

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading

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.**

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:

! The regulation of physical therapists is continued until

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.

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 The board of physical therapy (board) is reestablished and the physical therapy advisory committee is repealed.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 The provision denying renewal of an existing physical therapist license is repealed.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 A NEW SUBSECTION to read:**

10 **12-41-103. Definitions.** As used in this article, unless the context
11 otherwise requires:

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

14 ==

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

18 **12-41-103. Definitions.** As used in this article, unless the context
19 otherwise requires:

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

21 (F) GENERAL WOUND CARE, INCLUDING THE ASSESSMENT AND
22 MANAGEMENT OF SKIN LESIONS, SURGICAL INCISIONS, OPEN WOUNDS, AND
23 AREAS OF POTENTIAL SKIN BREAKDOWN IN ORDER TO MAINTAIN OR
24 RESTORE THE INTEGUMENTARY SYSTEM.

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

27 **12-41-103.3. Physical therapy board - created - repeal.**

1 (1) (a) THE STATE PHYSICAL THERAPY BOARD IS HEREBY CREATED AS THE
2 AGENCY FOR REGULATION OF THE PRACTICE OF PHYSICAL THERAPY IN THIS
3 STATE AND TO CARRY OUT THE PURPOSES OF THIS ARTICLE. THE BOARD
4 IS UNDER THE SUPERVISION AND CONTROL OF THE DIVISION OF
5 REGISTRATIONS AS PROVIDED IN SECTION 24-34-102, C.R.S. THE BOARD
6 CONSISTS OF FIVE PHYSICAL THERAPIST MEMBERS AND TWO MEMBERS
7 FROM THE PUBLIC AT LARGE, EACH MEMBER TO BE APPOINTED BY THE
8 GOVERNOR BY NO LATER THAN JANUARY 1, 2012, FOR TERMS OF FOUR
9 YEARS. A MEMBER SHALL NOT SERVE MORE THAN TWO CONSECUTIVE
10 TERMS OF FOUR YEARS. THE GOVERNOR SHALL GIVE DUE CONSIDERATION
11 TO HAVING A GEOGRAPHIC, POLITICAL, URBAN, AND RURAL BALANCE
12 AMONG THE BOARD MEMBERS.

13 (b) (I) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION
14 (1), THE INITIAL TERMS OF THE PHYSICAL THERAPIST MEMBERS ARE AS
15 FOLLOWS:

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

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

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

19 (II) THE INITIAL TERMS FOR THE PUBLIC MEMBERS ARE AS
20 FOLLOWS:

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

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

23 (III) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE SEPTEMBER 1,
24 2016.

25 (2) A PERSON IS QUALIFIED TO BE APPOINTED TO THE BOARD IF THE
26 PERSON:

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

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

6 (3) SHOULD A VACANCY OCCUR IN ANY BOARD MEMBERSHIP
7 BEFORE THE EXPIRATION OF THE MEMBER'S TERM, THE GOVERNOR SHALL
8 FILL SUCH VACANCY BY APPOINTMENT FOR THE REMAINDER OF THE TERM
9 IN THE SAME MANNER AS IN THE CASE OF ORIGINAL APPOINTMENTS. A
10 MEMBER OF THE BOARD SHALL REMAIN ON THE BOARD UNTIL HIS OR HER
11 SUCCESSOR HAS BEEN APPOINTED. A MEMBER MAY BE REMOVED BY THE
12 GOVERNOR FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY.

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

16 **12-41-103.6. [Formerly 12-41-125] Powers and duties of**
17 **board - reports - publications - rules - repeal.** (1) (a) ~~The director is~~
18 ~~authorized to~~ BOARD SHALL administer and enforce ~~the provisions of this~~
19 ~~article and any rules and regulations~~ adopted under this article.

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

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

27 (a) To evaluate the qualifications of applicants for licensure,

1 administer examinations, issue and renew ~~the~~ licenses and permits
2 authorized under this article, and to take ~~the~~ disciplinary actions
3 authorized under this article;

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

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

10 (II) Physical therapy of animals, including, without limitation,
11 educational and clinical requirements for the performance of physical
12 therapy of animals and the procedure for handling complaints to the
13 department of regulatory agencies regarding physical therapy of animals.
14 In adopting such rules, the ~~director~~ BOARD shall consult ~~with the physical~~
15 ~~therapy advisory committee established pursuant to section 12-41-126 and~~
16 with the state board of veterinary medicine established ~~pursuant to~~ BY
17 section 12-64-105.

18 (c) (I) To conduct hearings upon charges for discipline of a
19 licensee and cause the prosecution and joinder of all persons violating
20 this article;

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

1 ~~director~~ BOARD.

2 ~~(HH)~~ (B) Upon failure of ~~any~~ A witness to comply with ~~such~~ A
3 subpoena or process, the district court of the county in which the
4 subpoenaed person or ~~license~~ LICENSEE resides or conducts business,
5 upon application by the board ~~or director~~ with notice to the subpoenaed
6 person or licensee, may issue to the person or licensee an order requiring
7 that person or licensee to appear before the ~~director~~ BOARD; to produce
8 the relevant papers, books, records, documentary evidence, or materials
9 if so ordered; or to give evidence touching the matter under investigation
10 or in question. THE COURT MAY PUNISH A failure to obey ~~the~~ ITS order ~~of~~
11 ~~the court may be punished by the court~~ as a contempt of court.

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

16 ~~(e) Repealed.~~

17 ~~(f)~~ (e) Subject to ~~the provisions of section~~ SECTIONS 12-41-128
18 and ~~section~~ 24-34-105, C.R.S., to establish fines, set fees, and make ~~such~~
19 expenditures as the ~~director~~ BOARD may deem necessary for the
20 administration ~~of the provisions~~ of this article; AND

21 ~~(g) Repealed.~~

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

25 ~~(i)~~ (f) To promote consumer protection and consumer education
26 by such means as the ~~director~~ BOARD finds appropriate. ~~and~~

27 ~~(j) To appoint advisory committees to assist in the performance of~~

1 ~~the director's duties. Members of any such advisory committee shall~~
2 ~~receive no compensation for their services but shall be reimbursed for~~
3 ~~actual and necessary expenses which they may incur in the performance~~
4 ~~of their duties. Such reimbursement shall be cash funded and shall not~~
5 ~~exceed the amount anticipated to be raised from fees collected pursuant~~
6 ~~to this article.~~

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

9 **12-41-105. Limitations on authority.** (1) Nothing in this article
10 ~~shall be construed as authorizing~~ AUTHORIZES a physical therapist to
11 perform any of the following acts:

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

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

17 **12-41-106. License required.** Except as otherwise provided by
18 this article, any person who practices physical therapy or who represents
19 oneself as being able to practice physical therapy in this state must
20 possess a valid license issued by the ~~director in accordance with~~ BOARD
21 UNDER this article and ~~any rules and regulations~~ adopted under this
22 article.

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

25 **12-41-107. Licensure by examination.** (1) Every applicant for
26 a license by examination shall:

27 (a) Successfully complete a physical therapy program:

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

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

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

13 (I) APPROVED BY THE BOARD; AND

14 (II) A NATIONAL EXAMINATION ACCREDITED BY A NATIONALLY
15 RECOGNIZED ACCREDITING AGENCY;

16 (c) Submit an application in the form and manner designated by
17 the director; and

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

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

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

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

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

6 ~~(e) Written notice stating whether the applicant passed or failed~~
7 ~~the examination shall be mailed to each applicant who takes the~~
8 ~~examination.~~

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

14 **SECTION 11.** 12-41-109 (2), (4), and (5), Colorado Revised
15 Statutes, are amended to read:

16 **12-41-109. Licensure by endorsement.** (2) Upon receipt of all
17 documents required by subsection (1) of this section, the director shall
18 review the application and ~~make a determination of~~ DETERMINE IF the
19 ~~applicant's qualification~~ APPLICANT IS QUALIFIED to be licensed by
20 endorsement.

21 (4) The ~~director~~ BOARD shall notify the applicant in writing of the
22 denial or approval of the application.

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

26 **SECTION 12.** The introductory portion to 12-41-109 (3) and
27 12-41-109 (3) (c) (I), as it will become effective July 1, 2011, Colorado

1 Revised Statutes, are amended to read:

2 **12-41-109. Licensure by endorsement.** (3) The ~~director~~ BOARD
3 shall issue a license if the applicant fulfills the requirements of subsection
4 (1) of this section and meets any one of the following qualifying
5 standards enumerated in paragraphs (a) to (c) of this subsection (3):

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

9 (I) The applicant passed an examination in another jurisdiction
10 ~~which examination~~ THAT is substantially equivalent to ~~that~~ THE
11 EXAMINATION specified in section 12-41-107 (2), and has demonstrated
12 competency through successful completion of an internship or
13 demonstrated competency as a physical therapist ~~that fulfills~~ BY
14 FULFILLING the requirements established by rules of the ~~director~~ BOARD.

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

17 **12-41-111. Licensing of foreign-trained applicants.** (1) Every
18 foreign-trained applicant for licensing by examination shall:

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

21 (2) ~~When the director has verified the credentials and documents~~
22 ~~required to be submitted by the foreign-trained applicant pursuant to~~
23 ~~paragraphs (a), (b), (d), and (e) of subsection (1) of this section, he shall~~
24 ~~qualify such applicant to take the examination required in paragraph (c)~~
25 ~~of subsection (1) of this section~~ UPON RECEIPT OF ALL DOCUMENTS
26 REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL
27 REVIEW THE APPLICATION AND DETERMINE IF THE APPLICANT IS QUALIFIED

1 TO BE LICENSED BY ENDORSEMENT.

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

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

9 **12-41-112. Expiration and renewal of licenses.** AN APPLICANT
10 FOR LICENSURE SHALL PAY LICENSE, RENEWAL, AND REINSTATEMENT FEES
11 ESTABLISHED BY THE DIRECTOR IN THE SAME MANNER AS IS AUTHORIZED
12 IN SECTION 24-34-105, C.R.S. A LICENSEE SHALL RENEW A LICENSE IN
13 ACCORDANCE WITH A SCHEDULE ESTABLISHED BY THE DIRECTOR
14 PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY
15 ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT
16 UNDER SECTION 24-34-105, C.R.S. IF A PERSON FAILS TO RENEW A
17 LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR,
18 THE LICENSE EXPIRES. A PERSON WHOSE LICENSE HAS EXPIRED IS SUBJECT
19 TO THE PENALTIES PROVIDED IN THIS ARTICLE AND SECTION 24-34-102 (8),
20 C.R.S.

21 **SECTION 15.** 12-41-113 (1), Colorado Revised Statutes, is
22 amended to read:

23 **12-41-113. Special practice authorities and requirements -**
24 **rules.** (1) Supervising persons not licensed as a physical therapist.
25 ~~A physical therapist may utilize the services of not more than three~~
26 ~~unlicensed individuals to assist in that therapist's practice. Such~~
27 ~~individuals shall at all times be under the direct supervision of the~~

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

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

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

21 **SECTION 16.** The introductory portion to 12-41-114 (1) and
22 12-41-114 (1) (f), (1) (g), and (1) (h), Colorado Revised Statutes, are
23 amended to read:

24 **12-41-114. Scope of article - exclusions.** (1) Nothing contained
25 in this article ~~shall prohibit~~ PROHIBITS:

26 (f) The practice of physical therapy in this state by ~~any~~ A legally
27 qualified physical therapist from another state or country when providing

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

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

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

23 **SECTION 17.** Article 41 of title 12, Colorado Revised Statutes,
24 is amended BY THE ADDITION OF THE FOLLOWING NEW
25 SECTIONS to read:

26 **12-41-114.5. Professional liability insurance required - rules.**

27 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PERSON

1 SHALL NOT PRACTICE PHYSICAL THERAPY UNLESS THE PERSON PURCHASES
2 AND MAINTAINS PROFESSIONAL LIABILITY INSURANCE OF AT LEAST ONE
3 MILLION DOLLARS PER CLAIM AND AT LEAST THREE MILLION DOLLARS PER
4 YEAR FOR ALL CLAIMS UNLESS THE CORPORATION THAT EMPLOYS THE
5 PHYSICAL THERAPIST MAINTAINS THE INSURANCE REQUIRED BY SECTION
6 12-41-124.

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

13 **12-41-114.6. Continuing professional competency.** (1) (a) A
14 LICENSED PHYSICAL THERAPIST SHALL MAINTAIN CONTINUING
15 PROFESSIONAL COMPETENCY TO PRACTICE.

16 (b) THE BOARD, IN CONSULTATION WITH A NATIONALLY
17 RECOGNIZED ACCREDITING AGENCY, SHALL ADOPT RULES ESTABLISHING
18 A CONTINUING PROFESSIONAL COMPETENCY PROGRAM THAT INCLUDES, AT
19 A MINIMUM, THE FOLLOWING ELEMENTS:

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

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

24 (III) PERIODIC DEMONSTRATION OF KNOWLEDGE AND SKILLS
25 THROUGH DOCUMENTATION OF ACTIVITIES NECESSARY TO ENSURE AT
26 LEAST MINIMAL ABILITY TO SAFELY PRACTICE THE PROFESSION; EXCEPT
27 THAT A LICENSED PHYSICAL THERAPIST NEED NOT RETAKE ANY

1 EXAMINATION REQUIRED BY SECTION 12-41-107 FOR INITIAL LICENSURE.

2 (c) THE BOARD SHALL ESTABLISH THAT A LICENSED PHYSICAL
3 THERAPIST SATISFIES THE CONTINUING COMPETENCY REQUIREMENTS OF
4 THIS SECTION IF THE PHYSICAL THERAPIST MEETS THE CONTINUING
5 PROFESSIONAL COMPETENCY REQUIREMENTS OF ONE OF THE FOLLOWING
6 ENTITIES:

7 (I) A STATE DEPARTMENT, INCLUDING CONTINUING PROFESSIONAL
8 COMPETENCY REQUIREMENTS IMPOSED THROUGH A CONTRACTUAL
9 ARRANGEMENT WITH A PROVIDER;

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

11 (III) AN ENTITY APPROVED BY THE BOARD.

12 (d) (I) AFTER THE PROGRAM IS ESTABLISHED, A LICENSED
13 PHYSICAL THERAPIST SHALL SATISFY THE REQUIREMENTS OF THE
14 PROGRAM IN ORDER TO RENEW OR REINSTATE A LICENSE TO PRACTICE
15 PHYSICAL THERAPY.

16 (II) THE REQUIREMENTS OF THIS SECTION APPLY TO INDIVIDUAL
17 LICENSED PHYSICAL THERAPISTS, AND NOTHING IN THIS SECTION REQUIRES
18 A PERSON WHO EMPLOYS OR CONTRACTS WITH A PHYSICAL THERAPIST TO
19 COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

20 (2) RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION
21 DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING
22 PROFESSIONAL COMPETENCY PROGRAM ARE CONFIDENTIAL AND NOT
23 SUBJECT TO INSPECTION BY THE PUBLIC OR DISCOVERY IN CONNECTION
24 WITH A CIVIL ACTION AGAINST A LICENSED PHYSICAL THERAPIST. A
25 PERSON OR THE BOARD SHALL NOT USE THE RECORDS OR DOCUMENTS
26 UNLESS USED BY THE BOARD TO DETERMINE WHETHER A LICENSED
27 PHYSICAL THERAPIST IS MAINTAINING CONTINUING PROFESSIONAL

1 COMPETENCY TO ENGAGE IN THE PROFESSION.

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

7 **SECTION 18.** The introductory portion to 12-41-115 (1) and
8 12-41-115 (1) (c), (1) (d), (1) (g), (1) (j), (1) (l), (1) (m), (1) (n), (1) (o),
9 (1) (p), (1) (q), and (1) (u), Colorado Revised Statutes, are amended, and
10 the said 12-41-115 (1) is further amended BY THE ADDITION OF THE
11 FOLLOWING NEW PARAGRAPHS, to read:

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

15 (c) Failed to refer a patient to the appropriate licensed health care
16 practitioner PROFESSIONAL when the services required by the patient are
17 beyond the level of competence of the physical therapist or beyond the
18 scope of physical therapy practice;

19 (d) Abandoned a patient by any means, including but not limited
20 to failure to provide a referral to another physical therapist or to other
21 ANOTHER appropriate health care practitioners PROFESSIONAL when the
22 provision of such referral was necessary to meet generally accepted
23 standards of physical therapy care;

24 (g) Engaged in any of the following activities and practices:
25 Ordering or performance, without clinical justification, of demonstrably
26 unnecessary laboratory tests or studies; the administration, without
27 clinical justification, of treatment ~~which~~ THAT is demonstrably

1 unnecessary; or ordering or performing, without clinical justification, any
2 service, X ray, or treatment ~~which~~ THAT is contrary to recognized
3 standards of the practice of physical therapy as interpreted by the ~~director~~
4 BOARD;

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

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

16 (m) (I) ~~A physical or mental condition or disability which renders~~
17 ~~such licensee unable to treat patients with reasonable skill and safety or~~
18 ~~which may endanger the health or safety of persons under the licensee's~~
19 ~~care~~ FAILED TO NOTIFY THE BOARD, AS REQUIRED BY SECTION 12-41-118
20 (5), OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT IMPACTS THE
21 LICENSEE'S ABILITY TO PERFORM PHYSICAL THERAPY WITH REASONABLE
22 SKILL AND SAFETY TO PATIENTS;

23 (II) FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
24 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
25 LICENSEE UNABLE TO PERFORM PHYSICAL THERAPY WITH REASONABLE
26 SKILL AND SAFETY TO THE PATIENT; OR

27 (III) FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER

1 A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-41-118;

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

4 (o) Failed to notify the ~~director~~, BOARD in writing of the entry of
5 a final judgment by a court of competent jurisdiction ~~in favor of any party~~
6 ~~and~~ against the licensee for malpractice of physical therapy or ~~any~~ A
7 settlement by the licensee in response to charges or allegations of
8 malpractice of physical therapy, ~~Such~~ WHICH notice ~~shall~~ MUST be given
9 within ninety days ~~of~~ AFTER the entry of ~~such~~ judgment or ~~such~~ settlement
10 and, in the case of a judgment, ~~shall~~ MUST contain the name of the court,
11 the case number, and the names of all parties to the action;

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

15 (q) Been convicted of, ~~a felony or~~ pled guilty, or PLED nolo
16 contendere to ANY CRIME RELATED TO THE LICENSEE'S PRACTICE OF
17 PHYSICAL THERAPY OR a felony or committed ~~any~~ AN act specified in
18 section 12-41-121. A certified copy of the judgment of a court of
19 competent jurisdiction of such conviction or plea ~~shall be~~ IS conclusive
20 evidence of such conviction or plea. In considering the disciplinary
21 action, the ~~director shall be~~ BOARD IS governed by ~~the provisions of~~
22 section 24-5-101, C.R.S.

23 (u) Practiced physical therapy during the time the person's license
24 was LASED, suspended, or revoked;

25 (v) FAILED TO MAINTAIN THE INSURANCE REQUIRED BY SECTION
26 12-41-114.5 OR A RULE PROMULGATED THEREUNDER;

27 (w) FAILED TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,

1 AND TIMELY MANNER TO A COMPLAINT ISSUED UNDER THIS ARTICLE;
2 (x) FAILED TO KNOW THE CONTENTS OF THIS PART 1 AND ANY
3 RULES PROMULGATED UNDER THIS PART 1;

4 (y) FAILED TO EITHER:

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

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

13 SECTION 19. Article 41 of title 12, Colorado Revised Statutes,
14 is amended BY THE ADDITION OF A NEW SECTION to read:

15 12-41-115.5. Protection of medical records - licensee's
16 obligations - verification of compliance - noncompliance grounds for
17 discipline - rules. (1) EACH LICENSED PHYSICAL THERAPIST
18 RESPONSIBLE FOR PATIENT RECORDS SHALL DEVELOP A WRITTEN PLAN TO
19 ENSURE THE SECURITY OF PATIENT MEDICAL RECORDS. THE PLAN MUST
20 ADDRESS AT LEAST THE FOLLOWING:

21 (a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL
22 RECORDS;

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

26 (c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN
27 THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN

1 PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

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

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

10 (4) THE BOARD MAY ADOPT RULES REASONABLY NECESSARY TO
11 IMPLEMENT THIS SECTION.

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

16 **12-41-116. Disciplinary actions.** (1) (a) The director pursuant
17 ~~to the provisions of~~ BOARD, IN ACCORDANCE WITH article 4 of title 24,
18 C.R.S., may issue letters of admonition; ~~or may deny, refuse to renew,~~
19 suspend, or revoke any license; ~~may place a licensee on probation; or may~~
20 impose public censure or a fine, if ~~after notice and hearing,~~ the director
21 BOARD or the ~~director's~~ BOARD'S designee determines AFTER NOTICE AND
22 THE OPPORTUNITY FOR A HEARING that the licensee has committed ~~any of~~
23 ~~the acts~~ AN ACT specified in section 12-41-115.

24 (b) ~~The denial of an application to renew an existing license shall~~
25 ~~be treated in all respects as a revocation. If an application to renew a~~
26 ~~license is denied, the applicant, within sixty days after the date of the~~
27 ~~notice of such action, may request a hearing as provided in section~~

1 ~~24-4-105, C.R.S.~~

2 (c) The ~~director~~ BOARD may take disciplinary action on an
3 emergency basis ~~as provided in~~ UNDER section 24-4-105, C.R.S.

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

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

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

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

26 (b) Any therapy, training, or education ~~which~~ THAT the ~~director~~
27 BOARD believes ~~to be~~ necessary to correct deficiencies found either

1 ~~pursuant to~~ IN a proceeding in compliance with section 24-34-106,
2 C.R.S., or through an examination ~~pursuant to~~ UNDER paragraph (a) of
3 this subsection (3);

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

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

10 (3.5) When a complaint or investigation discloses an instance of
11 conduct that does not warrant formal action by the ~~director~~ BOARD and,
12 in the opinion of the ~~director~~ BOARD, the complaint should be dismissed,
13 but the ~~director~~ BOARD has noticed indications of possible errant conduct
14 by the licensee that could lead to serious consequences if not corrected,
15 THE BOARD MAY SEND a confidential letter of concern ~~may be issued and~~
16 ~~sent~~ to the licensee.

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

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

23 (6) A PERSON WHOSE LICENSE TO PRACTICE PHYSICAL THERAPY IS
24 REVOKED OR WHO SURRENDERS HIS OR HER LICENSE TO AVOID DISCIPLINE
25 IS NOT ELIGIBLE TO APPLY FOR A LICENSE FOR TWO YEARS AFTER THE
26 LICENSE IS REVOKED OR SURRENDERED. THE TWO-YEAR WAITING PERIOD
27 APPLIES TO A PERSON WHOSE LICENSE TO PRACTICE PHYSICAL THERAPY,

1 OR TO PRACTICE ANY OTHER HEALTH CARE OCCUPATION, IS REVOKED BY
2 ANY OTHER LEGALLY QUALIFIED BOARD OR REGULATORY ENTITY.

3 **SECTION 21.** 12-41-117 (1), (2), (3), (5), (6), (7) (a), (8), (9),
4 (10), (11) (a), (12), (13), and (14), Colorado Revised Statutes, are
5 amended to read:

6 **12-41-117. Disciplinary proceedings - investigations - judicial**
7 **review.** (1) The ~~director~~ BOARD may commence a proceeding for the
8 discipline of a licensee when the ~~director~~ BOARD has reasonable grounds
9 to believe that a licensee has committed an act enumerated in section
10 12-41-115.

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

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

21 (b) ~~Any~~ A person who supervises a physical therapist shall report
22 to the ~~director~~ BOARD when ~~such~~ THE physical therapist has been
23 dismissed because of incompetence in physical therapy or failure to
24 comply with this article. ~~Any~~ A physical therapist who is aware that
25 another physical therapist is violating ~~any of the provisions of~~ this article
26 shall report such violation to the ~~director~~ BOARD.

27 (5) (a) The ~~director~~ BOARD or an administrative law judge ~~shall~~

1 ~~have the power to~~ MAY administer oaths, take affirmations of witnesses,
2 and issue subpoenas to compel the attendance of witnesses and the
3 production of all relevant papers, books, records, documentary evidence,
4 and materials in any hearing, investigation, accusation, or other matter
5 coming before the ~~director~~ BOARD pursuant to this article. The ~~director~~
6 BOARD may appoint an administrative law judge pursuant to part 10 of
7 article 30 of title 24, C.R.S., to take evidence and to make findings and
8 report them to the ~~director~~ BOARD.

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

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

23 (7) (a) The ~~director~~ BOARD, the director's staff, ~~any person acting~~
24 ~~as a witness or consultant to the director, any~~ BOARD, A witness testifying
25 in a proceeding authorized under this article, and ~~any~~ A person who
26 lodges a complaint ~~pursuant to~~ UNDER this article ~~shall be~~ IS immune from
27 liability in ~~any~~ A civil action brought against him or her for acts occurring

1 while acting in his or her capacity as ~~director~~ BOARD MEMBER, staff,
2 consultant, ~~or~~ witness, OR COMPLAINANT, respectively, if such individual
3 was acting in good faith within the scope of his or her respective capacity,
4 made a reasonable effort to obtain the facts of the matter as to which he
5 or she acted, and acted in the reasonable belief that the action taken by
6 him or her was warranted by the facts.

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

13 (9) Final action of the ~~director~~ BOARD may be judicially reviewed
14 by the court of appeals by appropriate proceedings under section
15 24-4-106 (11), C.R.S., and judicial proceedings for the enforcement of an
16 order of the ~~director~~ BOARD may be instituted in accordance with section
17 24-4-106, C.R.S.

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

22 (11) (a) If it appears to the ~~director~~ BOARD, based upon credible
23 evidence as presented in a written complaint by any person, that a
24 licensee is acting in a manner that is an imminent threat to the health and
25 safety of the public, or a person is acting or has acted without the required
26 license, the ~~director~~ BOARD may issue an order to cease and desist such
27 activity. The order ~~shall~~ MUST set forth the statutes and rules alleged to

1 have been violated, the facts alleged to have constituted the violation, and
2 the requirement that all unlawful acts or unlicensed practices immediately
3 cease.

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

11 (b) THE BOARD SHALL PROMPTLY NOTIFY a person against whom
12 an order to show cause has been issued ~~pursuant to~~ UNDER paragraph (a)
13 of this subsection (12) ~~shall be promptly notified by the director~~ of the
14 issuance of the order, along with a copy of the order, the factual and legal
15 basis for the order, and the date set by the ~~director~~ BOARD for a hearing
16 on the order. ~~Such notice~~ THE BOARD may ~~be served~~ SERVE THE NOTICE
17 by personal service, by first-class United States mail, postage prepaid, or
18 as may be practicable upon any person against whom such order is issued.
19 Personal service or mailing of an order or document pursuant to this
20 subsection (12) ~~shall constitute~~ CONSTITUTES notice thereof to the person.

21 (c) (I) The BOARD SHALL COMMENCE A hearing on an order to
22 show cause ~~shall be commenced~~ no sooner than ten and no later than
23 forty-five calendar days after the date of transmission or service of the
24 notification by the ~~director~~ BOARD as provided in paragraph (b) of this
25 subsection (12). The hearing may be continued by agreement of all
26 parties based upon the complexity of the matter, number of parties to the
27 matter, and legal issues presented in the matter, but in no event ~~shall~~ IS

1 the hearing TO commence later than sixty calendar days after the date of
2 transmission or service of the notification.

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

14 (III) If the ~~director~~ BOARD reasonably finds that the person against
15 whom the order to show cause was issued is acting or has acted without
16 the required license, or has or is about to engage in acts or practices
17 constituting violations of this article, a final cease-and-desist order may
18 be issued, directing such person to cease and desist from further unlawful
19 acts or unlicensed practices.

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

27 (13) If it appears to the ~~director~~ BOARD, based upon credible

1 evidence presented to the ~~director~~ BOARD, that a person has engaged in or
2 is about to engage in any unlicensed act or practice, any act or practice
3 constituting a violation of this article, any rule promulgated pursuant to
4 this article, any order issued pursuant to this article, or any act or practice
5 constituting grounds for administrative sanction pursuant to this article,
6 the ~~director~~ BOARD may enter into a stipulation with such person.

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

15 **SECTION 22.** 12-41-118, Colorado Revised Statutes, is amended
16 to read:

17 **12-41-118. Mental and physical examination of licensees.**

18 (1) If the ~~director~~ BOARD has reasonable cause to believe that a licensee
19 is unable to practice with reasonable skill and safety, the ~~director~~ BOARD
20 may require ~~such person~~ THE LICENSEE to take a mental or physical
21 examination by a ~~physician~~ HEALTH CARE PROVIDER designated by ~~said~~
22 ~~director~~ THE BOARD. If ~~such~~ THE licensee refuses to undergo such a
23 mental or physical examination, unless due to circumstances beyond the
24 licensee's control, the ~~director~~ BOARD may suspend such licensee's license
25 until the results of ~~any such~~ THE examination are known and the ~~director~~
26 BOARD has made a determination of the licensee's fitness to practice. The
27 ~~director~~ BOARD shall proceed with ~~any such~~ AN order for examination and

1 such determination in a timely manner.

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

11 (3) The licensee may submit to the director BOARD testimony or
12 examination reports from a physician HEALTH CARE PROVIDER chosen by
13 such licensee and pertaining to any THE condition which THAT the
14 director BOARD has alleged may preclude the licensee from practicing
15 with reasonable skill and safety. These may be considered by the director
16 BOARD in conjunction with, but not in lieu of, testimony and examination
17 reports of the physician HEALTH CARE PROVIDER designated by the
18 director BOARD.

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

24 **SECTION 23.** Article 41 of title 12, Colorado Revised Statutes,
25 is amended BY THE ADDITION OF A NEW SECTION to read:

26 **12-41-118.5. Examinations - notice - confidential agreements.**

27 (1) IF A PHYSICAL THERAPIST SUFFERS FROM A PHYSICAL OR MENTAL

1 ILLNESS OR CONDITION RENDERING THE LICENSEE UNABLE TO PRACTICE
2 PHYSICAL THERAPY OR PRACTICE AS A PHYSICAL THERAPIST WITH
3 REASONABLE SKILL AND PATIENT SAFETY, THE PHYSICAL THERAPIST SHALL
4 NOTIFY THE BOARD OF THE ILLNESS OR CONDITION IN A MANNER AND
5 WITHIN A PERIOD OF TIME DETERMINED BY THE BOARD. THE BOARD MAY
6 REQUIRE THE LICENSEE TO SUBMIT TO AN EXAMINATION OR TO EVALUATE
7 THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE
8 LICENSEE'S ABILITY TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO
9 PATIENTS.

10 (2) (a) UPON DETERMINING THAT A PHYSICAL THERAPIST WITH A
11 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED
12 PHYSICAL THERAPY WITH REASONABLE SKILL AND PATIENT SAFETY, THE
13 BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE PHYSICAL
14 THERAPIST IN WHICH THE PHYSICAL THERAPIST AGREES TO LIMIT HIS OR
15 HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS OR
16 CONDITION, AS DETERMINED BY THE BOARD.

17 (b) THE AGREEMENT MUST SPECIFY THAT THE LICENSEE IS SUBJECT
18 TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED
19 APPROPRIATE BY THE BOARD.

20 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
21 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
22 MONITORING.

23 (d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD UNDER
24 THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, THE LICENSEE IS NOT
25 ENGAGING IN UNPROFESSIONAL CONDUCT. THE AGREEMENT IS AN
26 ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE A RESTRICTION OR
27 DISCIPLINE BY THE BOARD. HOWEVER, IF THE LICENSEE FAILS TO COMPLY

1 WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS
2 SUBSECTION (2), THE FAILURE CONSTITUTES GROUNDS FOR DISCIPLINARY
3 ACTION UNDER SECTION 12-41-115 (1) (m) AND THE LICENSEE IS SUBJECT
4 TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-41-116.

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

7 **SECTION 24.** 12-41-119 (1) (a), (2), and (3), Colorado Revised
8 Statutes, are amended to read:

9 **12-41-119. Professional review committees - immunity.** (1) A
10 professional review committee may be established pursuant to this section
11 to investigate the quality of care being given by a person licensed under
12 this article. It shall include in its membership at least three persons
13 licensed under this article, but such committee may be authorized to act
14 only by:

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

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

19 (3) The ~~director, any~~ BOARD, A member of a professional review
20 committee authorized by the ~~director, any~~ BOARD, A member of the
21 ~~director's~~ BOARD'S or committee's staff, ~~any~~ A person acting as a witness
22 or consultant to the ~~director~~ BOARD or committee, ~~any~~ A witness testifying
23 in a proceeding authorized under this article, and ~~any~~ A person who
24 lodges a complaint pursuant to this article ~~shall be~~ IS immune from
25 liability in any civil action brought against him or her for acts occurring
26 while acting in his or her capacity as ~~director~~ BOARD or committee
27 member, staff, consultant, or witness ~~respectively, if such~~ THE individual

1 was acting in good faith within the scope of his or her respective capacity,
2 made a reasonable effort to obtain the facts of the matter as to which he
3 or she acted, and acted in the reasonable belief that the action taken by
4 him or her was warranted by the facts. Any person participating in good
5 faith in lodging a complaint or participating in any investigative or
6 administrative proceeding pursuant to this article ~~shall be~~ IS immune from
7 any civil or criminal liability that may result from such participation.

8 **SECTION 25.** 12-41-120, Colorado Revised Statutes, is amended
9 to read:

10 **12-41-120. Reports by insurance companies.** (1) (a) Each
11 insurance company licensed to do business in this state and engaged in
12 the writing of malpractice insurance for physical therapists shall send to
13 the ~~director~~ BOARD information ~~relating to~~ ABOUT any malpractice claim
14 ~~which~~ THAT involves a physical therapist and ~~which~~ is settled or in which
15 judgment is rendered against the insured.

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

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

24 **SECTION 26.** 12-41-122 (1), Colorado Revised Statutes, is
25 amended to read:

26 **12-41-122. Violation - fines.** (1) Notwithstanding ~~the provisions~~
27 ~~of section 12-41-121, the director shall have authority to~~ BOARD MAY

1 assess a fine for ~~any~~ A violation of the ~~provisions~~ of this article or any
2 rule or ~~regulation~~ adopted by the ~~director~~ under this article.

3 **SECTION 27**, 12-41-123, Colorado Revised Statutes, is amended
4 to read:

5 **12-41-123. Injunctive proceedings.** The ~~director~~ BOARD may, in
6 the name of the people of the ~~state~~ of Colorado, through the attorney
7 general of the ~~state~~ of Colorado, apply for an injunction ~~in any~~ TO A court
8 of ~~competent jurisdiction~~ to enjoin ~~any~~ A person from committing ~~any~~ AN
9 act declared to be a misdemeanor by this article. If it is established that
10 the defendant has been or is committing an act declared to be a
11 misdemeanor by this article, the court shall enter a decree perpetually
12 enjoining ~~said~~ THE defendant from further committing ~~such~~ THE act. ~~In~~
13 ~~case of violation of any~~ IF A PERSON VIOLATES AN injunction issued under
14 ~~the provisions of this section~~, the court may try and punish the offender
15 for contempt of court. ~~Such~~ AN injunction ~~proceedings shall be~~
16 PROCEEDING IS in addition to, and not in lieu of, all penalties and other
17 remedies provided in this article.

18 **SECTION 28**. The introductory portion to 12-41-124 (1),
19 12-41-124 (1) (b), (1) (d), (1) (g), (2), and (3), and the introductory
20 portion to 12-41-124 (5) (b), Colorado Revised Statutes, are amended to
21 read:

22 **12-41-124. Professional service corporations, limited liability**
23 **companies, and registered limited liability partnerships for the**
24 **practice of physical therapy - definitions.** (1) ~~Persons licensed to~~
25 ~~practice~~ Physical therapy ~~by the director~~ THERAPISTS may form
26 professional service corporations for the practice of physical therapy
27 under the "Colorado Business Corporation Act", articles 101 to 117 of

1 title 7, C.R.S., if such corporations are organized and operated in
2 accordance with ~~the provisions of~~ this section. The articles of
3 incorporation of such corporations ~~shall~~ MUST contain provisions
4 complying with the following requirements:

5 (b) The corporation ~~shall~~ MUST be organized solely for the
6 purposes of conducting the practice of physical therapy only through
7 persons licensed by the ~~director~~ BOARD to practice physical therapy. ~~in the~~
8 ~~state of Colorado.~~

9 (d) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
10 PARAGRAPH (d), all shareholders of the corporation ~~shall~~ MUST be persons
11 licensed by the ~~director~~ BOARD to practice physical therapy ~~in the state of~~
12 ~~Colorado~~ and who at all times own their shares in their own right. ~~They~~
13 ~~shall be individuals who, except for~~ WITH THE EXCEPTION OF illness,
14 accident, or time spent in the armed services, on vacations, or on leaves
15 of absence not to exceed one year, ~~are~~ THE INDIVIDUALS MUST BE actively
16 engaged in the practice of physical therapy in the offices of the
17 corporation.

18 (II) IF A PERSON LICENSED TO PRACTICE PHYSICAL THERAPY WHO
19 WAS A SHAREHOLDER OF THE CORPORATION DIES, AN UNLICENSED HEIR TO
20 THE DECEASED SHAREHOLDER MAY BECOME A SHAREHOLDER OF THE
21 CORPORATION FOR UP TO TWO YEARS. UNLESS THE HEIR IS THE ONLY
22 SHAREHOLDER OF THE CORPORATION, THE HEIR WHO BECOMES A
23 SHAREHOLDER IS A NONVOTING SHAREHOLDER. IF THE HEIR OF THE
24 DECEASED SHAREHOLDER CEASES TO BE A SHAREHOLDER, THE OWNER
25 SHALL DISPOSE OF THE SHARES IN ACCORDANCE WITH THE PROVISIONS
26 REQUIRED BY PARAGRAPH (e) OF THIS SUBSECTION (1). AN HEIR WHO IS
27 NOT LICENSED UNDER THIS ARTICLE SHALL NOT EXERCISE ANY AUTHORITY

1 OVER PROFESSIONAL OR CLINICAL MATTERS.

2 (g) The articles of incorporation ~~shall~~ MUST provide, and all
3 shareholders of the corporation shall agree, that all shareholders of the
4 corporation ~~shall be~~ ARE jointly and severally liable for all acts, errors,
5 and omissions of the employees of the corporation or that all shareholders
6 of the corporation ~~shall be~~ ARE jointly and severally liable for all acts,
7 errors, and omissions of the employees of the corporation except ~~during~~
8 ~~periods of time~~ when the corporation ~~shall maintain in good standing~~
9 MAINTAINS OR THE SHAREHOLDERS MAINTAIN professional liability
10 insurance ~~which shall meet~~ THAT MEETS the following minimum
11 standards:

12 (I) The ~~insurance~~ INSURER shall insure the corporation against
13 liability imposed upon the corporation by law for damages resulting from
14 any claim made against the corporation arising out of the performance of
15 professional services for others by those officers and employees of the
16 corporation who are licensed by the ~~director~~ BOARD to practice physical
17 therapy.

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

21 (III) The insurance policy ~~shall~~ MUST provide for an amount for
22 each claim of at least one hundred thousand dollars multiplied by the
23 number of persons licensed to practice physical therapy employed by the
24 corporation. The policy ~~shall~~ MUST provide for an aggregate top limit of
25 liability per year for all claims of three hundred thousand dollars also
26 multiplied by the number of persons licensed to practice physical therapy
27 employed by the corporation, but no firm ~~shall be~~ IS required to carry

1 insurance in excess of three hundred thousand dollars for each claim with
2 an aggregate top limit of liability for all claims during the year of nine
3 hundred thousand dollars.

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

5 (A) ~~any~~ A dishonest, fraudulent, criminal, or malicious act or
6 omission of the insured corporation or any stockholder or employee
7 thereof;

8 (B) The conduct of any business enterprise, ~~as distinguished from~~
9 NOT INCLUDING the practice of physical therapy, in which the insured
10 corporation under this section is not permitted to engage but ~~which~~ THAT
11 nevertheless may be owned by the insured corporation, ~~or~~ in which the
12 insured corporation may be a partner, or ~~which~~ THAT may be controlled,
13 operated, or managed by the insured corporation in its own or in a
14 fiduciary capacity, including the ownership, maintenance, or use of any
15 property in connection therewith, when not resulting from breach of
16 professional duty, bodily injury to, or sickness, disease, or death of any
17 person, or to injury to or destruction of any tangible property, including
18 the loss of use thereof; and

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

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

27 (3) Nothing in this section ~~shall be deemed to diminish or change~~

1 DIMINISHES OR CHANGES the obligation of each person licensed to practice
2 physical therapy employed by the corporation to ~~conduct his~~ practice in
3 accordance with the standards of professional conduct ~~provided for in~~
4 UNDER this article and ~~any rules and regulations~~ adopted under this
5 article. ~~Any person licensed by the director to practice Physical therapy~~
6 THERAPISTS who by act or omission causes the corporation to act or fail
7 to act in a way ~~which~~ THAT violates ~~such~~ THE standards of professional
8 conduct, including any provision of this section, ~~shall be deemed~~ IS
9 personally responsible for ~~such act or omission~~ THE VIOLATION and ~~shall~~
10 ~~be~~ subject to discipline ~~therefor~~ FOR THE VIOLATION.

11 (5) (b) ~~Employment of~~ THE CORPORATE PRACTICE OF PHYSICAL
12 THERAPY DOES NOT INCLUDE physical therapists EMPLOYED by a certified
13 or licensed hospital, licensed skilled nursing facility, certified home
14 health agency, licensed hospice, certified comprehensive outpatient
15 rehabilitation facility, certified rehabilitation agency, authorized health
16 maintenance organization, accredited educational entity, ORGANIZATION
17 PROVIDING CARE FOR THE ELDERLY UNDER SECTION 25.5-5-412, C.R.S.,
18 or other entity wholly owned and operated by ~~any~~ A governmental unit or
19 agency ~~shall not be considered the corporate practice of physical therapy~~
20 if:

21 **SECTION 29. Repeal of provision being relocated in this**
22 **act.** 12-41-125, Colorado Revised Statutes, is repealed.

23 **SECTION 30. Repeal.** 12-41-126, Colorado Revised Statutes,
24 is repealed as follows:

25 **12-41-126. Advisory committee.** ~~The director shall appoint at~~
26 ~~least one advisory committee of at least seven members to assist in the~~
27 ~~performance of the director's duties under this article. Five of these~~

1 ~~members shall be physical therapists and two shall not be physical~~
2 ~~therapists but shall be persons having specific knowledge in the health~~
3 ~~care field. Such committee shall meet at least twice a year and at~~
4 ~~additional times at the discretion of the director. Members of such~~
5 ~~advisory committee shall receive compensation for their services pursuant~~
6 ~~to section 24-34-102 (13), C.R.S., and shall be reimbursed for actual and~~
7 ~~necessary expenses that they may incur in the performance of their duties.~~
8 ~~Such reimbursement shall be cash funded and shall not exceed the~~
9 ~~amount anticipated to be raised from fees collected pursuant to this~~
10 ~~article.~~

11 **SECTION 31.** 12-41-127, Colorado Revised Statutes, is amended
12 to read:

13 **12-41-127. Limitation on authority.** The authority granted the
14 ~~director under the provisions of BOARD BY~~ this article ~~shall not be~~
15 ~~construed to~~ DOES NOT authorize the ~~director~~ BOARD to arbitrate or
16 adjudicate fee disputes between licensees or between a licensee and any
17 other party.

18 **SECTION 32.** 12-64-105 (13), Colorado Revised Statutes, is
19 amended to read:

20 **12-64-105. Board of veterinary medicine.** (13) The board shall
21 ~~pursuant to section 12-41-125 (2) (b) (H),~~ consult with the ~~director of the~~
22 ~~division of registrations in the department of regulatory agencies~~ STATE
23 PHYSICAL THERAPY BOARD CREATED IN SECTION 12-41-103.3 concerning
24 rules that the director intends to adopt with regard to physical therapy of
25 animals.

26 **SECTION 33.** Article 41 of title 12, Colorado Revised Statutes,
27 is amended BY THE ADDITION OF A NEW PART to read:

1 PART 2

2 PHYSICAL THERAPIST ASSISTANTS

3 12-41-201. Additional board authority - rules. (1) IN ADDITION
4 TO ALL OTHER POWERS AND DUTIES GIVEN TO THE BOARD BY LAW, THE
5 BOARD MAY:

6 (a) CERTIFY PHYSICAL THERAPIST ASSISTANTS TO PRACTICE;

7 (b) EVALUATE THE QUALIFICATIONS OF APPLICANTS FOR
8 CERTIFICATION, ISSUE AND RENEW THE CERTIFICATIONS AUTHORIZED
9 UNDER THIS PART 2, AND TAKE THE DISCIPLINARY ACTIONS AUTHORIZED
10 UNDER THIS PART 2;

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

14 (d) ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND
15 ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
16 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
17 EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION,
18 ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD;

19 (e) APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO PART
20 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE
21 FINDINGS AND REPORT THEM TO THE BOARD;

22 (f) MAINTAIN A REGISTER LISTING THE NAME, ADDRESS,
23 LAST-KNOWN PLACE OF RESIDENCE, AND CERTIFICATION NUMBER OF EACH
24 CERTIFIED PHYSICAL THERAPIST ASSISTANT;

25 (g) ESTABLISH FINES UNDER SECTION 12-41-122; AND

26 (h) PROMOTE CONSUMER PROTECTION AND CONSUMER EDUCATION
27 BY SUCH MEANS AS THE BOARD FINDS APPROPRIATE.

1 (2) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR
2 PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
3 SUBPOENAED PERSON RESIDES OR CONDUCTS BUSINESS, UPON
4 APPLICATION BY THE BOARD WITH NOTICE TO THE SUBPOENAED PERSON,
5 MAY ISSUE TO THE PERSON AN ORDER REQUIRING THAT PERSON TO APPEAR
6 BEFORE THE BOARD; TO PRODUCE THE RELEVANT PAPERS, BOOKS,
7 RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR
8 TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN
9 QUESTION. THE COURT MAY PUNISH A FAILURE TO OBEY ITS ORDER AS A
10 CONTEMPT OF COURT.

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

13 **12-41-202. Use of titles restricted.** A PERSON CERTIFIED AS A
14 PHYSICAL THERAPIST ASSISTANT MAY USE THE TITLE "PHYSICAL
15 THERAPIST ASSISTANT" OR THE LETTERS "P.T.A." OR ANY OTHER
16 GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT INDICATE THAT
17 THE PERSON IS A PHYSICAL THERAPIST ASSISTANT. NO OTHER PERSON
18 SHALL USE THE TERMS "PHYSICAL THERAPIST ASSISTANT", "CERTIFIED
19 PHYSICAL THERAPIST ASSISTANT", OR ANY LETTERS OR WORDS THAT
20 INDICATE THAT THE PERSON IS A PHYSICAL THERAPIST ASSISTANT.

21 **12-41-203. Limitations on authority.** (1) NOTHING IN THIS PART
22 2 AUTHORIZES A PHYSICAL THERAPIST ASSISTANT TO PERFORM ANY OF THE
23 FOLLOWING ACTS:

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

26 (b) USE OF ROENTGEN RAYS AND RADIOACTIVE MATERIALS FOR
27 THERAPEUTIC PURPOSES, USE OF ELECTRICITY FOR SURGICAL PURPOSES, OR

1 DIAGNOSIS OF DISEASE.

2 (2) A PHYSICAL THERAPIST ASSISTANT SHALL NOT ASSIST A
3 PHYSICAL THERAPIST IN THE CLINICAL PRACTICE OF PHYSICAL THERAPY
4 UNLESS THE ASSISTANT WORKS UNDER THE SUPERVISION OF A LICENSED
5 PHYSICAL THERAPIST.

6 **12-41-204. Certification required.** (1) EFFECTIVE JUNE 1, 2012,
7 EXCEPT AS OTHERWISE PROVIDED BY THIS PART 2, A PERSON WHO
8 PRACTICES AS A PHYSICAL THERAPIST ASSISTANT OR WHO REPRESENTS
9 ONESELF AS BEING ABLE TO PRACTICE AS A PHYSICAL THERAPIST
10 ASSISTANT IN THIS STATE MUST POSSESS A VALID CERTIFICATION ISSUED
11 BY THE BOARD UNDER THIS PART 2 AND RULES ADOPTED UNDER THIS PART
12 2.

13 (2) A CERTIFIED NURSE AIDE NEED NOT BE CERTIFIED UNDER THIS
14 PART 2 TO ASSIST A PHYSICAL THERAPIST IN THE CLINICAL PRACTICE OF
15 PHYSICAL THERAPY.

16 **12-41-205. Certification by examination.** (1) EVERY
17 APPLICANT FOR A CERTIFICATION BY EXAMINATION SHALL:

18 (a) QUALIFY AS A PHYSICAL THERAPIST ASSISTANT UNDER
19 SUBSECTION (2) OF THIS SECTION;

20 (b) PASS A WRITTEN EXAMINATION THAT IS:

21 (I) APPROVED BY THE BOARD; AND

22 (II) A NATIONAL EXAMINATION ACCREDITED BY A NATIONALLY
23 RECOGNIZED ACCREDITING AGENCY;

24 (c) SUBMIT AN APPLICATION IN THE FORM AND MANNER
25 DESIGNATED BY THE DIRECTOR; AND

26 (d) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

27 (2) TO QUALIFY AS A PHYSICAL THERAPIST ASSISTANT, A PERSON

1 MUST HAVE:

2 (a) SUCCESSFULLY COMPLETED A PHYSICAL THERAPIST ASSISTANT
3 PROGRAM ACCREDITED BY THE COMMISSION ON ACCREDITATION IN
4 PHYSICAL THERAPY EDUCATION OR ANY COMPARABLE ORGANIZATION AS
5 DETERMINED BY THE BOARD; OR

6 (b) QUALIFIED TO TAKE THE PHYSICAL THERAPY EXAMINATION
7 ESTABLISHED UNDER SECTION 12-41-107.

8 (3) THE BOARD MAY REFUSE TO PERMIT AN APPLICANT TO TAKE
9 THE EXAMINATION IF THE APPLICATION IS INCOMPLETE OR INDICATES THAT
10 THE APPLICANT IS NOT QUALIFIED TO SIT FOR THE EXAMINATION, OR IF THE
11 APPLICANT HAS COMMITTED ANY ACT THAT IS GROUNDS FOR DISCIPLINARY
12 ACTION UNDER SECTION 12-41-210.

13 (4) WHEN THE APPLICANT HAS FULFILLED ALL THE REQUIREMENTS
14 OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A
15 CERTIFICATION TO THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY
16 CERTIFICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT IS
17 GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

18 (5) (a) IN LIEU OF QUALIFYING UNDER SUBSECTION (2) OF THIS
19 SECTION, A PERSON MAY QUALIFY AS A PHYSICAL THERAPIST ASSISTANT
20 IF THE PERSON HAS AT LEAST FIVE YEARS OF EXPERIENCE PRACTICING AS
21 A PHYSICAL THERAPIST ASSISTANT OR IS OTHERWISE QUALIFIED AS
22 DETERMINED BY THE BOARD.

23 (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JUNE 1, 2013.

24 **12-41-206. Certification by endorsement.** (1) AN APPLICANT
25 FOR CERTIFICATION BY ENDORSEMENT SHALL:

26 (a) POSSESS A VALID LICENSE, CERTIFICATION, OR REGISTRATION
27 IN GOOD STANDING FROM ANOTHER STATE OR TERRITORY OF THE UNITED

1 STATES:

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

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

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

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

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

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

19 (c) THE APPLICANT HAS NOT MET THE REQUIREMENTS OF
20 PARAGRAPH (b) OF THIS SUBSECTION (3), BUT HAS PASSED AN
21 EXAMINATION IN ANOTHER JURISDICTION THAT IS SUBSTANTIALLY
22 EQUIVALENT TO THE EXAMINATION SPECIFIED IN SECTION 12-41-205 (1)
23 (b), AND HAS DEMONSTRATED COMPETENCY THROUGH SUCCESSFUL
24 COMPLETION OF AN INTERNSHIP OR DEMONSTRATED COMPETENCY AS A
25 PHYSICAL THERAPIST ASSISTANT BY FULFILLING THE REQUIREMENTS
26 ESTABLISHED BY RULES OF THE BOARD.

27 (4) THE BOARD SHALL NOTIFY THE APPLICANT, IN WRITING, OF THE

1 DENIAL OR APPROVAL OF THE APPLICATION.

2 (5) THE BOARD MAY DENY SUCH CERTIFICATION IF THE APPLICANT
3 HAS COMMITTED AN ACT THAT IS GROUNDS FOR DISCIPLINARY ACTION
4 UNDER SECTION 12-41-210.

5 **12-41-207. Certification of foreign-trained applicants.**

6 (1) EVERY FOREIGN-TRAINED APPLICANT FOR CERTIFICATION BY
7 EXAMINATION SHALL:

8 (a) HAVE RECEIVED EDUCATION AND TRAINING AS A PHYSICAL
9 THERAPIST ASSISTANT THAT IS SUBSTANTIALLY EQUIVALENT TO THE
10 EDUCATION AND TRAINING REQUIRED BY ACCREDITED PHYSICAL
11 THERAPIST ASSISTANT PROGRAMS IN THE UNITED STATES;

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

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

19 (d) SUBMIT AN APPLICATION IN THE FORM AND MANNER
20 DESIGNATED BY THE DIRECTOR; AND

21 (e) PAY AN APPLICATION FEE IN AN AMOUNT DETERMINED BY THE
22 DIRECTOR.

23 (2) UPON RECEIPT OF ALL DOCUMENTS AND THE FEE REQUIRED BY
24 SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL REVIEW THE
25 APPLICATION AND DETERMINE IF THE APPLICANT IS QUALIFIED TO BE
26 CERTIFIED BY ENDORSEMENT.

27 (3) WHEN THE APPLICANT HAS FULFILLED ALL THE REQUIREMENTS

1 OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A
2 CERTIFICATION TO THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY
3 THE APPLICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT IS
4 GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

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

18 **12-41-209. Scope of part 2 - exclusions.** (1) THIS PART 2 DOES
19 NOT PROHIBIT:

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

1 TO PRACTICE IN THIS STATE;

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

4 (c) A PERSON REGISTERED, CERTIFIED, OR LICENSED IN THIS STATE
5 UNDER ANY OTHER LAW FROM ENGAGING IN THE PRACTICE FOR WHICH THE
6 PERSON IS REGISTERED, CERTIFIED, OR LICENSED;

7 (d) PRACTICE AS A PHYSICAL THERAPIST ASSISTANT IN THIS STATE
8 BY A LEGALLY QUALIFIED PHYSICAL THERAPIST ASSISTANT FROM ANOTHER
9 STATE OR COUNTRY FOR THE PURPOSE OF PARTICIPATING IN AN
10 EDUCATIONAL PROGRAM OF NOT MORE THAN SIX WEEKS' DURATION; OR

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

17 (2) THIS PART 2 DOES NOT APPLY TO:

18 (a) THE GRATUITOUS CARE OF FRIENDS OR FAMILY MEMBERS;

19 (b) NURSING ASSISTANCE IN THE CASE OF AN EMERGENCY;

20 (c) A PERSON LICENSED, CERTIFIED, OR REGISTERED BY THE STATE
21 OF COLORADO WHO IS ACTING WITHIN THE SCOPE OF HIS OR HER LICENSE,
22 CERTIFICATE, OR REGISTRATION; OR

23 (d) ANY PERSON PERFORMING SERVICES PURSUANT TO SECTION
24 12-38-132 OR 27-10.5-103 (2) (k), C.R.S., OR PART 3 OF ARTICLE 1.5 OF
25 TITLE 25, C.R.S.

26 **12-41-210. Grounds for disciplinary action. (1) THE BOARD**
27 MAY TAKE DISCIPLINARY ACTION IN ACCORDANCE WITH SECTION

1 12-41-211 AGAINST A PERSON WHO HAS:

2 (a) COMMITTED AN ACT THAT DOES NOT MEET GENERALLY
3 ACCEPTED STANDARDS OF PHYSICAL THERAPIST ASSISTANT PRACTICE OR
4 FAILED TO PERFORM AN ACT NECESSARY TO MEET GENERALLY ACCEPTED
5 STANDARDS OF PHYSICAL THERAPIST ASSISTANT PRACTICE;

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

10 (c) ABANDONED A PATIENT BY ANY MEANS;

11 (d) FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS OR
12 FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON
13 PATIENT RECORDS;

14 (e) (I) COMMITTED ABUSE OF HEALTH INSURANCE AS SET FORTH IN
15 SECTION 18-13-119, C.R.S.; OR

16 (II) ADVERTISED THROUGH NEWSPAPERS, MAGAZINES, CIRCULARS,
17 DIRECT MAIL, DIRECTORIES, RADIO, TELEVISION, OR OTHERWISE THAT THE
18 CERTIFIED PHYSICAL THERAPIST ASSISTANT WILL PERFORM AN ACT
19 PROHIBITED BY SECTION 18-13-119, C.R.S.;

20 (f) COMMITTED A FRAUDULENT INSURANCE ACT, AS DEFINED IN
21 SECTION 10-1-128, C.R.S.;

22 (g) FALSIFIED INFORMATION IN ANY APPLICATION OR ATTEMPTED
23 TO OBTAIN OR OBTAINED A CERTIFICATION BY FRAUD, DECEPTION, OR
24 MISREPRESENTATION;

25 (h) ENGAGED IN THE HABITUAL OR EXCESSIVE USE OR ABUSE OF
26 ALCOHOL, A HABIT-FORMING DRUG, OR A CONTROLLED SUBSTANCE AS
27 DEFINED IN SECTION 12-22-303;

1 (i) (I) FAILED TO NOTIFY THE BOARD, AS REQUIRED BY SECTION
2 12-41-214, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT
3 IMPACTS THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S ABILITY TO
4 PERFORM PHYSICAL THERAPY WITH REASONABLE SKILL AND SAFETY TO
5 PATIENTS;

6 (II) FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
7 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
8 CERTIFIED PHYSICAL THERAPIST ASSISTANT UNABLE TO PERFORM
9 PHYSICAL THERAPY WITH REASONABLE SKILL AND SAFETY TO THE
10 PATIENT; OR

11 (III) FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER
12 A CONFIDENTIAL AGREEMENT ENTERED INTO UNDER SECTION 12-41-214;

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

15 (k) FAILED TO NOTIFY THE BOARD IN WRITING OF THE ENTRY OF A
16 FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION AGAINST THE
17 CERTIFIED PHYSICAL THERAPIST ASSISTANT FOR MALPRACTICE OR A
18 SETTLEMENT BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IN
19 RESPONSE TO CHARGES OR ALLEGATIONS OF MALPRACTICE, WHICH NOTICE
20 MUST BE GIVEN WITHIN NINETY DAYS AFTER THE ENTRY OF JUDGMENT OR
21 SETTLEMENT AND, IN THE CASE OF A JUDGMENT, MUST CONTAIN THE NAME
22 OF THE COURT, THE CASE NUMBER, AND THE NAMES OF ALL PARTIES TO
23 THE ACTION;

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

26 (m) BEEN CONVICTED OF, PLED GUILTY, OR PLED NOLO
27 CONTENDERE TO A CRIME RELATED TO THE CERTIFIED PHYSICAL

1 THERAPIST ASSISTANT'S PRACTICE OR A FELONY OR COMMITTED AN ACT
2 SPECIFIED IN SECTION 12-41-216. A CERTIFIED COPY OF THE JUDGMENT OF
3 A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS
4 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
5 DISCIPLINARY ACTION, THE BOARD IS GOVERNED BY SECTION 24-5-101,
6 C.R.S.

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

10 (o) REPRESENTED, OR HELD HIMSELF OR HERSELF OUT AS, IN ANY
11 MANNER, A PHYSICAL THERAPIST ASSISTANT OR PRACTICED AS A PHYSICAL
12 THERAPIST ASSISTANT WITHOUT A CERTIFICATION, UNLESS OTHERWISE
13 AUTHORIZED UNDER THIS PART 2;

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

17 (q) PRACTICED AS A PHYSICAL THERAPIST ASSISTANT DURING THE
18 TIME THE PERSON'S CERTIFICATION WAS EXPIRED, SUSPENDED, OR
19 REVOKED; OR

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

22 **12-41-211. Disciplinary actions.** (1) (a) THE BOARD, IN
23 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., MAY ISSUE LETTERS OF
24 ADMONITION; DENY, REFUSE TO RENEW, SUSPEND, OR REVOKE A
25 CERTIFICATION; PLACE A CERTIFIED PHYSICAL THERAPIST ASSISTANT ON
26 PROBATION; OR IMPOSE PUBLIC CENSURE OR A FINE, IF THE BOARD OR THE
27 BOARD'S DESIGNEE DETERMINES AFTER NOTICE AND THE OPPORTUNITY

1 FOR A HEARING THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT HAS
2 COMMITTED AN ACT SPECIFIED IN SECTION 12-41-210.

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

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

12 (b) WHEN THE BOARD SENDS A LETTER OF ADMONITION TO A
13 CERTIFIED PHYSICAL THERAPIST ASSISTANT, THE BOARD SHALL NOTIFY
14 THE CERTIFIED PHYSICAL THERAPIST ASSISTANT OF HIS OR HER RIGHT TO
15 REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE
16 LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
17 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
18 OF ADMONITION.

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

22 (3) IN A DISCIPLINARY ORDER THAT ALLOWS A CERTIFIED PHYSICAL
23 THERAPIST ASSISTANT TO CONTINUE TO PRACTICE, THE BOARD MAY
24 IMPOSE UPON THE CERTIFIED PHYSICAL THERAPIST ASSISTANT CONDITIONS
25 THAT THE BOARD DEEMS APPROPRIATE TO ENSURE THAT THE CERTIFIED
26 PHYSICAL THERAPIST ASSISTANT IS PHYSICALLY, MENTALLY, AND
27 PROFESSIONALLY QUALIFIED TO PRACTICE IN ACCORDANCE WITH

1 GENERALLY ACCEPTED PROFESSIONAL STANDARDS. THE CONDITIONS MAY
2 INCLUDE THE FOLLOWING:

3 (a) EXAMINATION OF THE CERTIFIED PHYSICAL THERAPIST
4 ASSISTANT TO DETERMINE HIS OR HER MENTAL OR PHYSICAL CONDITION,
5 AS PROVIDED IN SECTION 12-41-213, OR TO DETERMINE PROFESSIONAL
6 QUALIFICATIONS;

7 (b) ANY THERAPY, TRAINING, OR EDUCATION THAT THE BOARD
8 BELIEVES NECESSARY TO CORRECT DEFICIENCIES FOUND EITHER IN A
9 PROCEEDING IN COMPLIANCE WITH SECTION 24-34-106, C.R.S., OR
10 THROUGH AN EXAMINATION UNDER PARAGRAPH (a) OF THIS SUBSECTION
11 (3);

12 (c) A REVIEW OR SUPERVISION OF A CERTIFIED PHYSICAL
13 THERAPIST ASSISTANT'S PRACTICE THAT THE BOARD FINDS NECESSARY TO
14 IDENTIFY AND CORRECT DEFICIENCIES THEREIN; OR

15 (d) RESTRICTIONS UPON THE NATURE AND SCOPE OF PRACTICE TO
16 ENSURE THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT DOES NOT
17 PRACTICE BEYOND THE LIMITS OF THE CERTIFIED PHYSICAL THERAPIST
18 ASSISTANT'S CAPABILITIES.

19 (4) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
20 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
21 BOARD AND, IN THE OPINION OF THE BOARD, THE COMPLAINT SHOULD BE
22 DISMISSED, BUT THE BOARD HAS NOTICED INDICATIONS OF POSSIBLE
23 ERRANT CONDUCT BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT
24 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE
25 BOARD MAY SEND A CONFIDENTIAL LETTER OF CONCERN TO THE CERTIFIED
26 PHYSICAL THERAPIST ASSISTANT.

27 (5) THE BOARD MAY TAKE DISCIPLINARY ACTION AGAINST A

1 CERTIFIED PHYSICAL THERAPIST ASSISTANT FOR FAILURE TO COMPLY WITH
2 ANY OF THE CONDITIONS IMPOSED BY THE BOARD UNDER SUBSECTION (3)
3 OF THIS SECTION.

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

6 (7) A PHYSICAL THERAPY ASSISTANT WHOSE CERTIFICATION IS
7 REVOKED OR WHO SURRENDERS HIS OR HER CERTIFICATION TO AVOID
8 DISCIPLINE IS NOT ELIGIBLE TO APPLY FOR A CERTIFICATION FOR TWO
9 YEARS AFTER THE CERTIFICATION IS REVOKED OR SURRENDERED. THE
10 TWO-YEAR WAITING PERIOD APPLIES TO A PERSON WHOSE CERTIFICATION
11 AS A PHYSICAL THERAPY ASSISTANT IS REVOKED BY ANY OTHER LEGALLY
12 QUALIFIED BOARD OR REGULATORY ENTITY.

13 **12-41-212. Disciplinary proceedings - investigations - judicial**
14 **review.** (1) THE BOARD MAY COMMENCE A PROCEEDING FOR THE
15 DISCIPLINE OF A PHYSICAL THERAPIST ASSISTANT WHEN THE BOARD HAS
16 REASONABLE GROUNDS TO BELIEVE THAT A PHYSICAL THERAPIST
17 ASSISTANT HAS COMMITTED AN ACT ENUMERATED IN SECTION 12-41-210.

18 (2) IN A PROCEEDING HELD UNDER THIS SECTION, THE BOARD MAY
19 ACCEPT AS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION
20 ANY DISCIPLINARY ACTION TAKEN AGAINST A PHYSICAL THERAPIST
21 ASSISTANT FROM ANOTHER JURISDICTION IF THE VIOLATION THAT
22 PROMPTED THE DISCIPLINARY ACTION IN THAT JURISDICTION WOULD BE
23 GROUNDS FOR DISCIPLINARY ACTION UNDER THIS PART 2.

24 (3) (a) THE BOARD MAY INVESTIGATE POTENTIAL GROUNDS FOR
25 DISCIPLINARY ACTION UPON ITS OWN MOTION OR WHEN THE BOARD IS
26 INFORMED OF DISMISSAL OF A PERSON CERTIFIED UNDER THIS PART 2 IF
27 THE DISMISSAL WAS FOR A MATTER CONSTITUTING A VIOLATION OF THIS

1 PART 2.

2 (b) A PERSON WHO SUPERVISES A PHYSICAL THERAPIST ASSISTANT
3 SHALL REPORT TO THE BOARD WHEN THE PHYSICAL THERAPIST ASSISTANT
4 HAS BEEN DISMISSED BECAUSE OF INCOMPETENCE OR FAILURE TO COMPLY
5 WITH THIS PART 2. A CERTIFIED PHYSICAL THERAPIST ASSISTANT WHO IS
6 AWARE THAT ANOTHER PERSON IS VIOLATING THIS PART 2 SHALL REPORT
7 THE VIOLATION TO THE BOARD.

8 (4) (a) THE BOARD OR AN ADMINISTRATIVE LAW JUDGE MAY
9 ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE
10 SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
11 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
12 EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION,
13 ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD UNDER THIS
14 PART 2. THE BOARD MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
15 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE
16 EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE BOARD.

17 (b) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR
18 PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
19 SUBPOENAED PERSON OR CERTIFIED PHYSICAL THERAPIST ASSISTANT
20 RESIDES OR CONDUCTS BUSINESS, UPON APPLICATION BY THE BOARD WITH
21 NOTICE TO THE SUBPOENAED PERSON OR CERTIFIED PHYSICAL THERAPIST
22 ASSISTANT, MAY ISSUE AN ORDER REQUIRING THAT PERSON OR CERTIFIED
23 PHYSICAL THERAPIST ASSISTANT TO APPEAR BEFORE THE BOARD; TO
24 PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
25 EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE
26 TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. FAILURE
27 TO OBEY THE ORDER OF THE COURT MAY BE PUNISHED BY THE COURT AS

1 A CONTEMPT OF COURT.

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

7 (6) (a) THE BOARD, THE DIRECTOR'S STAFF, A WITNESS OR
8 CONSULTANT TO THE BOARD, A WITNESS TESTIFYING IN A PROCEEDING
9 AUTHORIZED UNDER THIS PART 2, OR A PERSON WHO LODGES A COMPLAINT
10 UNDER THIS PART 2 IS IMMUNE FROM LIABILITY IN A CIVIL ACTION
11 BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS
12 OR HER CAPACITY AS A BOARD MEMBER, STAFF MEMBER, CONSULTANT,
13 WITNESS, OR COMPLAINANT IF THE INDIVIDUAL WAS ACTING IN GOOD
14 FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A
15 REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH
16 HE OR SHE ACTED, AND ACTED WITH THE REASONABLE BELIEF THAT THE
17 ACTION TAKEN WAS WARRANTED BY THE FACTS.

18 (b) A PERSON MAKING A COMPLAINT OR REPORT IN GOOD FAITH OR
19 PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING
20 PURSUANT TO THIS SECTION IS IMMUNE FROM ANY LIABILITY, CIVIL OR
21 CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF THE
22 PARTICIPATION.

23 (7) THE BOARD, THROUGH THE DEPARTMENT OF REGULATORY
24 AGENCIES, MAY EMPLOY ADMINISTRATIVE LAW JUDGES APPOINTED
25 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., ON A FULL-TIME
26 OR PART-TIME BASIS, TO CONDUCT HEARINGS UNDER THIS PART 2 OR ON
27 ANY MATTER WITHIN THE BOARD'S JURISDICTION UPON THE CONDITIONS

1 AND TERMS AS THE BOARD MAY DETERMINE.

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

7 (9) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
8 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD,
9 WARRANTS FORMAL ACTION, THE BOARD SHALL NOT RESOLVE THE
10 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
11 PROSECUTION.

12 (10) (a) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE
13 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A CERTIFIED
14 PHYSICAL THERAPIST ASSISTANT IS ACTING IN A MANNER THAT IS AN
15 IMMINENT THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC, OR A
16 PERSON IS ACTING OR HAS ACTED WITHOUT THE REQUIRED CERTIFICATION,
17 THE BOARD MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY.
18 THE ORDER MUST SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE
19 BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE
20 VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR
21 UNCERTIFIED PRACTICES IMMEDIATELY CEASE.

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

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

8 (b) THE BOARD SHALL PROMPTLY NOTIFY A PERSON AGAINST
9 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED UNDER PARAGRAPH
10 (a) OF THIS SUBSECTION (11) OF THE ISSUANCE OF THE ORDER, ALONG
11 WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR THE
12 ORDER, AND THE DATE SET BY THE BOARD FOR A HEARING ON THE ORDER.
13 THE BOARD MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY
14 FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS MAY BE
15 PRACTICABLE UPON THE PERSON AGAINST WHOM THE ORDER IS ISSUED.
16 PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT PURSUANT
17 TO THIS SUBSECTION (11) CONSTITUTES NOTICE THEREOF TO THE PERSON.

18 (c) (I) THE BOARD SHALL COMMENCE A HEARING ON AN ORDER TO
19 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
20 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
21 NOTIFICATION BY THE BOARD AS PROVIDED IN PARAGRAPH (b) OF THIS
22 SUBSECTION (11). THE HEARING MAY BE CONTINUED BY AGREEMENT OF
23 ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
24 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
25 BUT IN NO EVENT IS THE HEARING TO COMMENCE LATER THAN SIXTY
26 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
27 NOTIFICATION.

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

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

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

26 (12) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE
27 EVIDENCE PRESENTED TO THE BOARD, THAT A PERSON HAS ENGAGED IN OR

1 IS ABOUT TO ENGAGE IN ANY UNCERTIFIED ACT OR PRACTICE, ANY ACT OR
2 PRACTICE CONSTITUTING A VIOLATION OF THIS PART 2, A RULE
3 PROMULGATED UNDER THIS PART 2, AN ORDER ISSUED UNDER THIS PART
4 2, OR AN ACT OR PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE
5 SANCTION UNDER THIS PART 2, THE BOARD MAY ENTER INTO A
6 STIPULATION WITH THE PERSON.

7 (13) IF A PERSON FAILS TO COMPLY WITH A FINAL
8 CEASE-AND-DESIST ORDER OR A STIPULATION, THE BOARD MAY REQUEST
9 THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE JUDICIAL
10 DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING SUIT FOR A
11 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
12 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.
13 UPON RECEIVING THE REQUEST, THE ATTORNEY GENERAL OR DISTRICT
14 ATTORNEY SHALL BRING THE SUIT AS REQUESTED.

15 **12-41-213. Mental and physical examination of certified**
16 **physical therapist assistants.** (1) IF THE BOARD HAS REASONABLE
17 CAUSE TO BELIEVE THAT A CERTIFIED PHYSICAL THERAPIST ASSISTANT IS
18 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY, THE BOARD
19 MAY REQUIRE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO TAKE A
20 MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PROVIDER
21 DESIGNATED BY THE BOARD. IF THE CERTIFIED PHYSICAL THERAPIST
22 ASSISTANT REFUSES TO UNDERGO THE MENTAL OR PHYSICAL
23 EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND THE CERTIFIED
24 PHYSICAL THERAPIST ASSISTANT'S CONTROL, THE BOARD MAY SUSPEND
25 THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S CERTIFICATION UNTIL
26 THE RESULTS OF THE EXAMINATION ARE KNOWN AND THE BOARD HAS
27 MADE A DETERMINATION OF THE CERTIFIED PHYSICAL THERAPIST

1 ASSISTANT'S FITNESS TO PRACTICE. THE BOARD SHALL PROCEED WITH AN
2 ORDER FOR EXAMINATION AND DETERMINATION IN A TIMELY MANNER.

3 (2) AN ORDER ISSUED TO A CERTIFIED PHYSICAL THERAPIST
4 ASSISTANT UNDER SUBSECTION (1) OF THIS SECTION TO UNDERGO A
5 MENTAL OR PHYSICAL EXAMINATION MUST CONTAIN THE BASIS OF THE
6 BOARD'S REASONABLE CAUSE TO BELIEVE THAT THE CERTIFIED PHYSICAL
7 THERAPIST ASSISTANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL
8 AND SAFETY. FOR THE PURPOSES OF A DISCIPLINARY PROCEEDING
9 AUTHORIZED BY THIS PART 2, THE CERTIFIED PHYSICAL THERAPIST
10 ASSISTANT IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE
11 ADMISSIBILITY OF THE EXAMINING HEALTH CARE PROVIDER'S TESTIMONY
12 OR EXAMINATION REPORTS ON THE GROUND THAT THEY ARE PRIVILEGED
13 COMMUNICATIONS.

14 (3) THE CERTIFIED PHYSICAL THERAPIST ASSISTANT MAY SUBMIT
15 TO THE BOARD TESTIMONY OR EXAMINATION REPORTS FROM A HEALTH
16 CARE PROVIDER CHOSEN BY THE CERTIFIED PHYSICAL THERAPIST
17 ASSISTANT PERTAINING TO THE CONDITION THAT THE BOARD HAS ALLEGED
18 MAY PRECLUDE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FROM
19 PRACTICING WITH REASONABLE SKILL AND SAFETY. THE BOARD MAY
20 CONSIDER SUCH TESTIMONY OR EXAMINATION REPORTS IN CONJUNCTION
21 WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE
22 HEALTH CARE PROVIDER DESIGNATED BY THE BOARD.

23 (4) A PERSON SHALL NOT USE THE RESULTS OF ANY MENTAL OR
24 PHYSICAL EXAMINATION ORDERED BY THE BOARD AS EVIDENCE IN ANY
25 PROCEEDING OTHER THAN ONE BEFORE THE BOARD. THE EXAMINATION
26 RESULTS ARE NOT PUBLIC RECORDS AND ARE NOT AVAILABLE TO THE
27 PUBLIC.

1 **12-41-214. Examinations - notice - confidential agreements.**

2 (1) IF A CERTIFIED PHYSICAL THERAPIST ASSISTANT SUFFERS FROM A
3 PHYSICAL OR MENTAL ILLNESS OR CONDITION RENDERING THE CERTIFIED
4 PHYSICAL THERAPIST ASSISTANT UNABLE TO PRACTICE WITH REASONABLE
5 SKILL AND PATIENT SAFETY, THE CERTIFIED PHYSICAL THERAPIST
6 ASSISTANT SHALL NOTIFY THE BOARD OF THE ILLNESS OR CONDITION IN A
7 MANNER AND WITHIN A PERIOD OF TIME DETERMINED BY THE BOARD. THE
8 BOARD MAY REQUIRE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO
9 SUBMIT TO AN EXAMINATION, OR THE BOARD MAY EVALUATE THE EXTENT
10 OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE CERTIFIED
11 PHYSICAL THERAPIST ASSISTANT'S ABILITY TO PRACTICE WITH
12 REASONABLE SKILL AND SAFETY TO PATIENTS.

13 (2) (a) UPON DETERMINING THAT A CERTIFIED PHYSICAL
14 THERAPIST ASSISTANT WITH A PHYSICAL OR MENTAL ILLNESS OR
15 CONDITION IS ABLE TO RENDER LIMITED PHYSICAL THERAPY WITH
16 REASONABLE SKILL AND PATIENT SAFETY, THE BOARD MAY ENTER INTO A
17 CONFIDENTIAL AGREEMENT WITH THE CERTIFIED PHYSICAL THERAPIST
18 ASSISTANT IN WHICH THE CERTIFIED PHYSICAL THERAPIST ASSISTANT
19 AGREES TO LIMIT HIS OR HER PRACTICE BASED ON THE RESTRICTIONS
20 IMPOSED BY THE ILLNESS OR CONDITION, AS DETERMINED BY THE BOARD.

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

24 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
25 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
26 MONITORING.

27 (d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD UNDER

1 THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, THE CERTIFIED
2 PHYSICAL THERAPIST ASSISTANT IS NOT ENGAGING IN UNPROFESSIONAL
3 CONDUCT. THE AGREEMENT IS AN ADMINISTRATIVE ACTION AND DOES
4 NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE BOARD.
5 HOWEVER, IF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FAILS TO
6 COMPLY WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO
7 THIS SUBSECTION (2), THE FAILURE CONSTITUTES GROUNDS FOR
8 DISCIPLINARY ACTION UNDER SECTION 12-41-210 (1) (i) AND THE
9 CERTIFIED PHYSICAL THERAPIST ASSISTANT IS SUBJECT TO DISCIPLINE IN
10 ACCORDANCE WITH SECTION 12-41-211.

11 (3) THIS SECTION DOES NOT APPLY TO A PHYSICAL THERAPIST
12 ASSISTANT SUBJECT TO DISCIPLINE UNDER SECTION 12-41-210 (1) (h).

13 **12-41-215. Reports by insurance companies.** (1) (a) EACH
14 INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND
15 ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR PHYSICAL
16 THERAPIST ASSISTANTS SHALL SEND TO THE BOARD INFORMATION ABOUT
17 ANY MALPRACTICE CLAIM THAT INVOLVES A PHYSICAL THERAPIST
18 ASSISTANT AND IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST
19 THE INSURED.

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

23 (2) REGARDLESS OF THE DISPOSITION OF ANY CLAIM, THE
24 INSURANCE COMPANY SHALL PROVIDE SUCH INFORMATION AS THE BOARD
25 FINDS REASONABLY NECESSARY TO CONDUCT ITS OWN INVESTIGATION
26 AND HEARING.

27 **12-41-216. Unauthorized practice - penalties.** ANY PERSON

1 WHO VIOLATES SECTION 12-41-202 OR 12-41-203 WITHOUT AN ACTIVE
2 CERTIFICATION ISSUED UNDER THIS PART 2 COMMITS A CLASS 2
3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
4 18-1.3-501, C.R.S.

5 **12-41-217. Violation - fines.** (1) NOTWITHSTANDING SECTION
6 12-41-216, THE BOARD MAY ASSESS A FINE FOR A VIOLATION OF THIS PART
7 2 OR A RULE ADOPTED UNDER THIS PART 2.

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

11 (3) ALL FINES MUST BE IMPOSED AT A HEARING HELD IN
12 ACCORDANCE WITH SECTION 24-4-105, C.R.S., BUT ARE NOT A SUBSTITUTE
13 OR WAIVER OF A CRIMINAL PENALTY.

14 **12-41-218. Injunctive proceedings.** THE BOARD MAY, IN THE
15 NAME OF THE PEOPLE OF THE STATE OF COLORADO, THROUGH THE
16 ATTORNEY GENERAL OF COLORADO, APPLY FOR AN INJUNCTION TO A
17 COURT TO ENJOIN A PERSON FROM COMMITTING AN ACT DECLARED TO BE
18 A MISDEMEANOR BY THIS PART 2. IF IT IS ESTABLISHED THAT THE
19 DEFENDANT HAS BEEN OR IS COMMITTING AN ACT DECLARED TO BE A
20 MISDEMEANOR BY THIS PART 2, THE COURT SHALL ENTER A DECREE
21 PERPETUALLY ENJOINING THE DEFENDANT FROM FURTHER COMMITTING
22 THE ACT. IF A PERSON VIOLATES AN INJUNCTION ISSUED UNDER THIS
23 SECTION, THE COURT MAY TRY AND PUNISH THE OFFENDER FOR CONTEMPT
24 OF COURT. AN INJUNCTION PROCEEDING IS IN ADDITION TO, AND NOT IN
25 LIEU OF, ALL PENALTIES AND OTHER REMEDIES PROVIDED IN THIS PART 2.

26 **12-41-219. Limitation on authority.** THE AUTHORITY GRANTED
27 TO THE BOARD BY THIS PART 2 DOES NOT AUTHORIZE THE BOARD TO

1 ARBITRATE OR ADJUDICATE FEE DISPUTES BETWEEN PHYSICAL THERAPIST
2 ASSISTANTS OR BETWEEN A PHYSICAL THERAPIST ASSISTANT AND
3 ANOTHER PARTY.

4 **12-41-220. Fees and expenses.** ALL FEES COLLECTED UNDER THIS
5 PART 2 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE
6 SAME MANNER AS SET FORTH IN SECTION 24-34-105, C.R.S. _____

7 **12-41-221. Repeal of part.** THIS PART 2 IS REPEALED, EFFECTIVE
8 SEPTEMBER 1, 2018. PRIOR TO THE REPEAL, THE FUNCTIONS OF THE
9 BOARD OF PHYSICAL THERAPY IN REGULATING PHYSICAL THERAPY
10 ASSISTANTS UNDER THIS PART 2 MUST BE REVIEWED AS PROVIDED FOR IN
11 SECTION 24-34-104, C.R.S.

12 **SECTION 34. Effective date.** This act shall take effect July 1,
13 2011.

14 **SECTION 35. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.