

FIRST REGULAR SESSION

# SENATE BILL NO. 205

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

0456S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 334.100, 334.506, and 334.613, RSMo, and to enact in lieu thereof three new sections relating to the scope of practice for physical therapists.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 334.100, 334.506, and 334.613, RSMo,  
2 are repealed and three new sections enacted in lieu thereof, to  
3 be known as sections 334.100, 334.506, and 334.613, to read as  
4 follows:

334.100. 1. The board may refuse to issue or renew  
2 any certificate of registration or authority, permit or  
3 license required pursuant to this chapter for one or any  
4 combination of causes stated in subsection 2 of this  
5 section. The board shall notify the applicant in writing of  
6 the reasons for the refusal and shall advise the applicant  
7 of the applicant's right to file a complaint with the  
8 administrative hearing commission as provided by chapter  
9 621. As an alternative to a refusal to issue or renew any  
10 certificate, registration or authority, the board may, at  
11 its discretion, issue a license which is subject to  
12 probation, restriction or limitation to an applicant for  
13 licensure for any one or any combination of causes stated in  
14 subsection 2 of this section. The board's order of  
15 probation, limitation or restriction shall contain a  
16 statement of the discipline imposed, the basis therefor, the  
17 date such action shall become effective, and a statement

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 that the applicant has thirty days to request in writing a  
19 hearing before the administrative hearing commission. If  
20 the board issues a probationary, limited or restricted  
21 license to an applicant for licensure, either party may file  
22 a written petition with the administrative hearing  
23 commission within thirty days of the effective date of the  
24 probationary, limited or restricted license seeking review  
25 of the board's determination. If no written request for a  
26 hearing is received by the administrative hearing commission  
27 within the thirty-day period, the right to seek review of  
28 the board's decision shall be considered as waived.

29 2. The board may cause a complaint to be filed with  
30 the administrative hearing commission as provided by chapter  
31 621 against any holder of any certificate of registration or  
32 authority, permit or license required by this chapter or any  
33 person who has failed to renew or has surrendered the  
34 person's certificate of registration or authority, permit or  
35 license for any one or any combination of the following  
36 causes:

37 (1) Use of any controlled substance, as defined in  
38 chapter 195, or alcoholic beverage to an extent that such  
39 use impairs a person's ability to perform the work of any  
40 profession licensed or regulated by this chapter;

41 (2) The person has been finally adjudicated and found  
42 guilty, or entered a plea of guilty or nolo contendere, in a  
43 criminal prosecution under the laws of any state or of the  
44 United States, for any offense reasonably related to the  
45 qualifications, functions or duties of any profession  
46 licensed or regulated pursuant to this chapter, for any  
47 offense involving fraud, dishonesty or an act of violence,  
48 or for any offense involving moral turpitude, whether or not  
49 sentence is imposed;

50           (3) Use of fraud, deception, misrepresentation or  
51 bribery in securing any certificate of registration or  
52 authority, permit or license issued pursuant to this chapter  
53 or in obtaining permission to take any examination given or  
54 required pursuant to this chapter;

55           (4) Misconduct, fraud, misrepresentation, dishonesty,  
56 unethical conduct or unprofessional conduct in the  
57 performance of the functions or duties of any profession  
58 licensed or regulated by this chapter, including, but not  
59 limited to, the following:

60           (a) Obtaining or attempting to obtain any fee, charge,  
61 tuition or other compensation by fraud, deception or  
62 misrepresentation; willfully and continually overcharging or  
63 overtreating patients; or charging for visits to the  
64 physician's office which did not occur unless the services  
65 were contracted for in advance, or for services which were  
66 not rendered or documented in the patient's records;

67           (b) Attempting, directly or indirectly, by way of  
68 intimidation, coercion or deception, to obtain or retain a  
69 patient or discourage the use of a second opinion or  
70 consultation;

71           (c) Willfully and continually performing inappropriate  
72 or unnecessary treatment, diagnostic tests or medical or  
73 surgical services;

74           (d) Delegating professional responsibilities to a  
75 person who is not qualified by training, skill, competency,  
76 age, experience or licensure to perform such  
77 responsibilities;

78           (e) Misrepresenting that any disease, ailment or  
79 infirmity can be cured by a method, procedure, treatment,  
80 medicine or device;

81           (f) Performing or prescribing medical services which  
82 have been declared by board rule to be of no medical or  
83 osteopathic value;

84           (g) Final disciplinary action by any professional  
85 medical or osteopathic association or society or licensed  
86 hospital or medical staff of such hospital in this or any  
87 other state or territory, whether agreed to voluntarily or  
88 not, and including, but not limited to, any removal,  
89 suspension, limitation, or restriction of the person's  
90 license or staff or hospital privileges, failure to renew  
91 such privileges or license for cause, or other final  
92 disciplinary action, if the action was in any way related to  
93 unprofessional conduct, professional incompetence,  
94 malpractice or any other violation of any provision of this  
95 chapter;

96           (h) Signing a blank prescription form; or dispensing,  
97 prescribing, administering or otherwise distributing any  
98 drug, controlled substance or other treatment without  
99 sufficient examination including failing to establish a  
100 valid physician-patient relationship pursuant to section  
101 334.108, or for other than medically accepted therapeutic or  
102 experimental or investigative purposes duly authorized by a  
103 state or federal agency, or not in the course of  
104 professional practice, or not in good faith to relieve pain  
105 and suffering, or not to cure an ailment, physical infirmity  
106 or disease, except as authorized in section 334.104;

107           (i) Exercising influence within a physician-patient  
108 relationship for purposes of engaging a patient in sexual  
109 activity;

110           (j) Being listed on any state or federal sexual  
111 offender registry;

112 (k) Terminating the medical care of a patient without  
113 adequate notice or without making other arrangements for the  
114 continued care of the patient;

115 (l) Failing to furnish details of a patient's medical  
116 records to other treating physicians or hospitals upon  
117 proper request; or failing to comply with any other law  
118 relating to medical records;

119 (m) Failure of any applicant or licensee to cooperate  
120 with the board during any investigation;

121 (n) Failure to comply with any subpoena or subpoena  
122 duces tecum from the board or an order of the board;

123 (o) Failure to timely pay license renewal fees  
124 specified in this chapter;

125 (p) Violating a probation agreement, order, or other  
126 settlement agreement with this board or any other licensing  
127 agency;

128 (q) Failing to inform the board of the physician's  
129 current residence and business address;

130 (r) Advertising by an applicant or licensee which is  
131 false or misleading, or which violates any rule of the  
132 board, or which claims without substantiation the positive  
133 cure of any disease, or professional superiority to or  
134 greater skill than that possessed by any other physician.  
135 An applicant or licensee shall also be in violation of this  
136 provision if the applicant or licensee has a financial  
137 interest in any organization, corporation or association  
138 which issues or conducts such advertising;

139 (s) Any other conduct that is unethical or  
140 unprofessional involving a minor;

141 (5) Any conduct or practice which is or might be  
142 harmful or dangerous to the mental or physical health of a  
143 patient or the public; or incompetency, gross negligence or

144 repeated negligence in the performance of the functions or  
145 duties of any profession licensed or regulated by this  
146 chapter. For the purposes of this subdivision, "repeated  
147 negligence" means the failure, on more than one occasion, to  
148 use that degree of skill and learning ordinarily used under  
149 the same or similar circumstances by the member of the  
150 applicant's or licensee's profession;

151 (6) Violation of, or attempting to violate, directly  
152 or indirectly, or assisting or enabling any person to  
153 violate, any provision of this chapter or chapter 324, or of  
154 any lawful rule or regulation adopted pursuant to this  
155 chapter or chapter 324;

156 (7) Impersonation of any person holding a certificate  
157 of registration or authority, permit or license or allowing  
158 any person to use his or her certificate of registration or  
159 authority, permit, license or diploma from any school;

160 (8) Revocation, suspension, restriction, modification,  
161 limitation, reprimand, warning, censure, probation or other  
162 final disciplinary action against the holder of or applicant  
163 for a license or other right to practice any profession  
164 regulated by this chapter by another state, territory,  
165 federal agency or country, whether or not voluntarily agreed  
166 to by the licensee or applicant, including, but not limited  
167 to, the denial of licensure, surrender of the license,  
168 allowing the license to expire or lapse, or discontinuing or  
169 limiting the practice of medicine while subject to an  
170 investigation or while actually under investigation by any  
171 licensing authority, medical facility, branch of the Armed  
172 Forces of the United States of America, insurance company,  
173 court, agency of the state or federal government, or  
174 employer;

175 (9) A person is finally adjudged incapacitated or  
176 disabled by a court of competent jurisdiction;

177 (10) Assisting or enabling any person to practice or  
178 offer to practice any profession licensed or regulated by  
179 this chapter who is not registered and currently eligible to  
180 practice pursuant to this chapter; or knowingly performing  
181 any act which in any way aids, assists, procures, advises,  
182 or encourages any person to practice medicine who is not  
183 registered and currently eligible to practice pursuant to  
184 this chapter. A physician who works in accordance with  
185 standing orders or protocols or in accordance with the  
186 provisions of section 334.104 shall not be in violation of  
187 this subdivision;

188 (11) Issuance of a certificate of registration or  
189 authority, permit or license based upon a material mistake  
190 of fact;

191 (12) Failure to display a valid certificate or license  
192 if so required by this chapter or any rule promulgated  
193 pursuant to this chapter;

194 (13) Violation of the drug laws or rules and  
195 regulations of this state, including but not limited to any  
196 provision of chapter 195, any other state, or the federal  
197 government;

198 (14) Knowingly making, or causing to be made, or  
199 aiding, or abetting in the making of, a false statement in  
200 any birth, death or other certificate or document executed  
201 in connection with the practice of the person's profession;

202 (15) Knowingly making a false statement, orally or in  
203 writing to the board;

204 (16) Soliciting patronage in person or by agents or  
205 representatives, or by any other means or manner, under the  
206 person's own name or under the name of another person or

207 concern, actual or pretended, in such a manner as to  
208 confuse, deceive, or mislead the public as to the need or  
209 necessity for or appropriateness of health care services for  
210 all patients, or the qualifications of an individual person  
211 or persons to diagnose, render, or perform health care  
212 services;

213 (17) Using, or permitting the use of, the person's  
214 name under the designation of "Doctor", "Dr.", "M.D.", or  
215 "D.O.", or any similar designation with reference to the  
216 commercial exploitation of any goods, wares or merchandise;

217 (18) Knowingly making or causing to be made a false  
218 statement or misrepresentation of a material fact, with  
219 intent to defraud, for payment pursuant to the provisions of  
220 chapter 208 or chapter 630 or for payment from Title XVIII  
221 or Title XIX of the Social Security Act;

222 (19) Failure or refusal to properly guard against  
223 contagious, infectious or communicable diseases or the  
224 spread thereof; maintaining an unsanitary office or  
225 performing professional services under unsanitary  
226 conditions; or failure to report the existence of an  
227 unsanitary condition in the office of a physician or in any  
228 health care facility to the board, in writing, within thirty  
229 days after the discovery thereof;

230 (20) Any candidate for licensure or person licensed to  
231 practice as a physical therapist, paying or offering to pay  
232 a referral fee or[, notwithstanding section 334.010 to the  
233 contrary, practicing or offering to practice professional  
234 physical therapy independent of the prescription and  
235 direction of a person licensed and registered as a physician  
236 and surgeon pursuant to this chapter, as a dentist pursuant  
237 to chapter 332, as a podiatrist pursuant to chapter 330, as  
238 an advanced practice registered nurse under chapter 335, or

239 any licensed and registered physician, dentist, podiatrist,  
240 or advanced practice registered nurse practicing in another  
241 jurisdiction, whose license is in good standing]evaluating  
242 or treating a patient in a manner inconsistent with section  
243 334.506;

244 (21) Any candidate for licensure or person licensed to  
245 practice as a physical therapist, treating or attempting to  
246 treat ailments or other health conditions of human beings  
247 other than by professional physical therapy and as  
248 authorized by sections 334.500 to 334.620;

249 (22) Any person licensed to practice as a physician or  
250 surgeon, requiring, as a condition of the physician-patient  
251 relationship, that the patient receive prescribed drugs,  
252 devices or other professional services directly from  
253 facilities of that physician's office or other entities  
254 under that physician's ownership or control. A physician  
255 shall provide the patient with a prescription which may be  
256 taken to the facility selected by the patient and a  
257 physician knowingly failing to disclose to a patient on a  
258 form approved by the advisory commission for professional  
259 physical therapists as established by section 334.625 which  
260 is dated and signed by a patient or guardian acknowledging  
261 that the patient or guardian has read and understands that  
262 the physician has a pecuniary interest in a physical therapy  
263 or rehabilitation service providing prescribed treatment and  
264 that the prescribed treatment is available on a competitive  
265 basis. This subdivision shall not apply to a referral by  
266 one physician to another physician within a group of  
267 physicians practicing together;

268 (23) A pattern of personal use or consumption of any  
269 controlled substance unless it is prescribed, dispensed or

270 administered by another physician who is authorized by law  
271 to do so;

272 (24) Habitual intoxication or dependence on alcohol,  
273 evidence of which may include more than one alcohol-related  
274 enforcement contact as defined by section 302.525;

275 (25) Failure to comply with a treatment program or an  
276 aftercare program entered into as part of a board order,  
277 settlement agreement or licensee's professional health  
278 program;

279 (26) Revocation, suspension, limitation, probation, or  
280 restriction of any kind whatsoever of any controlled  
281 substance authority, whether agreed to voluntarily or not,  
282 or voluntary termination of a controlled substance authority  
283 while under investigation;

284 (27) For a physician to operate, conduct, manage, or  
285 establish an abortion facility, or for a physician to  
286 perform an abortion in an abortion facility, if such  
287 facility comes under the definition of an ambulatory  
288 surgical center pursuant to sections 197.200 to 197.240, and  
289 such facility has failed to obtain or renew a license as an  
290 ambulatory surgical center.

291 3. Collaborative practice arrangements, protocols and  
292 standing orders shall be in writing and signed and dated by  
293 a physician prior to their implementation.

294 4. After the filing of such complaint before the  
295 administrative hearing commission, the proceedings shall be  
296 conducted in accordance with the provisions of chapter 621.  
297 Upon a finding by the administrative hearing commission that  
298 the grounds, provided in subsection 2 of this section, for  
299 disciplinary action are met, the board may, singly or in  
300 combination, warn, censure or place the person named in the  
301 complaint on probation on such terms and conditions as the

302 board deems appropriate for a period not to exceed ten  
303 years, or may suspend the person's license, certificate or  
304 permit for a period not to exceed three years, or restrict  
305 or limit the person's license, certificate or permit for an  
306 indefinite period of time, or revoke the person's license,  
307 certificate, or permit, or administer a public or private  
308 reprimand, or deny the person's application for a license,  
309 or permanently withhold issuance of a license or require the  
310 person to submit to the care, counseling or treatment of  
311 physicians designated by the board at the expense of the  
312 individual to be examined, or require the person to attend  
313 such continuing educational courses and pass such  
314 examinations as the board may direct.

315         5. In any order of revocation, the board may provide  
316 that the person may not apply for reinstatement of the  
317 person's license for a period of time ranging from two to  
318 seven years following the date of the order of revocation.  
319 All stay orders shall toll this time period.

320         6. Before restoring to good standing a license,  
321 certificate or permit issued pursuant to this chapter which  
322 has been in a revoked, suspended or inactive state for any  
323 cause for more than two years, the board may require the  
324 applicant to attend such continuing medical education  
325 courses and pass such examinations as the board may direct.

326         7. In any investigation, hearing or other proceeding  
327 to determine a licensee's or applicant's fitness to  
328 practice, any record relating to any patient of the licensee  
329 or applicant shall be discoverable by the board and  
330 admissible into evidence, regardless of any statutory or  
331 common law privilege which such licensee, applicant, record  
332 custodian or patient might otherwise invoke. In addition,  
333 no such licensee, applicant, or record custodian may

334 withhold records or testimony bearing upon a licensee's or  
335 applicant's fitness to practice on the ground of privilege  
336 between such licensee, applicant or record custodian and a  
337 patient.

338 8. The act of lawfully dispensing, prescribing,  
339 administering, or otherwise distributing ivermectin tablets  
340 or hydroxychloroquine sulfate tablets for human use shall  
341 not be grounds for denial, suspension, revocation, or other  
342 disciplinary action by the board.

334.506. 1. As used in this section, **the following**  
2 **terms mean:**

3 (1) "Approved health care provider" **[means]**, a person  
4 holding a current and active license as a physician and  
5 surgeon under this chapter, a chiropractor under chapter  
6 331, a dentist under chapter 332, a podiatrist under chapter  
7 330, a physician assistant under this chapter, an advanced  
8 practice registered nurse under chapter 335, or any licensed  
9 and registered physician, chiropractor, dentist, or  
10 podiatrist practicing in another jurisdiction whose license  
11 is in good standing;

12 (2) "Consult" or "consultation", **communication by**  
13 **telephone, by fax, in writing, or in person with the**  
14 **patient's personally approved licensed health care provider**  
15 **or a licensed health care provider of the patient's**  
16 **designation.**

17 2. A physical therapist **[shall not]may evaluate and**  
18 **initiate treatment [for a new injury or illness]on a patient**  
19 **without a prescription or referral from an approved health**  
20 **care provider, provided that the physical therapist has a**  
21 **doctorate of physical therapy degree or has five years of**  
22 **clinical practice as a physical therapist.**

23           3. A physical therapist may provide educational  
24 resources and training, develop fitness or wellness programs  
25 ~~[for asymptomatic persons]~~, or provide screening or  
26 consultative services within the scope of physical therapy  
27 practice without ~~[the]~~a prescription ~~[and direction of]~~**or**  
28 **referral from** an approved health care provider.

29           4. ~~[A physical therapist may examine and treat without~~  
30 ~~the prescription and direction of an approved health care~~  
31 ~~provider any person with a recurring self-limited injury~~  
32 ~~within one year of diagnosis by an approved health care~~  
33 ~~provider or a chronic illness that has been previously~~  
34 ~~diagnosed by an approved health care provider. The physical~~  
35 ~~therapist shall:]~~

36           (1) ~~[Contact the patient's current approved health~~  
37 ~~care provider within seven days of initiating physical~~  
38 ~~therapy services under this subsection;]~~**A physical therapist**  
39 **shall refer to an approved health care provider any patient**  
40 **whose condition at the time of evaluation or treatment is**  
41 **determined to be beyond the scope of practice of physical**  
42 **therapy.**

43           (2) ~~[Not change an existing physical therapy referral~~  
44 ~~available to the physical therapist without approval of the~~  
45 ~~patient's current approved health care provider;]~~**A physical**  
46 **therapist shall refer to an approved health care provider**  
47 **any patient who does not demonstrate measurable or**  
48 **functional improvement after ten visits or twenty-one**  
49 **business days, whichever occurs first.**

50           (3) ~~[Refer to an approved health care provider any~~  
51 ~~patient whose medical condition at the time of examination~~  
52 ~~or treatment is determined to be beyond the scope of~~  
53 ~~practice of physical therapy;~~

54 (4) Refer to an approved health care provider any  
55 patient whose condition for which physical therapy services  
56 are rendered under this subsection has not been documented  
57 to be progressing toward documented treatment goals after  
58 six visits or fourteen days, whichever first occurs;

59 (5) Notify the patient's current approved health care  
60 provider prior to the continuation of treatment if treatment  
61 rendered under this subsection is to continue beyond thirty  
62 days. The physical therapist shall provide such  
63 notification for each successive period of thirty days.] (a)

64 **A physical therapist shall consult with an approved health**  
65 **care provider if, after ten visits or twenty-one business**  
66 **days, whichever occurs first, the patient has demonstrated**  
67 **measurable or functional improvement from the course of**  
68 **physical therapy services or treatment provided and the**  
69 **physical therapist believes that continuation of the course**  
70 **of physical therapy services or treatment is reasonable and**  
71 **necessary based on the physical therapist's evaluation of**  
72 **the patient. The physical therapist shall not provide**  
73 **further physical therapy services or treatment until the**  
74 **consultation has occurred.**

75 (b) The consultation with the approved health care  
76 provider shall include information concerning:

77 a. The patient's condition for which physical therapy  
78 services or treatments were provided;

79 b. The basis for the course of services or treatment  
80 indicated, as determined from the physical therapy  
81 evaluation of the patient;

82 c. The physical therapy services or treatment provided  
83 before the date of the consultation;

84           d. The patient's demonstrated measurable or functional  
85 improvement from the services or treatment provided before  
86 the date of the consultation;

87           e. The continuing physical therapy services or  
88 treatment proposed to be provided following the  
89 consultation; and

90           f. The professional physical therapy basis for the  
91 continued physical therapy services or treatment to be  
92 provided.

93           (c) Continued physical therapy services or treatment  
94 following the consultation with an approved health care  
95 provider shall proceed in accordance with any feedback,  
96 advice, opinion, or direction of the approved health care  
97 provider. The physical therapist shall notify the  
98 consulting approved health care provider of continuing  
99 physical therapy services or treatment every thirty days  
100 after the initial consultation unless the consulting  
101 approved health care provider directs otherwise.

102           5. The provision of physical therapy services of  
103 evaluation and screening pursuant to this section shall be  
104 limited to a physical therapist, and any authority for  
105 evaluation and screening granted within this section may not  
106 be delegated. Upon each reinitiation of physical therapy  
107 services, a physical therapist shall provide a full physical  
108 therapy evaluation prior to the reinitiation of physical  
109 therapy treatment. [Physical therapy treatment provided  
110 pursuant to the provisions of subsection 4 of this section  
111 may be delegated by physical therapists to physical  
112 therapist assistants only if the patient's current approved  
113 health care provider has been so informed as part of the  
114 physical therapist's seven-day notification upon  
115 reinitiation of physical therapy services as required in

116 subsection 4 of this section.] Nothing in this subsection  
117 shall be construed as to limit the ability of physical  
118 therapists or physical therapist assistants to provide  
119 physical therapy services in accordance with the provisions  
120 of this chapter, and upon the referral of an approved health  
121 care provider. Nothing in this subsection shall prohibit an  
122 approved health care provider from acting within the scope  
123 of their practice as defined by the applicable chapters of  
124 RSMo.

125 6. No person licensed to practice, or applicant for  
126 licensure, as a physical therapist or physical therapist  
127 assistant shall make a medical diagnosis.

128 7. A physical therapist shall only delegate physical  
129 therapy treatment to a physical therapist assistant or to a  
130 person in an entry level of a professional education program  
131 approved by the Commission on Accreditation in Physical  
132 Therapy Education (CAPTE) who satisfies supervised clinical  
133 education requirements related to the person's physical  
134 therapist or physical therapist assistant education. The  
135 entry-level person shall be under the supervision of a  
136 physical therapist.

334.613. 1. The board may refuse to issue or renew a  
2 license to practice as a physical therapist or physical  
3 therapist assistant for one or any combination of causes  
4 stated in subsection 2 of this section. The board shall  
5 notify the applicant in writing of the reasons for the  
6 refusal and shall advise the applicant of the applicant's  
7 right to file a complaint with the administrative hearing  
8 commission as provided by chapter 621. As an alternative to  
9 a refusal to issue or renew a license to practice as a  
10 physical therapist or physical therapist assistant, the  
11 board may, at its discretion, issue a license which is

12 subject to probation, restriction, or limitation to an  
13 applicant for licensure for any one or any combination of  
14 causes stated in subsection 2 of this section. The board's  
15 order of probation, limitation, or restriction shall contain  
16 a statement of the discipline imposed, the basis therefor,  
17 the date such action shall become effective, and a statement  
18 that the applicant has thirty days to request in writing a  
19 hearing before the administrative hearing commission. If  
20 the board issues a probationary, limited, or restricted  
21 license to an applicant for licensure, either party may file  
22 a written petition with the administrative hearing  
23 commission within thirty days of the effective date of the  
24 probationary, limited, or restricted license seeking review  
25 of the board's determination. If no written request for a  
26 hearing is received by the administrative hearing commission  
27 within the thirty-day period, the right to seek review of  
28 the board's decision shall be considered as waived.

29 2. The board may cause a complaint to be filed with  
30 the administrative hearing commission as provided by chapter  
31 621 against any holder of a license to practice as a  
32 physical therapist or physical therapist assistant who has  
33 failed to renew or has surrendered his or her license for  
34 any one or any combination of the following causes:

35 (1) Use of any controlled substance, as defined in  
36 chapter 195, or alcoholic beverage to an extent that such  
37 use impairs a person's ability to perform the work of a  
38 physical therapist or physical therapist assistant;

39 (2) The person has been finally adjudicated and found  
40 guilty, or entered a plea of guilty or nolo contendere, in a  
41 criminal prosecution under the laws of any state, of the  
42 United States, or of any country, for any offense directly  
43 related to the duties and responsibilities of the

44 occupation, as set forth in section 324.012, regardless of  
45 whether or not sentence is imposed;

46 (3) Use of fraud, deception, misrepresentation, or  
47 bribery in securing any certificate of registration or  
48 authority, permit, or license issued under this chapter or  
49 in obtaining permission to take any examination given or  
50 required under this chapter;

51 (4) Misconduct, fraud, misrepresentation, dishonesty,  
52 unethical conduct, or unprofessional conduct in the  
53 performance of the functions or duties of a physical  
54 therapist or physical therapist assistant, including but not  
55 limited to the following:

56 (a) Obtaining or attempting to obtain any fee, charge,  
57 tuition, or other compensation by fraud, deception, or  
58 misrepresentation; willfully and continually overcharging or  
59 overtreating patients; or charging for sessions of physical  
60 therapy which did not occur unless the services were  
61 contracted for in advance, or for services which were not  
62 rendered or documented in the patient's records;

63 (b) Attempting, directly or indirectly, by way of  
64 intimidation, coercion, or deception, to obtain or retain a  
65 patient or discourage the use of a second opinion or  
66 consultation;

67 (c) Willfully and continually performing inappropriate  
68 or unnecessary treatment or services;

69 (d) Delegating professional responsibilities to a  
70 person who is not qualified by training, skill, competency,  
71 age, experience, or licensure to perform such  
72 responsibilities;

73 (e) Misrepresenting that any disease, ailment, or  
74 infirmity can be cured by a method, procedure, treatment,  
75 medicine, or device;

76 (f) Performing services which have been declared by  
77 board rule to be of no physical therapy value;

78 (g) Final disciplinary action by any professional  
79 association, professional society, licensed hospital or  
80 medical staff of the hospital, or physical therapy facility  
81 in this or any other state or territory, whether agreed to  
82 voluntarily or not, and including but not limited to any  
83 removal, suspension, limitation, or restriction of the  
84 person's professional employment, malpractice, or any other  
85 violation of any provision of this chapter;

86 (h) Administering treatment without sufficient  
87 examination, or for other than medically accepted  
88 therapeutic or experimental or investigative purposes duly  
89 authorized by a state or federal agency, or not in the  
90 course of professional physical therapy practice;

91 (i) Engaging in or soliciting sexual relationships,  
92 whether consensual or nonconsensual, while a physical  
93 therapist or physical therapist assistant/patient  
94 relationship exists; making sexual advances, requesting  
95 sexual favors, or engaging in other verbal conduct or  
96 physical contact of a sexual nature with patients or clients;

97 (j) Terminating the care of a patient without adequate  
98 notice or without making other arrangements for the  
99 continued care of the patient;

100 (k) Failing to furnish details of a patient's physical  
101 therapy records to treating physicians, other physical  
102 therapists, or hospitals upon proper request; or failing to  
103 comply with any other law relating to physical therapy  
104 records;

105 (l) Failure of any applicant or licensee, other than  
106 the licensee subject to the investigation, to cooperate with  
107 the board during any investigation;

108 (m) Failure to comply with any subpoena or subpoena  
109 duces tecum from the board or an order of the board;

110 (n) Failure to timely pay license renewal fees  
111 specified in this chapter;

112 (o) Violating a probation agreement with this board or  
113 any other licensing agency;

114 (p) Failing to inform the board of the physical  
115 therapist's or physical therapist assistant's current  
116 telephone number, residence, and business address;

117 (q) Advertising by an applicant or licensee which is  
118 false or misleading, or which violates any rule of the  
119 board, or which claims without substantiation the positive  
120 cure of any disease, or professional superiority to or  
121 greater skill than that possessed by any other physical  
122 therapist or physical therapist assistant. An applicant or  
123 licensee shall also be in violation of this provision if the  
124 applicant or licensee has a financial interest in any  
125 organization, corporation, or association which issues or  
126 conducts such advertising;

127 (5) Any conduct or practice which is or might be  
128 harmful or dangerous to the mental or physical health of a  
129 patient or the public; or incompetency, gross negligence, or  
130 repeated negligence in the performance of the functions or  
131 duties of a physical therapist or physical therapist  
132 assistant. For the purposes of this subdivision, "repeated  
133 negligence" means the failure, on more than one occasion, to  
134 use that degree of skill and learning ordinarily used under  
135 the same or similar circumstances by the member of the  
136 applicant's or licensee's profession;

137 (6) Violation of, or attempting to violate, directly  
138 or indirectly, or assisting or enabling any person to

139 violate, any provision of this chapter, or of any lawful  
140 rule adopted under this chapter;

141 (7) Impersonation of any person licensed as a physical  
142 therapist or physical therapist assistant or allowing any  
143 person to use his or her license or diploma from any school;

144 (8) Revocation, suspension, restriction, modification,  
145 limitation, reprimand, warning, censure, probation, or other  
146 final disciplinary action against a physical therapist or  
147 physical therapist assistant for a license or other right to  
148 practice as a physical therapist or physical therapist  
149 assistant by another state, territory, federal agency or  
150 country, whether or not voluntarily agreed to by the  
151 licensee or applicant, including but not limited to the  
152 denial of licensure, surrender of the license, allowing the  
153 license to expire or lapse, or discontinuing or limiting the  
154 practice of physical therapy while subject to an  
155 investigation or while actually under investigation by any  
156 licensing authority, medical facility, branch of the Armed  
157 Forces of the United States of America, insurance company,  
158 court, agency of the state or federal government, or  
159 employer;

160 (9) A person is finally adjudged incapacitated or  
161 disabled by a court of competent jurisdiction;

162 (10) Assisting or enabling any person to practice or  
163 offer to practice who is not licensed and currently eligible  
164 to practice under this chapter; or knowingly performing any  
165 act which in any way aids, assists, procures, advises, or  
166 encourages any person to practice physical therapy who is  
167 not licensed and currently eligible to practice under this  
168 chapter;

169           (11) Issuance of a license to practice as a physical  
170 therapist or physical therapist assistant based upon a  
171 material mistake of fact;

172           (12) Failure to display a valid license pursuant to  
173 practice as a physical therapist or physical therapist  
174 assistant;

175           (13) Knowingly making, or causing to be made, or  
176 aiding, or abetting in the making of, a false statement in  
177 any document executed in connection with the practice of  
178 physical therapy;

179           (14) Soliciting patronage in person or by agents or  
180 representatives, or by any other means or manner, under the  
181 person's own name or under the name of another person or  
182 concern, actual or pretended, in such a manner as to  
183 confuse, deceive, or mislead the public as to the need or  
184 necessity for or appropriateness of physical therapy  
185 services for all patients, or the qualifications of an  
186 individual person or persons to render, or perform physical  
187 therapy services;

188           (15) Using, or permitting the use of, the person's  
189 name under the designation of "physical therapist",  
190 "physiotherapist", "registered physical therapist", "P.T.",  
191 "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.", "physical  
192 therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or  
193 any similar designation with reference to the commercial  
194 exploitation of any goods, wares or merchandise;

195           (16) Knowingly making or causing to be made a false  
196 statement or misrepresentation of a material fact, with  
197 intent to defraud, for payment under chapter 208 or chapter  
198 630 or for payment from Title XVIII or Title XIX of the  
199 Social Security Act;

200 (17) Failure or refusal to properly guard against  
201 contagious, infectious, or communicable diseases or the  
202 spread thereof; maintaining an unsanitary facility or  
203 performing professional services under unsanitary  
204 conditions; or failure to report the existence of an  
205 unsanitary condition in any physical therapy facility to the  
206 board, in writing, within thirty days after the discovery  
207 thereof;

208 (18) Any candidate for licensure or person licensed to  
209 practice as a physical therapist or physical therapist  
210 assistant paying or offering to pay a referral fee or[,  
211 notwithstanding section 334.010 to the contrary, practicing  
212 or offering to practice professional physical therapy  
213 independent of the prescription and direction of a person  
214 licensed and registered as a physician and surgeon under  
215 this chapter, as a physician assistant under this chapter,  
216 as a chiropractor under chapter 331, as a dentist under  
217 chapter 332, as a podiatrist under chapter 330, as an  
218 advanced practice registered nurse under chapter 335, or any  
219 licensed and registered physician, chiropractor, dentist,  
220 podiatrist, or advanced practice registered nurse practicing  
221 in another jurisdiction, whose license is in good  
222 standing] **evaluating or treating a patient in a manner**  
223 **inconsistent with section 334.506;**

224 (19) Any candidate for licensure or person licensed to  
225 practice as a physical therapist or physical therapist  
226 assistant treating or attempting to treat ailments or other  
227 health conditions of human beings other than by professional  
228 physical therapy and as authorized by sections 334.500 to  
229 334.685;

230 (20) A pattern of personal use or consumption of any  
231 controlled substance unless it is prescribed, dispensed, or

232 administered by a physician who is authorized by law to do  
233 so;

234 (21) Failing to maintain adequate patient records  
235 under section 334.602;

236 (22) Attempting to engage in conduct that subverts or  
237 undermines the integrity of the licensing examination or the  
238 licensing examination process, including but not limited to  
239 utilizing in any manner recalled or memorized licensing  
240 examination questions from or with any person or entity,  
241 failing to comply with all test center security procedures,  
242 communicating or attempting to communicate with any other  
243 examinees during the test, or copying or sharing licensing  
244 examination questions or portions of questions;

245 (23) Any candidate for licensure or person licensed to  
246 practice as a physical therapist or physical therapist  
247 assistant who requests, receives, participates or engages  
248 directly or indirectly in the division, transferring,  
249 assigning, rebating or refunding of fees received for  
250 professional services or profits by means of a credit or  
251 other valuable consideration such as wages, an unearned  
252 commission, discount or gratuity with any person who  
253 referred a patient, or with any relative or business  
254 associate of the referring person;

255 (24) Being unable to practice as a physical therapist  
256 or physical therapist assistant with reasonable skill and  
257 safety to patients by reasons of incompetency, or because of  
258 illness, drunkenness, excessive use of drugs, narcotics,  
259 chemicals, or as a result of any mental or physical  
260 condition. The following shall apply to this subdivision:

261 (a) In enforcing this subdivision the board shall,  
262 after a hearing by the board, upon a finding of probable  
263 cause, require a physical therapist or physical therapist

264 assistant to submit to a reexamination for the purpose of  
265 establishing his or her competency to practice as a physical  
266 therapist or physical therapist assistant conducted in  
267 accordance with rules adopted for this purpose by the board,  
268 including rules to allow the examination of the pattern and  
269 practice of such physical therapist's or physical therapist  
270 assistant's professional conduct, or to submit to a mental  
271 or physical examination or combination thereof by a facility  
272 or professional approved by the board;

273 (b) For the purpose of this subdivision, every  
274 physical therapist and physical therapist assistant licensed  
275 under this chapter is deemed to have consented to submit to  
276 a mental or physical examination when directed in writing by  
277 the board;

278 (c) In addition to ordering a physical or mental  
279 examination to determine competency, the board may,  
280 notwithstanding any other law limiting access to medical or  
281 other health data, obtain medical data and health records  
282 relating to a physical therapist, physical therapist  
283 assistant or applicant without the physical therapist's,  
284 physical therapist assistant's or applicant's consent;

285 (d) Written notice of the reexamination or the  
286 physical or mental examination shall be sent to the physical  
287 therapist or physical therapist assistant, by registered  
288 mail, addressed to the physical therapist or physical  
289 therapist assistant at the physical therapist's or physical  
290 therapist assistant's last known address. Failure of a  
291 physical therapist or physical therapist assistant to submit  
292 to the examination when directed shall constitute an  
293 admission of the allegations against the physical therapist  
294 or physical therapist assistant, in which case the board may  
295 enter a final order without the presentation of evidence,

296 unless the failure was due to circumstances beyond the  
297 physical therapist's or physical therapist assistant's  
298 control. A physical therapist or physical therapist  
299 assistant whose right to practice has been affected under  
300 this subdivision shall, at reasonable intervals, be afforded  
301 an opportunity to demonstrate that the physical therapist or  
302 physical therapist assistant can resume the competent  
303 practice as a physical therapist or physical therapist  
304 assistant with reasonable skill and safety to patients;

305 (e) In any proceeding under this subdivision neither  
306 the record of proceedings nor the orders entered by the  
307 board shall be used against a physical therapist or physical  
308 therapist assistant in any other proceeding. Proceedings  
309 under this subdivision shall be conducted by the board  
310 without the filing of a complaint with the administrative  
311 hearing commission;

312 (f) When the board finds any person unqualified  
313 because of any of the grounds set forth in this subdivision,  
314 it may enter an order imposing one or more of the  
315 disciplinary measures set forth in subsection 3 of this  
316 section.

317 3. After the filing of such complaint before the  
318 administrative hearing commission, the proceedings shall be  
319 conducted in accordance with the provisions of chapter 621.  
320 Upon a finding by the administrative hearing commission that  
321 the grounds provided in subsection 2 of this section for  
322 disciplinary action are met, the board may, singly or in  
323 combination:

324 (1) Warn, censure or place the physical therapist or  
325 physical therapist assistant named in the complaint on  
326 probation on such terms and conditions as the board deems  
327 appropriate for a period not to exceed ten years;

328           (2) Suspend the physical therapist's or physical  
329 therapist assistant's license for a period not to exceed  
330 three years;

331           (3) Restrict or limit the physical therapist's or  
332 physical therapist assistant's license for an indefinite  
333 period of time;

334           (4) Revoke the physical therapist's or physical  
335 therapist assistant's license;

336           (5) Administer a public or private reprimand;

337           (6) Deny the physical therapist's or physical  
338 therapist assistant's application for a license;

339           (7) Permanently withhold issuance of a license;

340           (8) Require the physical therapist or physical  
341 therapist assistant to submit to the care, counseling or  
342 treatment of physicians designated by the board at the  
343 expense of the physical therapist or physical therapist  
344 assistant to be examined;

345           (9) Require the physical therapist or physical  
346 therapist assistant to attend such continuing educational  
347 courses and pass such examinations as the board may direct.

348           4. In any order of revocation, the board may provide  
349 that the physical therapist or physical therapist assistant  
350 shall not apply for reinstatement of the physical  
351 therapist's or physical therapist assistant's license for a  
352 period of time ranging from two to seven years following the  
353 date of the order of revocation. All stay orders shall toll  
354 this time period.

355           5. Before restoring to good standing a license issued  
356 under this chapter which has been in a revoked, suspended,  
357 or inactive state for any cause for more than two years, the  
358 board may require the applicant to attend such continuing

359 medical education courses and pass such examinations as the  
360 board may direct.

361         6. In any investigation, hearing or other proceeding  
362 to determine a physical therapist's, physical therapist  
363 assistant's or applicant's fitness to practice, any record  
364 relating to any patient of the physical therapist, physical  
365 therapist assistant, or applicant shall be discoverable by  
366 the board and admissible into evidence, regardless of any  
367 statutory or common law privilege which such physical  
368 therapist, physical therapist assistant, applicant, record  
369 custodian, or patient might otherwise invoke. In addition,  
370 no such physical therapist, physical therapist assistant,  
371 applicant, or record custodian may withhold records or  
372 testimony bearing upon a physical therapist's, physical  
373 therapist assistant's, or applicant's fitness to practice on  
374 the grounds of privilege between such physical therapist,  
375 physical therapist assistant, applicant, or record custodian  
376 and a patient.

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