER CAPACITY AS A BOARD MEMBER, STAFF MEMBER, CONSULTANT,
2 WITNESS, OR COMPLAINANT IF THE INDIVIDUAL WAS ACTING IN GOOD
3 FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A
4 REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH
5 HE OR SHE ACTED, AND ACTED WITH THE REASONABLE BELIEF THAT THE
6 ACTION TAKEN WAS WARRANTED BY THE FACTS.

7 (b) A PERSON MAKING A COMPLAINT OR REPORT IN GOOD FAITH OR
8 PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING
9 PURSUANT TO THIS SECTION IS IMMUNE FROM ANY LIABILITY, CIVIL OR
10 CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF THE
11 PARTICIPATION.

12 (7) THE BOARD, THROUGH THE DEPARTMENT OF REGULATORY
13 AGENCIES, MAY EMPLOY ADMINISTRATIVE LAW JUDGES APPOINTED
14 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., ON A FULL-TIME
15 OR PART-TIME BASIS, TO CONDUCT HEARINGS UNDER THIS PART 2 OR ON
16 ANY MATTER WITHIN THE BOARD'S JURISDICTION UPON THE CONDITIONS
17 AND TERMS AS THE BOARD MAY DETERMINE.

18 (8) FINAL ACTION OF THE BOARD MAY BE JUDICIALLY REVIEWED
19 BY THE COURT OF APPEALS BY APPROPRIATE PROCEEDINGS UNDER SECTION
20 24-4-106 (11), C.R.S., AND JUDICIAL PROCEEDINGS FOR THE
21 ENFORCEMENT OF AN ORDER OF THE BOARD MAY BE INSTITUTED IN
22 ACCORDANCE WITH SECTION 24-4-106, C.R.S.

23 (9) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
24 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD,
25 WARRANTS FORMAL ACTION, THE BOARD SHALL NOT RESOLVE THE
26 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
27 PROSECUTION.

1 (10) (a) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE
2 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A CERTIFIED
3 PHYSICAL THERAPIST ASSISTANT IS ACTING IN A MANNER THAT IS AN
4 IMMINENT THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC, OR A
5 PERSON IS ACTING OR HAS ACTED WITHOUT THE REQUIRED CERTIFICATION,
6 THE BOARD MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY.
7 THE ORDER MUST SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE
8 BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE
9 VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR
10 UNCERTIFIED PRACTICES IMMEDIATELY CEASE.

11 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
12 DESIST UNDER PARAGRAPH (a) OF THIS SUBSECTION (10), THE RESPONDENT
13 MAY REQUEST A HEARING ON THE QUESTION OF WHETHER ACTS OR
14 PRACTICES IN VIOLATION OF THIS PART 2 HAVE OCCURRED. THE HEARING
15 SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105,
16 C.R.S.

17 (11) (a) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE
18 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON HAS
19 VIOLATED THIS PART 2, THEN, IN ADDITION TO ANY SPECIFIC POWERS
20 GRANTED UNDER THIS PART 2, THE BOARD MAY ISSUE TO THE PERSON AN
21 ORDER TO SHOW CAUSE AS TO WHY THE BOARD SHOULD NOT ISSUE A FINAL
22 ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM THE
23 UNLAWFUL ACT OR UNCERTIFIED PRACTICE.

24 (b) THE BOARD SHALL PROMPTLY NOTIFY A PERSON AGAINST
25 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED UNDER PARAGRAPH
26 (a) OF THIS SUBSECTION (11) OF THE ISSUANCE OF THE ORDER, ALONG
27 WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR THE

1 ORDER, AND THE DATE SET BY THE BOARD FOR A HEARING ON THE ORDER.
2 THE BOARD MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY
3 FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS MAY BE
4 PRACTICABLE UPON THE PERSON AGAINST WHOM THE ORDER IS ISSUED.
5 PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT PURSUANT
6 TO THIS SUBSECTION (11) CONSTITUTES NOTICE THEREOF TO THE PERSON.

7 (c) (I) THE BOARD SHALL COMMENCE A HEARING ON AN ORDER TO
8 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
9 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
10 NOTIFICATION BY THE BOARD AS PROVIDED IN PARAGRAPH (b) OF THIS
11 SUBSECTION (11). THE HEARING MAY BE CONTINUED BY AGREEMENT OF
12 ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
13 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
14 BUT IN NO EVENT IS THE HEARING TO COMMENCE LATER THAN SIXTY
15 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
16 NOTIFICATION.

17 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
18 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) DOES
19 NOT APPEAR AT THE HEARING, THE BOARD MAY PRESENT EVIDENCE THAT
20 NOTIFICATION WAS PROPERLY SENT OR SERVED UPON THE PERSON UNDER
21 PARAGRAPH (b) OF THIS SUBSECTION (11) AND SUCH OTHER EVIDENCE
22 RELATED TO THE MATTER AS THE BOARD DEEMS APPROPRIATE. THE
23 BOARD SHALL ISSUE THE ORDER WITHIN TEN DAYS AFTER THE BOARD'S
24 DETERMINATION RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE
25 RESPONDENT, AND THE ORDER BECOMES FINAL AS TO THAT PERSON BY
26 OPERATION OF LAW. THE BOARD SHALL CONDUCT THE HEARING IN
27 ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S.

1 (III) IF THE BOARD REASONABLY FINDS THAT THE PERSON AGAINST
2 WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR HAS ACTED
3 WITHOUT THE REQUIRED CERTIFICATION, OR HAS OR IS ABOUT TO ENGAGE
4 IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS PART 2, THE
5 BOARD MAY ISSUE A FINAL CEASE-AND-DESIST ORDER, DIRECTING THE
6 PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR
7 UNCERTIFIED PRACTICES.

8 (IV) THE BOARD SHALL PROVIDE NOTICE, IN THE MANNER SET
9 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (11), OF THE FINAL
10 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
11 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
12 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
13 ISSUED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS EFFECTIVE
14 WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

15 (12) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE
16 EVIDENCE PRESENTED TO THE BOARD, THAT A PERSON HAS ENGAGED IN OR
17 IS ABOUT TO ENGAGE IN ANY UNCERTIFIED ACT OR PRACTICE, ANY ACT OR
18 PRACTICE CONSTITUTING A VIOLATION OF THIS PART 2, A RULE
19 PROMULGATED UNDER THIS PART 2, AN ORDER ISSUED UNDER THIS PART
20 2, OR AN ACT OR PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE
21 SANCTION UNDER THIS PART 2, THE BOARD MAY ENTER INTO A
22 STIPULATION WITH THE PERSON.

23 (13) IF A PERSON FAILS TO COMPLY WITH A FINAL
24 CEASE-AND-DESIST ORDER OR A STIPULATION, THE BOARD MAY REQUEST
25 THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE JUDICIAL
26 DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING SUIT FOR A
27 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO

1 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.
2 UPON RECEIVING THE REQUEST, THE ATTORNEY GENERAL OR DISTRICT
3 ATTORNEY SHALL BRING THE SUIT AS REQUESTED.

4 **12-41-213. Mental and physical examination of certified**
5 **physical therapist assistants.** (1) IF THE BOARD HAS REASONABLE
6 CAUSE TO BELIEVE THAT A CERTIFIED PHYSICAL THERAPIST ASSISTANT IS
7 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY, THE BOARD
8 MAY REQUIRE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO TAKE A
9 MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PROVIDER
10 DESIGNATED BY THE BOARD. IF THE CERTIFIED PHYSICAL THERAPIST
11 ASSISTANT REFUSES TO UNDERGO THE MENTAL OR PHYSICAL
12 EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND THE CERTIFIED
13 PHYSICAL THERAPIST ASSISTANT'S CONTROL, THE BOARD MAY SUSPEND
14 THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S CERTIFICATION UNTIL
15 THE RESULTS OF THE EXAMINATION ARE KNOWN AND THE BOARD HAS
16 MADE A DETERMINATION OF THE CERTIFIED PHYSICAL THERAPIST
17 ASSISTANT'S FITNESS TO PRACTICE. THE BOARD SHALL PROCEED WITH AN
18 ORDER FOR EXAMINATION AND DETERMINATION IN A TIMELY MANNER.

19 (2) AN ORDER ISSUED TO A CERTIFIED PHYSICAL THERAPIST
20 ASSISTANT UNDER SUBSECTION (1) OF THIS SECTION TO UNDERGO A
21 MENTAL OR PHYSICAL EXAMINATION MUST CONTAIN THE BASIS OF THE
22 BOARD'S REASONABLE CAUSE TO BELIEVE THAT THE CERTIFIED PHYSICAL
23 THERAPIST ASSISTANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL
24 AND SAFETY. FOR THE PURPOSES OF A DISCIPLINARY PROCEEDING
25 AUTHORIZED BY THIS PART 2, THE CERTIFIED PHYSICAL THERAPIST
26 ASSISTANT IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE
27 ADMISSIBILITY OF THE EXAMINING HEALTH CARE PROVIDER'S TESTIMONY

1 OR EXAMINATION REPORTS ON THE GROUND THAT THEY ARE PRIVILEGED
2 COMMUNICATIONS.

3 (3) THE CERTIFIED PHYSICAL THERAPIST ASSISTANT MAY SUBMIT
4 TO THE BOARD TESTIMONY OR EXAMINATION REPORTS FROM A HEALTH
5 CARE PROVIDER CHOSEN BY THE CERTIFIED PHYSICAL THERAPIST
6 ASSISTANT PERTAINING TO THE CONDITION THAT THE BOARD HAS ALLEGED
7 MAY PRECLUDE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FROM
8 PRACTICING WITH REASONABLE SKILL AND SAFETY. THE BOARD MAY
9 CONSIDER SUCH TESTIMONY OR EXAMINATION REPORTS IN CONJUNCTION
10 WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE
11 HEALTH CARE PROVIDER DESIGNATED BY THE BOARD.

12 (4) A PERSON SHALL NOT USE THE RESULTS OF ANY MENTAL OR
13 PHYSICAL EXAMINATION ORDERED BY THE BOARD AS EVIDENCE IN ANY
14 PROCEEDING OTHER THAN ONE BEFORE THE BOARD. THE EXAMINATION
15 RESULTS ARE NOT PUBLIC RECORDS AND ARE NOT AVAILABLE TO THE
16 PUBLIC.

17 **12-41-214. Examinations - notice - confidential agreements.**

18 (1) IF A CERTIFIED PHYSICAL THERAPIST ASSISTANT SUFFERS FROM A
19 PHYSICAL OR MENTAL ILLNESS OR CONDITION RENDERING THE CERTIFIED
20 PHYSICAL THERAPIST ASSISTANT UNABLE TO PRACTICE WITH REASONABLE
21 SKILL AND PATIENT SAFETY, THE CERTIFIED PHYSICAL THERAPIST
22 ASSISTANT SHALL NOTIFY THE BOARD OF THE ILLNESS OR CONDITION IN A
23 MANNER AND WITHIN A PERIOD OF TIME DETERMINED BY THE BOARD. THE
24 BOARD MAY REQUIRE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO
25 SUBMIT TO AN EXAMINATION, OR THE BOARD MAY EVALUATE THE EXTENT
26 OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE CERTIFIED
27 PHYSICAL THERAPIST ASSISTANT'S ABILITY TO PRACTICE WITH

1 REASONABLE SKILL AND SAFETY TO PATIENTS.

2 (2) (a) UPON DETERMINING THAT A CERTIFIED PHYSICAL
3 THERAPIST ASSISTANT WITH A PHYSICAL OR MENTAL ILLNESS OR
4 CONDITION IS ABLE TO RENDER LIMITED PHYSICAL THERAPY WITH
5 REASONABLE SKILL AND PATIENT SAFETY, THE BOARD MAY ENTER INTO A
6 CONFIDENTIAL AGREEMENT WITH THE CERTIFIED PHYSICAL THERAPIST
7 ASSISTANT IN WHICH THE CERTIFIED PHYSICAL THERAPIST ASSISTANT
8 AGREES TO LIMIT HIS OR HER PRACTICE BASED ON THE RESTRICTIONS
9 IMPOSED BY THE ILLNESS OR CONDITION, AS DETERMINED BY THE BOARD.

10 (b) THE AGREEMENT MUST SPECIFY THAT THE CERTIFIED PHYSICAL
11 THERAPIST ASSISTANT IS SUBJECT TO PERIODIC REEVALUATIONS OR
12 MONITORING AS DETERMINED APPROPRIATE BY THE BOARD.

13 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
14 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
15 MONITORING.

16 (d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD UNDER
17 THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, THE CERTIFIED
18 PHYSICAL THERAPIST ASSISTANT IS NOT ENGAGING IN UNPROFESSIONAL
19 CONDUCT. THE AGREEMENT IS AN ADMINISTRATIVE ACTION AND DOES
20 NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE BOARD.
21 HOWEVER, IF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FAILS TO
22 COMPLY WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO
23 THIS SUBSECTION (2), THE FAILURE CONSTITUTES GROUNDS FOR
24 DISCIPLINARY ACTION UNDER SECTION 12-41-210 (1) (i) AND THE
25 CERTIFIED PHYSICAL THERAPIST ASSISTANT IS SUBJECT TO DISCIPLINE IN
26 ACCORDANCE WITH SECTION 12-41-211.

27 (3) THIS SECTION DOES NOT APPLY TO A PHYSICAL THERAPIST

1 ASSISTANT SUBJECT TO DISCIPLINE UNDER SECTION 12-41-210 (1) (h).

2 **12-41-215. Reports by insurance companies.** (1) (a) EACH
3 INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND
4 ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR PHYSICAL
5 THERAPIST ASSISTANTS SHALL SEND TO THE BOARD INFORMATION ABOUT
6 ANY MALPRACTICE CLAIM THAT INVOLVES A PHYSICAL THERAPIST
7 ASSISTANT AND IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST
8 THE INSURED.

9 (b) IN ADDITION, THE INSURANCE COMPANY SHALL SUBMIT
10 SUPPLEMENTARY REPORTS CONTAINING THE DISPOSITION OF THE CLAIM TO
11 THE BOARD WITHIN NINETY DAYS AFTER SETTLEMENT OR JUDGMENT.

12 (2) REGARDLESS OF THE DISPOSITION OF ANY CLAIM, THE
13 INSURANCE COMPANY SHALL PROVIDE SUCH INFORMATION AS THE BOARD
14 FINDS REASONABLY NECESSARY TO CONDUCT ITS OWN INVESTIGATION
15 AND HEARING.

16 **12-41-216. Unauthorized practice - penalties.** ANY PERSON
17 WHO VIOLATES SECTION 12-41-202 OR 12-41-203 WITHOUT AN ACTIVE
18 CERTIFICATION ISSUED UNDER THIS PART 2 COMMITS A CLASS 2
19 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
20 18-1.3-501, C.R.S.

21 **12-41-217. Violation - fines.** (1) NOTWITHSTANDING SECTION
22 12-41-216, THE BOARD MAY ASSESS A FINE FOR A VIOLATION OF THIS PART
23 2 OR A RULE ADOPTED UNDER THIS PART 2.

24 (2) THE FINE SHALL NOT BE GREATER THAN ONE THOUSAND
25 DOLLARS AND SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO
26 SHALL CREDIT THE SAME TO THE GENERAL FUND.

27 (3) ALL FINES MUST BE IMPOSED IN ACCORDANCE WITH SECTION

1 24-4-105, C.R.S., BUT ARE NOT A SUBSTITUTE OR WAIVER OF A CRIMINAL
2 PENALTY.

3 **12-41-218. Injunctive proceedings.** THE BOARD MAY, IN THE
4 NAME OF THE PEOPLE OF THE STATE OF COLORADO, THROUGH THE
5 ATTORNEY GENERAL OF COLORADO, APPLY FOR AN INJUNCTION TO A
6 COURT TO ENJOIN A PERSON FROM COMMITTING AN ACT DECLARED TO BE
7 A MISDEMEANOR BY THIS PART 2. IF IT IS ESTABLISHED THAT THE
8 DEFENDANT HAS BEEN OR IS COMMITTING AN ACT DECLARED TO BE A
9 MISDEMEANOR BY THIS PART 2, THE COURT SHALL ENTER A DECREE
10 PERPETUALLY ENJOINING THE DEFENDANT FROM FURTHER COMMITTING
11 THE ACT. IF A PERSON VIOLATES AN INJUNCTION ISSUED UNDER THIS
12 SECTION, THE COURT MAY TRY AND PUNISH THE OFFENDER FOR CONTEMPT
13 OF COURT. AN INJUNCTION PROCEEDING IS IN ADDITION TO, AND NOT IN
14 LIEU OF, ALL PENALTIES AND OTHER REMEDIES PROVIDED IN THIS PART 2.

15 **12-41-219. Limitation on authority.** THE AUTHORITY GRANTED
16 TO THE BOARD BY THIS PART 2 DOES NOT AUTHORIZE THE BOARD TO
17 ARBITRATE OR ADJUDICATE FEE DISPUTES BETWEEN PHYSICAL THERAPIST
18 ASSISTANTS OR BETWEEN A PHYSICAL THERAPIST ASSISTANT AND
19 ANOTHER PARTY.

20 **12-41-220. Fees and expenses.** ALL FEES COLLECTED UNDER THIS
21 PART 2 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE
22 SAME MANNER AS SET FORTH IN SECTION 24-34-105, C.R.S. _____

23 **12-41-221. Repeal of part.** THIS PART 2 IS REPEALED, EFFECTIVE
24 SEPTEMBER 1, 2018. PRIOR TO THE REPEAL, THE FUNCTIONS OF THE
25 BOARD OF PHYSICAL THERAPY IN REGULATING PHYSICAL THERAPY
26 ASSISTANTS UNDER THIS PART 2 MUST BE REVIEWED AS PROVIDED FOR IN
27 SECTION 24-34-104, C.R.S.

1 **SECTION 35. Appropriation.** (1) In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys in the
3 division of registrations cash fund created in section 24-34-105 (2)(b)(I),
4 Colorado Revised Statutes, not otherwise appropriated, to the department
5 of regulatory agencies, for allocation to the division of registrations, for
6 personal services and operating expenses, for the fiscal year beginning
7 July 1, 2011, the sum of one hundred one thousand eight hundred
8 fourteen dollars (\$101,814) cash funds and 1.4 FTE, or so much thereof
9 as may be necessary, for the implementation of this act.

10 (2) In addition to any other appropriation, there is hereby
11 appropriated, out of any moneys in the division of registrations cash fund
12 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
13 otherwise appropriated, to the department of regulatory agencies, for
14 allocation to the executive director's office and administrative services,
15 for legal services, for the fiscal year beginning July 1, 2011, the sum of
16 thirty-eight thousand eight hundred eighty-six dollars (\$38,886) cash
17 funds, or so much thereof as may be necessary, for the implementation of
18 this act.

19 (3) In addition to any other appropriation, there is hereby
20 appropriated, out of any moneys in the division of registrations cash fund
21 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
22 otherwise appropriated, to the department of regulatory agencies, for
23 allocation to the executive director's office and administrative services,
24 for information technology costs, for the fiscal year beginning July 1,
25 2011, the sum of twenty-three thousand six hundred eighty dollars
26 (\$23,680) cash funds, or so much thereof as may be necessary, for the
27 implementation of this act.

1 (4) In addition to any other appropriation, there is hereby
2 appropriated to the department of law, for the fiscal year beginning July
3 1, 2011, the sum of thirty-eight thousand eight hundred eighty-six dollars
4 (\$38,886) and 0.3 FTE, or so much thereof as may be necessary, for the
5 provision of legal services to the department of regulatory agencies
6 related to the implementation of this act. Said sum shall be from
7 reappropriated funds received from the department of regulatory agencies
8 out of the appropriation made in subsection (2) of this section.

9 (5) In addition to any other appropriation, there is hereby
10 appropriated to the governor - lieutenant governor - state planning and
11 budgeting, for allocation to the office of information technology, for the
12 fiscal year beginning July 1, 2011, the sum of twenty-three thousand six
13 hundred eighty dollars (\$23,680) cash funds, or so much thereof as may
14 be necessary, for the programming services to be provided to the
15 department of regulatory agencies related to the implementation of this
16 act. Said sum shall be from reappropriated funds received from the
17 department of regulatory agencies out of the appropriation made in
18 subsection (3) of this section.

19 **SECTION 36. Effective date.** This act shall take effect July 1,
20 2011.

21 **SECTION 37. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.