

AN ACT relating to physical therapy.

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

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

The General Assembly finds and declares that:

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

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 KRS 327.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

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

- (1) "Active patient" means a person who is or has been under a physical therapy plan of care unless care is transferred or terminated in writing;*
- (2) "Board" means the Board of Physical Therapy established in Section 5 of this Act;*
- (3) "Physical therapist" means a professional person who has met the educational requirements of this chapter and is licensed to practice physical therapy pursuant to this chapter;*
- (4) "Physical therapist assistant" means a person who is licensed pursuant to this chapter and provides physical therapy services under the direction and supervision of a licensed physical therapist;*
- (5) (a) "Physical therapy" means the use of selected knowledge and skills in*

planning, organizing, and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, which encompasses preventive measures, screening, tests in aid of diagnosis and evaluation, and invasive or noninvasive procedures with emphasis on the skeletal system, integumentary system, neuromuscular and cardiopulmonary function, as it relates to physical therapy.

(b) "Physical therapy" also includes:

1. Screening or evaluations performed to determine the degree of impairment of relevant aspects such as but not limited to nerve and muscle function, including subcutaneous bioelectrical potentials, motor development, functional capacity, and respiratory or circulatory efficiency; and
2. Physical therapy treatment, which includes but is not limited to:
 - a. Physical therapy treatment performed upon referral by a licensed doctor of medicine, osteopathy, dentistry, chiropractic, or podiatry;
 - b. Exercises for increasing or restoring strength, endurance, coordination and range of motion;
 - c. Stimuli to facilitate motor activity and learning;
 - d. Instruction in activities of daily living; and
 - e. The use of assistive devices and the application of physical agents to relieve pain or alter physiological status.

(c) "Physical therapy" does not include the use of:

1. Roentgen rays and radium for diagnostic or therapeutic purposes; or
2. Electricity for surgical purposes, including cauterization and colonic irrigations;

which are not authorized as physical therapy in this chapter;

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

(7) "Refer" or "referral" means the procedure by which a licensed health care provider designates the initiation of physical therapy treatment by a licensed physical therapist.

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

(1) ~~A~~~~Not~~ person shall **not** practice, **work**, or hold himself or herself out as being able to practice physical therapy **or work as a physical therapist assistant** unless the person:

- (a) 1. Meets the educational requirements of this chapter;
2. Is licensed in accordance with the provisions of this chapter;
3. Is in good standing with the board; and
4. Holds a license that is not suspended or revoked; or
- (b) Is eligible to practice or work through a compact privilege granted under KRS 327.300.

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

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

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

(c) Preclude certified occupational therapists, respiratory technicians, or respiratory therapists from practicing as defined in the United States Department of Health, Education and Welfare, Public Health Service, Health Resources Administration, Bureau of Health Manpower, DHEW publication No. (HRA) 80-28, "A Report On Allied Health Personnel~~[-]~~"; **or**

(d) Affect or prevent:

1. A physical therapist student from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;
2. A physical therapist assistant student from engaging in clinical practice under the supervision of a licensed physical therapist or of a physical therapist assistant consistent with administrative regulations promulgated by the board, as part of the student's educational program;
3. A physical therapist or a physical therapist assistant who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;
4. A physical therapist or a physical therapist assistant who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days;
5. A physical therapist or a physical therapist assistant licensed in another state or country from performing physical therapy on members of an out-of-state sports or entertainment group they accompany to Kentucky;
6. The practice of chiropractic as defined in KRS 312.015;
7. The practice of occupational therapy as defined in KRS 319A.010; or
8. a. A physical therapist or a physical therapist assistant who is practicing in the United States Armed Services, United States Public Health Service, or United States Department of Veterans

Affairs pursuant to federal regulations for jurisdictional licensure of healthcare providers.

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

- (3) A licensed physical therapist may hold himself or herself out as a "physical therapist" or "licensed physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part of or immediately following the physical therapist's name, in connection with *the physical therapist's*~~[his or her]~~ profession.
- (4) *A licensed physical therapist assistant may hold himself or herself out as a "physical therapist assistant" or "licensed physical therapist assistant" and may use the abbreviations "P.T.A." or "L.P.T.A." as a part of or immediately following the physical therapist assistant's name, in connection with the physical therapist assistant's profession.*
- (5) It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to use in connection with the person's or entity's name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T.," or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless that physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.

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

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

Any physical therapist, physical therapist~~[therapist's]~~ assistant, or employer of physical therapy practitioners having knowledge of facts by actual or direct knowledge shall report to the board ~~for physical therapy~~ a physical therapist or physical therapist~~[therapist's]~~ assistant who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) **The board shall:**

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

(b) Promulgate administrative regulations in accordance with KRS Chapter

13A to:

1. Effectively carry out and enforce the provisions of this chapter, including the regulation of physical therapists, physical therapist assistants, and the use of supportive personnel; and
2. Establish the fee amounts for all fees required by this chapter and the fees for services provided by the board, which shall not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter, including costs related to administration, overhead, staffing, information technology, investigations, inspections, administrative procedures, court costs, supplies, equipment, travel, educational awards, education and outreach efforts, and reserve funds for capital, operational, and programmatic expenses~~[It shall be the duty of the State Board of Physical Therapy to receive applications from persons desiring to become physical therapists and to determine whether said applicants meet the qualifications and standards required by this chapter of all physical therapists. The board shall also be charged with enforcement of the provisions of this chapter].~~

- (2) The board is an agency of state government with the power to institute criminal proceedings in the name of the Commonwealth against violators of this chapter, and to institute civil proceedings to enjoin any violation of this chapter. The board shall investigate every alleged violation of this chapter coming to its notice by the complaint procedure set forth in administrative regulations promulgated by the board, and shall take action as it may deem appropriate. It shall be the duty of the Attorney General, the Commonwealth's attorneys, and the county attorneys to assist the board in prosecuting all violations of this chapter.

- (3) The board shall meet at least once each quarter at such place in this state as may be selected by the board. Four (4) members of the board shall constitute a quorum for the transaction of business. All meetings shall be held at the call of the board chair~~chairman~~ or at a call of a quorum of members upon not less than ten (10) days' written notice, unless notice shall be waived. The presence of any member at any meeting of the board shall constitute a waiver of notice thereof by the member.
- (4) The board may conduct investigations and schedule and conduct administrative hearings in accordance with KRS Chapter 13B, to enforce the provisions of this chapter or administrative regulations promulgated pursuant to this chapter. The board may~~shall have the authority to~~ administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence. In case of disobedience to a subpoena, the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of the court requiring the attendance or testimony of witnesses or the production of documentary evidence may be enforced and shall be valid anywhere in the Commonwealth.
- (5) The board shall keep minutes~~a minute book~~ containing a record of all meetings of the board.
- (6) The board shall maintain an electronic record~~a register~~ of all persons licensed ~~for~~ ~~certified~~ under this chapter. This record~~register~~ shall show the name of every licensee ~~for certificate holder~~ in this state, the licensee's~~his~~ current business or~~and~~ residence address and telephone numbers, email address, and the date and number of the licensee's~~his~~ license~~or certificate~~. A licensee ~~for certificate holder~~ shall notify the board of a change of name, address, email address, or telephone number, within thirty (30) days of the change.
- (7) ~~{The board's records shall be updated annually.}~~
- ~~{(8)}~~ The board shall ~~{publish annually and}~~ make available~~{,}~~ a current directory of all licensed physical therapists and ~~{certified}~~ physical therapist~~therapists~~ assistants.

~~(8)(9)~~ The board shall adopt a seal which shall be affixed to every license ~~and certificate~~ granted by it.

~~(9)(10)~~ The board may promulgate administrative regulations establishing a measure of continued competency as a condition of license renewal.

~~(11) The board may promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of this chapter pursuant to the provisions of KRS Chapter 13A.~~

~~(10)(12)~~ The board shall promulgate by administrative regulation a code of ethical standards and standards of practice.

(11) The board may issue advisory opinions and declaratory rulings related to this chapter and the administrative regulations promulgated thereunder as established by administrative regulations.

~~(12)(13)~~ The board ~~may~~~~[shall have the right to]~~ regulate physical ~~therapist~~~~[therapists]~~ assistants and may promulgate reasonable administrative regulations regarding ~~licensure~~~~[certification]~~, limitations of activities, supervision, and educational qualifications for physical ~~therapist~~~~[therapists]~~ assistants. The board may establish reasonable fees for the ~~licensure~~~~[certification]~~, renewal, and endorsement of physical ~~therapist~~~~[therapists]~~ assistants. The fees shall not exceed corresponding fees for physical therapists.

(13) (a)~~(14)~~ The board shall promulgate administrative regulations governing the physical and mental examination of physical therapists, physical ~~therapist~~~~[therapists]~~ assistants, or applicants, who may be impaired by reason of a mental, physical, or other condition that impedes their ability to practice competently.

(b) For purposes of enforcing this **subsection and carrying out other duties prescribed in this chapter**~~[section]~~, the board shall have the power to order an immediate temporary suspension in accordance with KRS 13B.125 if there is

a reasonable cause to believe that a physical therapist, physical ~~therapist~~~~[therapist's]~~ assistant, or applicant may be impaired by reason of a mental, physical, or other condition or presents an immediate danger to the health, welfare, or safety of the public~~[that impedes his or her ability to practice competently]~~.

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

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

- (1) The board shall establish an impaired physical therapy practitioners committee to promote the early identification, intervention, treatment, and rehabilitation of physical therapists and physical ~~therapist~~~~[therapists]~~ assistants who may be impaired by reason of illness or of alcohol or drug abuse, or as a result of any physical or mental condition.
- (2) The board may enter into a contractual agreement with a nonprofit corporation, physical therapy professional organization, or similar organization for the purpose of creating, supporting, and maintaining an impaired physical therapy practitioners committee.
- (3) The board may promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate and implement a committee formed by the provisions of this section.
- (4) ~~The~~~~[Beginning January 1, 2001, the]~~ board shall collect an assessment fee~~[not to exceed twenty dollars (\$20)]~~ per licensee~~[or certificate holder]~~, payable to the board, to be added to each licensure ~~[and certification]~~renewal application fee. Proceeds from the assessment shall be expended on the operation of an impaired physical therapy practitioners committee formed by the provisions of this section. The fee shall be set by the promulgation of administrative regulations.

- (5) Members of an impaired physical therapy practitioners committee, any administrator, staff member, consultant, agent, volunteer, or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the committee or by an individual member of the committee.
- (6) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the impaired physical therapy practitioners committee, all communication to or from the committee, and all proceedings, findings, and conclusions of the committee, including those relating to intervention, treatment, or rehabilitation, which in any way pertain or refer to a physical therapist or physical therapist~~[therapist's]~~ assistant who is or may be impaired, shall be privileged and confidential.
- (7) All records and proceedings of the committee that pertain or refer to a licensee~~[or a certificate holder]~~ who may be, or actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records and shall not be subject to court subpoena and subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (8) of this section.
- (8) The committee may disclose information relative to an impaired physical therapist or physical therapist~~[therapist's]~~ assistant only when:
- (a) It is essential to disclose the information to persons or organizations needing the information in order to address the intervention, treatment, or rehabilitation needs of the impaired practitioner;
 - (b) Its release is authorized in writing by the impaired physical therapist or

physical ~~therapist~~^{therapist's} assistant; or

- (c) The information is subject to court order or the disclosure is otherwise authorized by law.

- (9) The impaired physical therapy practitioners committee shall make an annual report to the board.

➔Section 8. KRS 327.050 is amended to read as follows:

- (1) Before the board may issue a license to a physical therapist applicant or a physical therapist assistant applicant~~[applying for licensure by the board as a physical therapist]~~, the applicant~~[a person]~~ shall have successfully completed an accredited program in physical therapy approved by the board. No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists or physical therapist assistants by the recognized national accrediting agency for physical therapy educational programs.
- (2) Any person who possesses the qualifications required by this chapter and who desires to apply for licensure as a physical therapist or physical therapist assistant in Kentucky shall make written application to the board, on forms to be provided by the board. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by the board~~[, but not to exceed two hundred fifty dollars (\$250)]~~.
- (3) If it appears from the application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, the applicant shall be allowed to sit for the examination and tested in the subjects the board may determine to be necessary.
- (4) Examinations shall be held within the state at least once a year at the time and place as the board shall determine.
- (5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that the applicant~~[he]~~ has been accepted as a candidate for

licensure by examination in a state which offers an examination approved by the board may be granted a provisional license~~[temporary permit]~~ which shall be valid until the applicant's~~[his]~~ examination is graded and the applicant~~[he]~~ is notified by the board of the applicant's~~[his]~~ score. The board may summarily withdraw a provisional license~~[temporary permit]~~ upon determination that the person has made any false statement to the board on the application, or the person fails to pass an examination approved by the board.

- (6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist or physical therapist assistant.
- (7) An applicant who fails to receive a passing score on the~~[his]~~ examination shall not be licensed, but the board may, by administrative regulation, permit applicants to take the examination more than once.
- (8) All licenses~~[and certificates]~~ shall be renewed biennially~~[,]~~ upon payment on or before March 31 of each odd-numbered~~[uneven-numbered]~~ year of a renewal fee in an amount to be promulgated by the board by administrative regulations.
- (9) Licenses~~[and certificates]~~ which are not renewed by March 31 of each odd-numbered~~[uneven-numbered]~~ year shall lapse.~~[~~
- ~~(10) This chapter shall not be construed to affect or prevent:~~
 - ~~(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;~~
 - ~~(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;~~
 - ~~(c) A physical therapist who is licensed to practice in another state or country~~

~~from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days;~~

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

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

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

(1) The board shall issue a license to:

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

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

1. Completed the application process;
2. Provided satisfactory evidence to the board that his or her education is substantially equivalent to the requirements for physical therapists *or physical therapist assistants* educated in United States accredited educational programs;
3. Provided written proof that the school of physical therapy education outside the United States is recognized by its own ministry of education;
4. Successfully completed the examinations provided for in KRS 327.050;
5. Passed the board-approved English language proficiency examinations if English is not *the applicant's*~~[his or her]~~ native language;
6. Successfully completed, prior to licensure, a board-approved, supervised practice period of not less than three (3) months nor more than six (6) months, under the direct supervision of a physical therapist who holds

an unrestricted~~[Kentucky]~~ license. This requirement may be satisfied by at least three (3) months of supervised practice as a physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky;

7. Provided proof of legal authorization to reside and seek employment in the United States or its territories;
 8. Provided proof of authorization to practice as a physical therapist **or physical therapist assistant** without limitations in the country where the professional education occurred;
 9. Submitted to a prescreening process by an agency approved by the board; and
 10. Submitted educational credentials to the board for evaluation by an agency approved by the board.
- (2) The board may approve an agency to prescreen applicants for initial licensure under this section.
- (3) The board may approve one (1) or more services to provide an evaluation of the applicant's educational credentials for board approval for licensing under this section.
- (4) The board may waive the requirements of subsection (1)(b) 3., 9., and 10. of this section if the applicant is a graduate of a professional physical therapy education program preapproved by the board.
- (5) The board may waive the requirements of subsection (1)(b)6. of this section for an applicant for credentialing by endorsement pursuant to administrative regulations of the board.**

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

- (1) The board, after due notice and an opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B may take any one (1) or a

combination of the following actions against any licensee, licensee of another member state as defined in KRS 327.300~~[certificate holder]~~, or applicant:

- (a) Refuse to license~~[or certify]~~ any applicant;
- (b) Refuse to renew the license~~[or certificate]~~ of any person;
- (c) **Permanently revoke, suspend,**~~[Suspend or revoke]~~ or place on probation the license~~[or certificate]~~ of any person;
- (d) Impose restrictions on the scope of practice of any person;
- (e) Issue an administrative reprimand to any person; **and**
- (f) Issue a private admonishment to any person~~[-; and~~
- ~~(g) Impose fines for violations of this chapter not to exceed two thousand five hundred dollars (\$2,500)].~~

(2) The following acts by a licensee, licensee of another member state as defined in KRS 327.300~~[certificate holder]~~, or applicant may be considered cause for disciplinary action:

- (a) Indulgence in excessive use of alcoholic beverages or abusive use of controlled substances;
- (b) Engaging in, permitting, or attempting to engage in or permit the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;
- (c) **1. Having engaged in or attempted to engage in sexual contact as defined in KRS 510.010, whether consensual or nonconsensual, with any active patient of record, or with the parent or legal guardian of the active patient of record, unless a consensual sexual relationship exists between, and predated, the patient and therapist relationship; or**
2. Requesting sexual favors or physical contact of a sexual nature unless a prior consensual sexual relationship exists with any active patient of

~~record of the physical therapist or physical therapist assistant~~~~[Having engaged in or attempted to engage in a course of lewd or immoral conduct with any person:~~

- ~~1. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical therapist's assistant provides physical therapy services; or~~
 - ~~2. While that person is a patient or client of the physical therapist or physical therapist's assistant];~~
- (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of both parties, with any individual~~[an employee or coworker of the licensee or certificate holder];~~
- (e) Sexually harassing any individual~~[an employee or coworker of the licensee or certificate holder];~~
- (f) Conviction of a felony or misdemeanor in the courts of this state or any other state, territory, or country which impedes a person's~~[affects his]~~ ability~~[to continue]~~ to practice competently and safely on the public, if in accordance with KRS Chapter 335B. "Conviction," as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an Alford plea, an admission of guilt, or a plea of nolo contendere;
- (g) Obtaining or attempting to obtain a license ~~[or certificate]~~ by fraud or material misrepresentation or making any other false statement to the board;
- (h) Engaging in fraud or material deception in the delivery of professional services, including reimbursement, or advertising services in a false or misleading manner;
- (i) Evidence of gross negligence or gross incompetence in his practice of physical therapy;

- (j) Documentation of being declared mentally disabled by a court of competent jurisdiction and not thereafter having had his rights restored;
- (k) Failing or refusing to obey any lawful order or administrative regulation of the board;
- (l) Promoting for personal gain an unnecessary device, treatment, procedure, or service, or directing or requiring a patient to purchase a device, treatment, procedure, or service from a facility or business in which he has a financial interest;
- (m) Being impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently;
- (n) Having had a license revoked or suspended, other disciplinary action taken, or an application for licensure refused, revoked, or suspended by the proper authorities of another state, territory, or country;
- (o) Interfering with an investigation or disciplinary proceeding by failure to cooperate, by willful misrepresentation of facts, or by the use of threats or harassment against any patient or witness to prevent that patient or witness from providing evidence in a disciplinary proceeding or any legal action;
- (p) Failing to maintain patient confidentiality without documented authorization of the patient or authorized decision maker, or unless otherwise required by law;
- (q) Engaging, or attempting to engage, in conduct that subverts or undermines the integrity of the licensure examination process;
- ~~(r)(n)~~ Violation of KRS 304.39-215; and
- ~~(s)(o)~~ Conduct that is subject to the penalties under KRS 304.99-060(4) or (5).
- (3) A private admonishment shall not:
 - (a) Be subject to disclosure to the public under KRS 61.878(1)(l); ~~A private admonishment shall not~~

- (b) Constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant; **or**
- (c) Be admissible in any proceeding under KRS Chapter 13B, except as provided in paragraph (b) of this subsection.
- (4) (a) The board shall develop specific guidelines through the promulgation of administrative regulations in accordance with KRS Chapter 13A to follow upon receipt of an allegation of sexual misconduct by a physical therapist or physical therapist assistant licensed by the board or granted a compact privilege under KRS 327.300.
- (b) The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physical therapist or physical therapist assistant is falsely accused.
- (5) The board, staff, and investigators may receive periodic education on pertinent issues, including but not limited to topics affecting the practice of physical therapy and public protection.
- (6) (a) The board may, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish which disciplinary action records may be expunged.
- (b) Any records that are expunged shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884.
- (c) The board shall not report expunged disciplinary actions for any purpose other than statistical.

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

- (1) The board shall establish the amounts, limits, or ranges for any fines imposed

under this chapter through the promulgation of administrative regulations in accordance with KRS Chapter 13A and shall fine any person who:

- (a) Violates or aids in the violation of Section 3, 4, 8, or 9 of this Act for practicing or for performing services without a license required by the board;
- (b) Is issued a notice of violation by the board for failure to comply with this chapter or administrative regulations promulgated under this chapter;
- (c) Exercises or attempts to exercise control over, interferes with, or attempts to influence the professional judgment of a licensee in any manner, including through coercion, collusion, extortion, inducement, or intimidation;
- (d) 1. Violates any ruling of the board or hinders any agent of the board in carrying out the duties assigned to the agent;

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

3. Attempts in any way to hinder or obstruct the board in carrying out the provisions of this chapter; or
- (e) Willfully refuses to obey its lawful orders and resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an agent of the board.
- (2) Each day or part of a day that a violation continues is a separate violation and subject to daily penalties.
- (3) For any violation of this chapter, in addition to any other fines designated in this section, the board may impose on any person fines in an amount equal to the cost of investigative and legal fees incurred by the board in processing the case.
- (4) The board may seek an injunction in the Circuit Court of the county in which the alleged violation occurred against any individual who practices physical therapy without a license issued by the board under this chapter or a compact privilege

granted under KRS 327.300.

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

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

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

- (1) **All fees and other moneys received by the board pursuant to this chapter shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.**
- (2) (a) **No part of this revolving fund shall revert to the general fund of this**

Commonwealth.

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

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

(a) The compensation of members of the board;

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

(c) Payment of contractors hired by the board;

(d) Administrative services provided to the board;

(e) Investigative and legal services;

(f) Court costs;

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

(h) All other expenses incurred by board.

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

- (1) A treating physical therapist *or physical therapist assistant* who provides or facilitates the use of telehealth shall ensure:
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of physical therapy and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for **physical therapy** diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

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

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

- (1) The applicant shall provide **the applicant's**~~[his or her]~~ fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;
- (2) The results of the national and state criminal background check shall be sent to the board for the screening of applicants;
- (3) The board shall be prohibited from releasing any criminal history record information to any private entity or other licensing board, or authorizing receipt by such entity or board; and
- (4) Any fee charged by the Department of Kentucky State Police or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the background check. The board may charge this fee to the applicant for licensure~~[or certification]~~.