

November 2007

PHYSICAL THERAPY

RULES

*Adopted under the authority of
Title 3, Subtitle H, Chapter 453, Occupations Code*



**Texas Board of
Physical Therapy Examiners**

*Executive Council of
Physical Therapy and
Occupational Therapy Examiners*

Includes all revisions as of November 2007

Subject to further change by actions of
the Texas Legislature
the Executive Council of Physical Therapy
and Occupational Therapy Examiners
and
the Texas Board of Physical Therapy Examiners
333 Guadalupe, Suite 2-510
Austin, Texas 78701-3942
512/ 305-6900
fax 512/ 305-6951

<http://www.ecptote.state.tx.us>

RULE AMENDMENTS, ADDITIONS AND REPEALS

All rule changes made by the board are posted at the agency's website, www.ecptote.state.tx.us. The Board meets four times a year. Rules proposed or adopted by the Board at those meetings will be posted after each meeting.

Rule changes adopted between October 2006 and November 2007

6/07 §329.5, Licensing Procedures for Foreign-Trained Applicants

2/07 §341.3, Qualifying Continuing Education

2/07 §346.1, Educational Settings

2/07 §346.3, Early Childhood (ECI) Setting

<p>Check the website or call the board regarding rules adopted or amended after the date on the cover of this issue.</p>

TABLE OF CONTENTS

CHAPTER 321. DEFINITIONS.....	1
§321.1. <i>Definitions</i>	1
CHAPTER 322. PRACTICE	2
§322.1. <i>Provision of Services</i>	2
§322.2. <i>Role Delineation</i>	4
§322.3. <i>Supervision</i>	5
§322.4. <i>Practicing in a Manner Detrimental to the Public Health and Welfare</i>	6
CHAPTER 323. POWERS AND DUTIES OF THE BOARD	7
§323.1. <i>Types of Examination</i>	7
§323.2. <i>Investigation Procedure</i>	7
§323.3. <i>Adoption of Rules</i>	8
CHAPTER 325. ORGANIZATION OF THE BOARD	8
§325.1. <i>Elections</i>	8
§325.3. <i>Meetings</i>	8
§325.4. <i>Rules of Order</i>	8
§325.5. <i>Chairman</i>	8
§325.6. <i>Chairman Authority</i>	8
§325.7. <i>Board Member Terms</i>	8
CHAPTER 327. COMPENSATION.....	9
§327.1. <i>Per Diem Calculated</i>	9
CHAPTER 329. LICENSING PROCEDURE.....	9
§329.1. <i>General Licensure Requirements and Procedures</i>	9
§329.2. <i>License by Examination</i>	10
§329.3. <i>Temporary Licensure for Examination Candidates</i>	12
§329.5. <i>Licensing Procedures for Foreign-Trained Applicants</i>	12
§329.6. <i>Licensure by Endorsement</i>	15
CHAPTER 335. PROFESSIONAL TITLE.....	16
§335.1. <i>Licensed Physical Therapist/Licensed Physical Therapist Assistant</i>	16
CHAPTER 337. DISPLAY OF LICENSE	16
§337.1. <i>License and Renewal Certificate</i>	16
§337.2. <i>Consumer Information Sign</i>	16
CHAPTER 339. FEES	17
§339.1. <i>Fees</i>	17
CHAPTER 341. LICENSE RENEWAL.....	17

§341.1. Requirements for Renewal.....	17
§341.2. Continuing Education Requirements.....	18
§341.3. Qualifying Continuing Education.....	18
§341.5. Waiver of Continuing Education Units (CEUs).....	22
§341.6. License Restoration.....	22
§341.7. Restrictions on License Renewal and Restoration.....	23
§341.8. Inactive Status.....	23
§341.9. Retired Status.....	24
§341.20. Licensees Called to Active Military Service.....	25
§341.21. Report of Malpractice Claims or Actions or Disciplinary Actions.....	25

CHAPTER 342. OPEN RECORDS 25

§342.1. Open Records.....	25
---------------------------	----

CHAPTER 343. CONTESTED CASE PROCEDURE 26

§343.1. Definitions.....	26
§343.2. Denial of a License and Disciplinary Actions by the Board.....	27
§343.5. Licensure of Persons with a History of Substance Abuse.....	28
§343.6. Other Grounds for Denial of a License or Discipline of a Licensee.....	28
§343.7. Gross Negligence in the Practice of Physical Therapy.....	28
§343.8. Licensure of Persons with a History of Voluntary or Involuntary Psychiatric Hospitalization.....	29
§343.9. Licensure of Persons with Criminal Convictions.....	29
§343.20. Subpoenas.....	30
§343.21. Witness Fees and Expenses.....	31
§343.22. Service of Notice.....	31
§343.23. Hearings.....	31
§343.24. Payment of Costs for a Contested Case Hearing Resulting in the Discipline of a Licensee or the Denial of an Application for License.....	31
§343.25. Continuance.....	31
§343.26. Commutation of Time.....	32
§343.27. Probation.....	32
§343.28. Records Retention Schedule.....	32
§343.29. Failure To Appear at Hearing.....	32
§343.35. Complaint Investigation and Disposition.....	32
§343.36. Filing and Receipt of Complaints.....	33
§343.40. Informal Conference.....	33
§343.41. Agreed Orders.....	35
§343.42. Commencement of Disciplinary Proceedings.....	36
§343.48. Dismissal of Complaint.....	36
§343.49. Disposal of Complaints.....	36
§343.50. Application for Reinstatement of License.....	36

§343.51. Evaluation for Reinstatement.....	36
§343.52. Procedure upon Request for Reinstatement.....	37
§343.53. Board Action Possible upon Reinstatement of Revoked License.....	37
§343.54. Reinstatement of Suspended License.....	37
§343.55. Failure To Appear.....	38
§343.56. Monitoring of Licensees.....	38
CHAPTER 344. ADMINISTRATIVE FINES AND PENALTIES	38
§344.1. Administrative Fines and Penalties.....	38
CHAPTER 345. ACCESSIBLE SERVICES	39
§345.1. Accessible Services.....	39
CHAPTER 346. PRACTICE SETTINGS FOR PHYSICAL THERAPY	39
§346.1. Educational Settings.....	39
§346.2. Other Practice Settings.....	40
§346.3. Early Childhood (ECI) Setting.....	40
CHAPTER 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES	41
§347.1. Definitions.....	41
§347.2. Requirement for Practice Setting of Licensees.....	41
§347.4. Requirements for Registration Application.....	41
§347.5. Requirements for Registered Facilities.....	43
§347.6. Exemptions to Registration.....	43
§347.8. Change in Facility Ownership.....	43
§347.9. Renewal of Registration.....	44
§347.11. Failure to Register.....	44
§347.12. Restoration of Registration.....	44
§347.15. Disciplinary Action.....	45
CHAPTER 651. FEES	46
§651.2. Physical Therapy Board Fees.....	46
§651.3. Administrative Services Fees.....	47

CHAPTER 321. DEFINITIONS

§321.1. Definitions.

The following words, terms, and phrases, when used in the rules of the Texas Board of Physical Therapy Examiners, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **Accredited curriculum in physical therapy education**--A body of courses in a physical therapy program at a school, college, or university which has satisfied the accreditation standards of the Commission on Accreditation for Physical Therapy Education.
- (2) **Accredited physical therapist assistant program**--A body of courses at a school, college, or university which has satisfied the accreditation standards of the Commission on Accreditation for Physical Therapy Education.
- (3) **Asymptomatic**--Without obvious signs or symptoms of disease.
- (4) **Board-approved organization or entity**--an organization or entity to which the board has formally delegated a role in the licensure, regulation or enforcement functions of the Physical Therapy Practice Act and board rules.
- (5) **Endorsement**--The process by which the board issues a license to a person currently licensed in another state, the District of Columbia, or territory of the United States that maintains professional standards considered by the board to be substantially equivalent to those set forth in the Act.
- (6) **Emergency circumstances**--Instances where emergency medical care is called for, including first aid.
- (7) **Emergency medical care**--Bona fide emergency services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.
- (8) **Evaluation**--A dynamic process in which the physical therapist makes clinical judgments based on data gathered during the examination.
- (9) **Evidence satisfactory to the board**--Should all official school records be destroyed, sworn affidavits satisfactory to the board must be received from three persons having personal knowledge of the applicant's physical therapy education. These affidavits will not be used when official school records are available.
- (10) **Examination**--A comprehensive screening and specific testing process leading to diagnostic classification or, as appropriate, to a referral to another practitioner. The examination has three components: the patient/client history, the systems review, and tests and measures.
- (11) **Foreign-trained applicant**--Any applicant whose education is from a country outside the United States, the District of Columbia, or Territories of the United States.
- (12) **Hearing**--An adjudicative proceeding concerning the issuance, denial, suspension, reprimand, revocation of license, after which the legal rights of an applicant or licensee are to be determined by the board.
- (13) **Jurisprudence exam**--An open-book examination made up of multiple-choice and/or true/false questions covering information contained in the Texas Physical Therapy Practice Act and Board rules.
- (14) **On-site supervision**--The physical therapist or physical therapist assistant is on the premises and readily available to respond.

(15) **Physical therapy**--The evaluation, examination, and utilization of exercises, rehabilitative procedures, massage, manipulations, and physical agents including, but not limited to, mechanical devices, heat, cold, air, light, water, electricity, and sound in the aid of diagnosis or treatment. Physical therapists may perform evaluations without referrals. Physical therapy practice includes the use of modalities, procedures, and tests to make evaluations. Physical therapy practice includes, but is not limited to the use of: Electromyographic (EMG) Tests, Nerve Conduction Velocity (NCV) Tests, Thermography, Transcutaneous Electrical Nerve Stimulation (TENS), bed traction, application of topical medication to open wounds, sharp debridement, provision of soft goods, inhibitive casting and splinting, Phonophoresis, Iontophoresis, and biofeedback services.

(16) **Supervision**--The delegation and continuing direction by a person or persons responsible for the practice of physical therapist, physical therapist assistant, or physical therapy aide as specified in the Physical Therapy Practice Act.

Source Note: The provisions of this §321.1 adopted to be effective March 1, 1986, 11 TexReg 719; amended to be effective September 28, 1988, 13 TexReg 4575; amended to be effective December 12, 1989, 14 TexReg 6277; amended to be effective January 7, 1992, 16 TexReg 7644; amended to be effective January 12, 1993, 18 TexReg 63; amended to be effective November 11, 1993, 18 TexReg 7545; amended to be effective November 6, 1995, 20 TexReg 8793; amended to be effective May 8, 1996, 21 TexReg 3794; amended to be effective July 9, 1996, 21 TexReg 6078; amended to be effective April 28, 1997, 22 TexReg 3588; amended to be effective October 6, 1998, 23 TexReg 9978; amended to be effective April 15, 1999, 24 TexReg 2935; amended to be effective May 14, 2000, 25 TexReg 4351; amended to be effective November 16, 2000, 25 TexReg 11285; amended to be effective August 15, 2001, 26 TexReg 6020; amended to be effective September 18, 2006, 31 TexReg 7997.

CHAPTER 322. PRACTICE

§322.1. Provision of Services.

(a) Initiation of physical therapy services.

(1) Referral requirement. A physical therapist is subject to discipline from the board for providing physical therapy treatment without a referral from a qualified healthcare practitioner licensed by the appropriate licensing board, who within the scope of the professional licensure is authorized to prescribe treatment of individuals. The list of qualifying referral sources includes physicians, dentists, chiropractors, podiatrists, physician assistants, and advanced nurse practitioners.

(2) Exceptions to referral requirement.

(A) A PT may evaluate without referral.

(B) A PT may provide instructions to any person who is asymptomatic relating to the instructions being given without a referral.

(C) Emergency Circumstances. A PT may provide emergency medical care to a person after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity without referral if the absence of immediate medical attention could reasonably be expected to result in a serious threat to the patient's health, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(D) Prior referrals. A physical therapist may treat a patient for an injury or condition that is the subject of a prior referral if all of the following conditions are met.

(i) The physical therapist must notify the original referring healthcare personnel of the commencement of therapy by telephone within five days, or by letter postmarked within five business days;

(ii) The physical therapy provided must not be for more than 20 treatment sessions or 30 consecutive calendar days, whichever occurs first. At the conclusion of this time or treatment, the physical therapist must confer with the referring healthcare personnel before continuing treatment.

(iii) The treatment can only be provided to a client/patient who received the referral not more than one year previously.

(iv) The physical therapist providing treatment must have been licensed for one year. The physical therapist responsible for the treatment of the patient may delegate appropriate duties to another physical therapist having less than one year of experience or to a physical therapist assistant. A physical therapist licensed for more than one year must retain responsibility for and supervision of the treatment.

(3) Methods of referral. A referral may be transmitted by a qualifying referral source in the following ways:

(A) a document (including an electronically transmitted document or facsimile); or

(B) verbally, in person or by telephone. If a referral is transmitted verbally, whether in person or by telephone, it must be received, recorded and signed by the PT, PTA or other authorized personnel, and include all of the information that would appear on a written referral.

(b) Evaluation and screening.

(1) Evaluation. Physical therapy treatment may not be provided prior to the completion of an evaluation of the patient's condition by a PT.

(2) Reevaluation. A patient receiving treatment must be reevaluated by a PT:

(A) at least once every 30 days, or at a higher frequency as established by the PT; or

(B) In response to a change in the patient's medical status that affects physical therapy treatment, when a change in the physical therapy plan of care is needed, or prior to any planned discharge.

(C) A reevaluation must include:

(i) An onsite reexamination of the patient, and

(ii) A review of the plan of care with appropriate revision or termination.

(3) PTAs may screen patients designated by a PT as possible candidates for physical therapy services. Screening entails the collection of uniform information from all patients screened using a predetermined, standardized format. The information collected is delivered to the supervising PT. Only a PT may determine whether further intervention for patients screened is necessary.

(c) Physical therapy plan of care development and implementation.

(1) A written plan of care must be developed for each patient by a PT.

(2) The plan of care must be updated following the periodic reevaluation of the patient's condition.

(3) The plan of care or treatment goals may only be changed or modified by a PT.

(4) Physical therapy treatment may not be provided by a PTA or an aide until a written plan of care, based on an evaluation by a PT, has been completed.

(5) A PTA may modify treatment techniques as indicated in the plan of care.

(6) A PT or PTA must interact with the patient regarding his/her condition, progress and/or achievement of goals during each treatment session.

(d) Documentation of treatment.

(1) Each progress note in a patient's permanent record completed by a PTA must include the name of the supervising PT.

(2) A PTA may not sign progress notes which design or modify the plan of care.

(3) Physical therapy aides may not write or sign physical therapy documents in the permanent record. However, a physical therapy aide may record quantitative data for tasks delegated by the supervising PT or PTA. Any document reflecting aide activities must identify the aide and the supervising PT or PTA.

(e) Discharge. The supervising PT is responsible for the content and validity of the discharge summary and must sign it. A PTA may provide clerical assistance with a discharge summary.

Source Note: The provisions of this §322.1 adopted to be effective April 15, 1999, 24 TexReg 2935; amended to be effective November 19, 2001, 26 TexReg 9382; amended to be effective September 18, 2006, 31 TexReg 7998.

§322.2. Role Delineation.

(a) The role of the PTA.

(1) A PTA may provide physical therapy services only under the supervision of a PT (See §322.3 of this title, (relating to Supervision)).

(2) A PTA may be assigned responsibilities by a supervising PT to:

(A) screen patients designated by a PT as possible candidates for physical therapy services (See §322.1(b) of this chapter, (relating to Evaluation and screening));

(B) provide physical therapy services as specified in the physical therapy plan of care (See §322.1(c) of this chapter, (relating to Physical therapy plan of care development and implementation)) which may include:

(i) preparing patients, treatment areas, and equipment;

(ii) implementing treatment programs that include therapeutic exercises; gait training and techniques; ADL training techniques; administration of therapeutic heat and cold; administration of ultrasound; administration of therapeutic electric current; administration of ultraviolet; application of traction; performance of intermittent venous compression; application of external bandages, dressings, and support; performance of goniometric measurement;

(iii) modifying treatment techniques as indicated in the plan of care;

(C) respond to acute changes in physiological state;

(D) teach other health care providers, patients, and families to perform selected treatment procedures and functional activities;

(E) identify architectural barriers;

(F) interact with patients and families in a manner which provides the desired psychosocial support by:

(i) recognizing his own reaction to illness and disability;

(ii) recognizing patients' and families' reactions to illness and disability;

(iii) respecting individual cultural, religious, and socioeconomic differences in people;

(iv) utilizing appropriate communicative processes;

(G) demonstrate appropriate and effective written, oral, and nonverbal communication with patients and their families, colleagues, and the public;

(H) recognize his own strengths and limitations and interpret for others his scope and function;

(I) demonstrate safe, ethical, and legal practice;

(J) understand basic concepts related to the health care system, including multidisciplinary team approach, quality care, governmental agencies, private sector, role of other health care providers, health care facilities, issues, and problems;

(K) understand basic principles of levels of authority and responsibility, planning, time management, supervisory process, performance evaluations, policies and procedures, and fiscal consideration (provider and consumer).

(3) The PTA may not:

(A) specify and/or perform definitive (decisive, conclusive, final) evaluative and assessment procedures;

(B) alter a plan of care or goals;

(C) recommend wheelchairs, orthoses, prostheses, other assistive devices, or alterations to architectural barriers to persons;

(D) sign progress notes which design or modify the plan of care.

(b) The role of the physical therapy aide.

(1) All rules governing the services provided by a PTA are further modified for the physical therapy aide.

(2) A physical therapy aide may be assigned responsibilities by the supervising PT or PTA to provide services as specified in the physical therapy plan of care (See §322.1(c) of this chapter, (relating to Physical Therapy Plan of Care development and implementation)) within the scope of on-the-job training with onsite supervision by a PT or PTA within reasonable proximity.

(3) A physical therapy aide may not:

(A) perform any evaluative or assessment activities;

(B) initiate physical therapy treatment, to include exercise instruction; or

(C) write or sign physical therapy documents in the permanent record, except as provided for in §322.1(d), Documentation of treatment.

Source Note: The provisions of this §322.2 adopted to be effective April 15, 1999, 24 TexReg 2935; amended to be effective December 29, 2002, 27 TexReg 12214.

§322.3. Supervision.

(a) It is the responsibility of each PT and/or PTA to determine the number of PTAs and/or aides he or she can supervise safely.

(b) Supervision of PTAs.

(1) A supervising PT is responsible for and will participate in the patient's care.

(2) A supervising PT must be on call and readily available when physical therapy services are being provided.

(3) A PT may assign responsibilities to a PTA to provide physical therapy services, based on the PTA's training, that are within the scope of activities listed in §322.1, Provision of Services.

(4) The supervising PT must hold documented conferences with the PTA regarding the patient. The PT is responsible for determining the frequency of the conferences consistent with accepted standards of practice.

(c) Supervision of physical therapy aides.

(1) A supervising PT or PTA is responsible for the supervision of, and the physical therapy services provided by, the PT aide.

(2) A PT or PTA must provide onsite supervision of a physical therapy aide, and remain within reasonable proximity during the aide's interaction with the patient.

Source Note: The provisions of this §322.3 adopted to be effective April 15, 1999, 24 TexReg 2935; amended to be effective May 14, 2000, 25 TexReg 4352; amended to be effective September 18, 2006, 31 TexReg 7999.

§322.4. Practicing in a Manner Detrimental to the Public Health and Welfare.

(a) The board may deny a license to or discipline an applicant/respondent who is found to be practicing in a manner detrimental to the public health and welfare. The board may deny a registration for a physical therapy facility to an applicant or discipline a physical therapy facility required to be registered by the act which is found to be practicing in a manner detrimental to the public health and welfare.

(b) Practicing in a manner detrimental to the public health and welfare may include, but is not limited to, the following:

- (1) inaccurately recording, falsifying, or otherwise altering patient/client records;
- (2) obtaining or attempting to obtain or deliver medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge;
- (3) failing to supervise and maintain the supervision of supportive personnel, licensed or unlicensed, in compliance with the Act and rule requirements;
- (4) aiding, abetting, authorizing, condoning, or allowing the practice of physical therapy by any person not licensed to practice physical therapy;
- (5) permitting another person to use an individual's physical therapist's or physical therapist assistant's license for any purpose;
- (6) failing to cooperate with the agency by not furnishing papers or documents requested or by not responding to subpoenas issued by the agency;
- (7) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the board, or by the use of threats or harassment against any patient/client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;
- (8) engaging in sexual contact with a patient/client as the result of the patient/client relationship;
- (9) practicing or having practiced with an expired temporary or permanent license;
- (10) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including, but not limited to:
 - (A) failing to assess and evaluate a patient's/client's status;
 - (B) performing or attempting to perform techniques or procedures or both in which the physical therapist or physical therapist assistant is untrained by education or experience;
 - (C) delegating physical therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibility in question; or

- (D) causing, permitting, or allowing physical or emotional injury or impairment of dignity or safety to the patient/client;
- (11) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code §1320a-7b(b) or its regulations;
- (12) advertising in a manner which is false, misleading, or deceptive;
- (13) knowingly falsifying and/or forging a referring practitioner's referral for physical therapy;
- (14) failing to register a physical therapy facility which is not exempt or failing to renew the registration of a physical therapy facility which is not exempt;
- (15) practicing in an unregistered physical therapy facility which is not exempt.

Source Note: The provisions of this §322.4 adopted to be effective April 15, 1999, 24 TexReg 2935.

CHAPTER 323. POWERS AND DUTIES OF THE BOARD

§323.1. Types of Examination.

It is the duty of the board to evaluate the qualifications of applicants for licensure and to examine applicants through the national examinations selected by the board to measure those qualifications. The passing score on the National Physical Therapy Examination for physical therapists and physical therapist assistants shall be set by the board. In addition, the board shall examine applicants to determine successful completion of the jurisprudence examination covering the Physical Therapy Practice Act and board rules.

Source Note: The provisions of this §323.1 adopted to be effective March 1, 1986, 11 TexReg 721; amended to be effective December 30, 1987, 12 TexReg 4682; amended to be effective November 16, 2000, 25 TexReg 11285.

§323.2. Investigation Procedure.

- (a) Complaints must be made to the Investigation Committee or to the executive director.
- (b) The complaint will be forwarded to the chairman of the Investigation Committee.
- (c) If the Investigation Committee determines that a violation of the Act has not occurred, the complainant will be so notified and the case closed.
- (d) If the Investigation Committee determines a violation of the Act has occurred, it will:
- (1) seek legal recourse as provided for in the Act, §18; or
 - (2) notify the person being complained about of the complaint, specifying the sections of the Act which are alleged to have been violated, and schedule an informal conference with the individual.
- (e) If the complaint is not resolved through the informal conference, the Investigation Committee will present it to the board.
- (f) The board will conduct a formal hearing as provided for in the Act, §20. Members of the Investigation Committee shall not participate or vote at the hearing.

Source Note: The provisions of this §323.2 adopted to be effective March 1, 1986, 11 TexReg 721; amended to be effective December 12, 1989, 14 TexReg 6277.

§323.3. Adoption of Rules.

(a) The board may adopt rules consistent with the Physical Therapy Practice Act to carry out its duties in administering the Act.

(b) Continuing education. The board may adopt rules relating to the approval of continuing education courses. The board may establish reasonable and necessary fees for the administration of the approval of continuing education programs at a minimum of \$40 and not to exceed \$200 per course submitted to the board for approval.

Source Note: The provisions of this §323.3 adopted to be effective January 4, 1989, 13 TexReg 6332; amended to be effective December 12, 1989, 14 TexReg 6277; amended effective October 5, 1992, 17 TexReg 6550.

CHAPTER 325. ORGANIZATION OF THE BOARD

§325.1. Elections.

Elections of officers shall be held at the first board meeting after new members are appointed. Officers will assume duties at the next board meeting. Vacancies of offices shall be filled by election at the next board meeting.

Source Note: The provisions of this §325.1 adopted to be effective March 1, 1986, 11 TexReg 721; amended to be effective August 15, 2001, 26 TexReg 6020.

§325.3. Meetings.

The board shall meet at least semi-annually.

Source Note: The provisions of this §325.3 adopted to be effective March 1, 1986, 11 TexReg 721.

§325.4. Rules of Order.

Board meetings shall be conducted in accordance with Roberts Rules of Order, newly revised.

Source Note: The provisions of this §325.4 adopted to be effective March 1, 1986, 11 TexReg 721.

§325.5. Chairman.

The chairman shall be the executive officer and preside at all meetings of the board. The chairman shall appoint committees as the board may authorize and shall perform all duties usually pertaining to the office and permitted by this Act.

Source Note: The provisions of this §325.5 adopted to be effective March 1, 1986, 11 TexReg 721.

§325.6. Chairman Authority.

In the absence of the chairman, the vice-chairman will fulfill the duties of the chairman.

Source Note: The provisions of this §325.6 adopted to be effective March 1, 1986, 11 TexReg 721.

§325.7. Board Member Terms.

(a) Members of the board serve staggered six-year terms expiring in January of an odd-numbered year, or as appointed by the governor.

(b) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired part of the term.

Source Note: The provisions of this §325.7 adopted to be effective July 12, 1996, 21 TexReg 6078; amended to be effective November 16, 2000, 25 TexReg 11285.

CHAPTER 327. COMPENSATION.

§327.1. Per Diem Calculated.

Per diem shall be on a daily basis or any portion thereof portal to portal.

Source Note: The provisions of this §327.1 adopted to be effective March 1, 1986, 11 TexReg 721.

CHAPTER 329. LICENSING PROCEDURE

§329.1. General Licensure Requirements and Procedures.

(a) Requirements. All applications for licensure shall include:

- (1) a completed, notarized board application form with a recent color photograph of the applicant;
- (2) the non-refundable application fee as set by the executive council;
- (3) a successfully completed board jurisprudence exam on the Texas Physical Therapy Practice Act and board rules; and
- (4) documentation of academic qualifications.

(A) For applicants who completed their physical therapy education in the U.S., the documentation required is:

- (i) an official transcript showing completion of an accredited physical therapy or physical therapist assistant program, as provided in §453.203 of the Act; and
- (ii) a photocopy of the diploma or certificate awarded, showing graduation from a PT or PTA program; or
- (iii) a statement signed by the program director or other authorized school official, with the school seal affixed, stating that the applicant has successfully completed the PT or PTA program.

(B) For applicants who completed their physical therapy education outside of the U.S., the documentation required is set out in §329.5 of this title (relating to Licensing Procedure for Foreign-trained Applicants).

(b) Licensure by examination. If an applicant has not passed the national licensure exam, the applicant must also meet the requirements in §329.2 of this title (relating to Licensure by examination).

(c) Licensure by endorsement. If the applicant is licensed as a PT or PTA in another state or jurisdiction of the U.S., the applicant must also meet the requirements as stated in §329.6 of this title (relating to Licensure by endorsement).

(d) Application expiration. An application for licensure is valid for one year after the date it is received by the board.

(e) False information. An applicant who submits an application containing false information may be denied licensure by the board.

(f) Rejection. Should the board reject an application for licensure, the reasons for the rejection will be stated. The applicant may submit additional information and request reconsideration by the board. If the applicant remains dissatisfied, a hearing may be requested as specified in the Act, §453.352.

(g) Changes to licensee information. Applicants and licensees must notify the board in writing of changes in residential and business address within 30 days of the change. For a name change at time of renewal, the licensee must submit a copy of the legal document enacting the name change with the renewal application.

(h) Replacement copy of license. The board will issue a copy of a license to replace one lost or destroyed upon receipt of a written request and the appropriate fee from the licensee. The board will issue a new original license after a name change upon receipt of a written request, the appropriate fee, and a copy of the legal document enacting the name change.

Source Note: The provisions of this §329.1 adopted to be effective November 16, 2000, 25 TexReg 11286; amended to be effective October 13, 2002, 27 TexReg 9326; amended to be effective November 30, 2003, 28 TexReg 10505.

§329.2. License by Examination.

(a) Requirements. An applicant applying for licensure by examination must:

(1) meet the requirements as stated in §329.1 of this title (relating to General licensure requirements and procedures); and

(2) pass the National Physical Therapy Exam (NPTE) for physical therapists or physical therapist assistants with the score set by the board. Score reports must be sent directly to the board by the authorized score reporting service.

(b) Notification of exam score. The board will notify applicants in writing of the exam score.

(1) If an applicant passes the exam, the board will include a permanent license with the score notification.

(2) If an applicant fails the exam, a re-examination application and fee is required for a subsequent examination.

(c) An applicant may take the examination for PT or PTA licensure only after the application process is complete and all requirements are met.

(d) Applying for licensure in more than one state. An applicant who applies for licensure by exam in another state, but does not receive a license from any other state, may apply for licensure by exam in Texas. The applicant must meet all other requirements for licensure in Texas, and must have the score report sent directly to the board from the authorized score reporting service.

(e) If an examinee has failed the physical therapy examination and wishes to take the physical therapist assistant examination, the examinee may apply under the Act, §453.203.

(f) Re-examination.

(1) First re-examination. An applicant who fails the exam the first time is eligible to take the examination a second time after submitting a re-exam application and fee.

(2) Second or subsequent re-examination. An applicant who fails the exam twice or more must complete additional education before taking the exam again. The amount of additional education is set forth in the attached chart. To be eligible to register for the exam again, the applicant must submit a letter that identifies the area(s) of weakness and describes the plan that addresses the weakness(s). The letter must be accompanied by proof that the additional education has been successfully completed. Additional education may be one or more of the following:

(A) A commercial review course.

(B) An individual tutorial. The completed tutorial must be signed by the tutor and notarized, and include the tutor's curriculum vitae. If the applicant is applying for a PT license, the tutor must be a licensed PT. If the applicant is applying for a PTA license, the tutor must be a licensed PT, or a licensed PTA who is associated with a Texas PTA program.

(C) Board-approved continuing education.

**ADDITIONAL EDUCATION REQUIREMENTS
FOR LICENSURE APPLICANTS WHO FAIL THE NATIONAL EXAMINATION**

Requirements based on: 1) number of failures AND 2) exam score (passing = 600)	Tutorial Hour Requirements	CEU Requirements
A. Applicants who fail the exam 2 or 3 times		
PT.....599 - 586 PTA.....599 - 584	25 hours tutorial	1.5 CEUs
PT.....585 - 566 PTA.....583 - 560	40 hours tutorial	2.0 CEUs
PT.....565 & below PTA.....560 & below	80 hours tutorial	4.0 CEUs
B. Applicants who fail the exam 4 times		
PT.....599 - 586 PTA.....599 - 584	50 hours tutorial	3.0 CEUs
PT.....585 - 566 PTA.....583 - 560	80 hours tutorial	4.0 CEUs
PT.....565 & below PTA.....560 & below	160 hours tutorial	8.0 CEUs
C. Applicants who fail the exam 5, 6, or 7 times		
PT.....599 - 586 PTA.....599 - 584		6.0 CEUs
PT.....585 - 566 PTA.....583 - 560		9.0 CEUs
PT.....565 & below PTA.....560 & below		15.0 CEUs
D. Applicants who fail the exam 8 or more times must repeat an accredited PT or PTA program.		

(g) Failure of PT exam. An applicant who fails the physical therapy examination may apply for licensure as a PTA and take the physical therapist assistant examination if he meets all other requirements for licensure.

(h) License upgrading. An applicant who was licensed under the grandfather clause may take the NPTE to upgrade his or her score. The applicant must submit a written request and the examination registration materials and the appropriate fee.

Source Note: The provisions of this §329.2 adopted to be effective November 16, 2000, 25 TexReg 11286; amended to be effective August 15, 2001, 26 TexReg 6021; amended to be effective September 18, 2006, 31 TexReg 8000.

§329.3. Temporary Licensure for Examination Candidates.

(a) Requirements. To be eligible for a temporary license, the applicant must:

- (1) meet all requirements as stated in §329.1 of this title (relating to General Licensure Requirements and Procedures);
- (2) meet all requirements as stated in §329.2 of this title (relating to Licensure by Examination);
- (3) submit notarized temporary supervision affidavits as provided by the board; and
- (4) submit fees for temporary licensure as set by the executive council.

(b) Eligibility. The board will issue a temporary license to an applicant who is taking the exam for the first time. An applicant who has received a license from another state is not eligible for temporary licensure. A candidate who has taken and failed the physical therapist examination is not eligible for temporary licensure as a physical therapist assistant.

(c) Duration. A temporary license is valid until the applicant receives the score report from the board, or until the last day of the third month after the month the license is issued, whichever occurs first. The coordinator may extend the temporary license for no more than 30 days to offset an unreasonable delay in reporting the examination results to the applicant.

(d) Failure of examination. If the applicant fails the exam, the temporary license is void and must be returned to the board when the notification of the failure is received.

(e) Supervision requirements. An applicant with a temporary PT license must have on-site supervision by a physical therapist with a permanent license when providing physical therapy services. An applicant with a temporary PTA license must have on-site supervision by either a physical therapist or a physical therapist assistant with a permanent license when providing physical therapy services.

Source Note: The provisions of this §329.3 adopted to be effective November 16, 2000, 25 TexReg 11286.

§329.5. Licensing Procedures for Foreign-Trained Applicants.

(a) The provisions of §329.1 of this title (relating to General Licensing Procedure) apply to foreign-trained applicants.

(b) If required by §343 of the U.S. Illegal Immigration Reform and Immigrant Responsibility Act, the foreign-trained applicant must present a prescreening certificate issued by a board-approved prescreening entity. The board will establish by policy a list of board-approved prescreening entities, which will be made available to foreign-trained applicants on request.

(c) The foreign-trained applicant's educational credentials and qualifications will be evaluated by a board-approved credentialing entity in accordance with the requirements of subsection (f) of this section. The board will establish by policy a list of approved credentialing entities. In the event that the credentialer does not adhere to the guidelines of subsection (f) of this section, the Board may override the evaluation. An evaluation by a board-approved education credentialing entity is valid for the purpose of licensing in this state for not more than two years after the date of issuance of the evaluation.

(d) After arrival in the United States, the applicant must submit a United States residential address and pay all remaining fees. Only after the applicant has arrived in the United States will the board approve registration for the national exam.

(e) Designated representative letter.

- (1) An applicant may designate a person as a representative by providing in writing to the board the name, telephone number, and address of the person and by stating in the letter that the person will be the designated representative for the applicant.

(2) This letter must be notarized by a notary of the country in which the applicant resides and sent directly to the board. A copy should be sent to the representative by the applicant.

(3) A designated representative may obtain confidential information regarding the application.

(4) A designated representative of an applicant will remain so until the applicant receives his permanent license or until the board is notified in writing by the applicant that the designated representative has been eliminated or replaced. An applicant may have only one designated representative at any time.

(5) The designated representative is not required by the board to have power of attorney for the applicant. A person who does have power of attorney for an applicant may not submit any document that is required by the board to be signed by the applicant and notarized. Documents submitted by a person with power of attorney for the applicant must be submitted in accordance with all requirements set by the Act and rules regarding these documents. Any falsification of documents required for licensing submitted by a designated representative or a person with power of attorney for the applicant may result in denial of license or other penalties to the applicant.

(f) Guidelines for board-approved education credentialing entities.

(1) The credentialing entity will review all of an applicant's post-secondary professional education credentials earned outside of the United States. The entity will evaluate allowable transfer credit for the 13th year based on recommendations of the National Council on the Evaluation of Educational Credentials or on current published reference materials. The applicant must have completed, with a passing grade of A, B, C, Pass or Credit, 60 semester hours credit or the equivalent in general education courses from an accredited institution of higher learning. This requirement may be met by credits earned at U.S. colleges or universities, by College Level Examination Program (CLEP) credits, or Advanced Placement (AP) according to standards of the American Council on Education. The number of credits earned by CLEP or AP may not exceed 12 semester credits.

(2) The credentialing entity must attest that the institution attended by the applicant has the recognition of the Ministry of Education or the equivalent in that country.

(3) All foreign-trained applicants must demonstrate the ability to communicate in English by making the minimum score accepted by the board on the TOEFL tests. This requirement is waived for graduates of entry-level physical therapy programs in Australia, Canada (except Quebec), Ireland, New Zealand and the United Kingdom, and for graduates of entry-level programs accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) at time of graduation. For graduates of entry-level physical therapy programs in other foreign countries, the Board may grant an exception to the TOEFL tests if the applicant holds a current license in physical therapy in another state and has been licensed in the U.S. for 10 years prior to application. The Board also may grant an exception to the TOEFL tests to an applicant who submits satisfactory proof that he/she is a citizen or lawful permanent resident of the United States, and has attended four or more years of secondary or post-secondary education in the U.S. Regarding the Paper-based and Computer-based TOEFL tests: If an applicant makes a score of 50 on the TSE, the board will allow the applicant to submit three original, notarized letters of recommendation from individuals who have practical knowledge of the applicant's ability to communicate successfully in spoken English. Individuals who provide this written testimony must be native English speakers, cannot be related by blood or marriage to the applicant, and at least one of the letters must be from a PT licensed to practice in Texas. These letters must be submitted by their authors directly to the board. At the board's discretion, the letters may be considered satisfactory evidence of proficiency in spoken English. Minimum acceptable scores for the TOEFL tests are as follow:

(A) Paper based TOEFL tests (pbt): TOEFL (reading/comprehension) 580; TWE (writing/essay) 5.0; TSE (speaking) 55.

(B) Computer-based TOEFL tests (cbt): TOEFL (reading/comprehension) 237; TWE (writing/essay) 5.0; TSE (speaking) 55.

(C) Internet-based (ibt): Writing 24; Speaking 26; Reading Comprehension 21; Listening Comprehension 18.

(4) The credentialing entity must attest that the applicant is or was licensed or authorized to practice in the country in which the entry-level degree in physical therapy was granted. If there is no licensure or authorization in such country, the applicant must be eligible for unrestricted practice there. The Board may waive this requirement for an applicant who is not licensed in the country of education due to a citizenship requirement of that country.

(A) If the application is by examination, the license or authorization in such country must be in good standing and the licensure current.

(B) If the application is by endorsement, and the applicant has passed the exam according to Texas standards, the license or other authorization must have been in good standing at the time the license or authorization in such country expired.

(5) The credentialing entity adopts the policy of "scaling" as defined by the National Council on the Evaluation of Foreign Educational Credentials, American Association of Collegiate Registrar and Admissions Officers, Washington D.C.; i.e., a year of foreign study is worth no more than a year of American study, regardless of contact hours, or general education is converted to equate to approximately 30-32 United States semester credit hours per year, and professional education to approximately 36 semester credit hours per year.

(6) The credentialing entity must use a method to convert classroom hours to semester units which has a ratio no greater than the following: 15 contact lecture hours = one semester unit/hour; 45 contact laboratory hours = one semester unit/hour. When lecture/lab hours are not delineated on the transcript or syllabi, the evaluator may use an appropriate ratio and indicate the ratio used in the evaluation.

(7) The credentialing entity must list and assign a grade for each course taken by the applicant, by assigning the grade of A, B, C, D, F, Pass, Fail, Credit or No Credit. Those grades assigned by the credentialing entity must be the grades that are converted to the U.S. equivalent, in accordance with the most current version of the National Association for Foreign Student Affairs Handbook on the Placement of Foreign Graduate Students. The credentialing entity must identify and list those courses which would not transfer to the U.S. as a C or above or Pass or Credit in accordance with the most current version of the National Association for Foreign Student Affairs Handbook on the Placement of Foreign Graduate Students. An applicant must earn a grade of A, B, C, or Pass or Credit in any professional physical therapy education courses. An applicant with a grade of D, F, Fail, or no credit appearing for a professional physical therapy education course on his/her evaluation who has not successfully retaken the course with a grade of A, B, C, Pass or Credit is not eligible for licensure in Texas.

(8) The credentialing entity must attest that the applicant has successfully completed an educational program substantially equivalent to U.S. programs accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) and has earned the equivalent of a minimum of 72 semester hours of professional physical therapy education. The program must be post-secondary, requiring for entry the equivalent of high school graduation in the United States; must consist of at least three years of classroom instruction; and must result in the award of the first academic diploma or degree leading to professional practice in physical therapy. The applicant must have completed courses in each of the following broad areas: basic sciences, clinical science, and physical therapy theory and procedures. The applicant must have also successfully completed United States required equivalent courses/hours in clinical

education. The applicant must have successfully completed at least 15 semester credit hours in clinical education (upper division level) but will receive credit for no more than 23 semester hours. If the applicant has completed the required course work in clinical education but the transcript does not reflect the required credit hours then the credentialing entity may use the conversion formula of 60 contact hours per one semester credit.

(9) If the degree awarded is substantially equivalent to a degree in physical therapy as awarded by CAPTE-accredited programs in regionally accredited colleges and universities in the United States, the credentialing entity must use the Coursework Evaluation Tool for Foreign Educated Physical Therapists (Coursework Evaluation Tool), as developed by the Federation of State Boards of Physical Therapy and modified by the Texas board, when evaluating an applicant's credentials. The version of the tool used must correspond at minimum to the year the entry-level degree was awarded. Deficiencies must be identified and must show the subjects and credit hours necessary to satisfy the requirements of the Coursework Evaluation Tool. If the degree received is from a CAPTE-accredited program located outside the U.S., the program is considered equivalent to a domestic CAPTE-accredited physical therapy program, and the applicant is exempt from meeting the requirements of the Coursework Evaluation Tool.

Source Note: The provisions of this §329.5 adopted to be effective November 11, 1993, 18 TexReg 7546; amended to be effective October 26, 1994, 19 TexReg 8112; amended to be effective January 3, 1995, 19 TexReg 10099; amended to be effective April 12, 1995, 20 TexReg 2385; amended to be effective November 6, 1995, 20 TexReg 8794; amended to be effective May 8, 1996, 21 TexReg 3709; amended to be effective July 12, 1996, 21 TexReg 6079; amended to be effective April 28, 1997, 22 TexReg 3589; amended to be effective October 29, 1997, 22 TexReg 10508; amended to be effective April 19, 1999, 24 TexReg 2936; amended to be effective October 21, 1999, 24 TexReg 8977; amended to be effective February 18, 2001, 26 TexReg 1338; amended to be effective August 15, 2001, 26 TexReg 6021; amended to be effective October 13, 2002, 27 TexReg 9327; amended to be effective March 29, 2004, 29 TexReg 3175; amended to be effective March 15, 2006, 31 TexReg 1299; amended to be effective September 18, 2006, 31 TexReg 8000; amended to be effective May 30, 2007, 32 TexReg 2862.

§329.6. Licensure by Endorsement.

(a) Eligibility. The board may issue a license by endorsement to an applicant currently licensed in another state, District of Columbia, or territory of the United States, if they have not previously held a permanent license issued by this board.

(b) Requirements. An applicant seeking licensure by endorsement must:

(1) meet the requirements as stated in §329.1 of this title (relating to General licensure requirements and procedures); and

(2) submit a passing score on the National Physical Therapy Examination sent directly to the board by the board-approved reporting service, or scores on the Registry Examination sent directly to the board by the American Physical Therapy Association. The applicant's score must meet one of the conditions listed in subparagraphs (A) - (C) of this paragraph:

(A) The applicant must have passed the national examination given on or after January 1, 1993, with the score required by the board for that exam.

(B) The applicant must have obtained a score of 1.5 standard deviations below the nationwide mean on an examination given prior to January 1, 1993.

(C) The applicant must have obtained a score of 75% or higher for the Registry Examination taken prior to September 1971; and

(3) submit verification of licensure in good standing from the licensing board in the jurisdiction in which the applicant is currently licensed. This verification must be sent directly to the board by the licensing board in that jurisdiction.

(c) Provisional licensure. The board may grant a provisional license under the conditions listed below. The applicant must submit the provisional license fee as set by the executive council, and meet all

other requirements of licensure by examination or endorsement as set by the board. The board may not grant a provisional license to an applicant with disciplinary action in their licensure history. The provisional license is valid for 180 days, or until a permanent license is issued or denied, whichever is first. The conditions under which the board may grant a provisional license are:

- (1) The applicant is applying for licensure by endorsement, and there is a delay in the submission of required documents outside the applicant's control; or
- (2) The applicant has previously held a Texas license and is currently licensed in another state that has licensing requirements substantially equivalent to those of Texas, but has not worked as a PT or PTA for the two years prior to application for a license in Texas, and must submit to reexamination to restore the Texas license (see §341.1, Requirements for Renewal).

Source Note: The provisions of this §329.6 adopted to be effective November 16, 2000, 25 TexReg 11286; amended to be effective December 29, 2002, 27 TexReg 12214.

CHAPTER 335. PROFESSIONAL TITLE

§335.1. Licensed Physical Therapist/Licensed Physical Therapist Assistant.

The licensed physical therapist may use the title physical therapist with the initials PT. The licensed physical therapist assistant may use the title physical therapist assistant with the initials PTA.

Source Note: The provisions of this §335.1 adopted to be effective March 1, 1986, 11 TexReg 724.

CHAPTER 337. DISPLAY OF LICENSE

§337.1. License and Renewal Certificate.

Displayed reproduction of the original license and/or the biennial renewal certificate is unauthorized. The original license and renewal certificate must be displayed in the principal place of practice. The wallet-sized certificate of license renewal may be presented for identification. Reproduction of the original license and/or renewal certificate is authorized for institutional file purpose only.

Source Note: The provisions of this §337.1 adopted to be effective March 1, 1986, 11 TexReg 724; amended to be effective November 11, 1993, 18 TexReg 7551.

§337.2. Consumer Information Sign.

(a) There shall at all times be prominently displayed in the place of business of each licensee a sign containing the name, mailing address, and telephone number of the board and a statement informing consumers that complaints against licensees can be directed to the board.

(b) The consumer information sign shall read: Complaints regarding non-compliance with the Texas Physical Therapy Practice Act can be directed to Texas Board of Physical Therapy Examiners, 333 Guadalupe Suite 2-510, Austin, Texas 78701, 800-821-3205 (toll free, for complaints only) or 512-305-6900. The minimum size of the sign shall be five inches by seven inches.

Source Note: The provisions of this §337.2 adopted to be effective March 1, 1986, 11 TexReg 724; amended to be effective September 28, 1988, 13 TexReg 4576; amended to be effective February 18, 1992, 17 TexReg 940; amended to be effective May 8, 1996, 21 TexReg 3709.

CHAPTER 339. FEES

§339.1. Fees.

Fees are set by the executive council and may be subject to change by the legislature.

Fees paid to the board or executive council may be in the form of a personal check, cashier's check, money order, or other certified funds.

NOTE: For the list of current fees, see Chapter 651, Fees, Executive Council of Physical Therapy and Occupational Therapy Examiners, included at the end of the rules.

Source Note: The provisions of this §339.1 adopted to be effective November 30, 1981, 6 TexReg 4246; amended to be effective September 1, 1984, 9 TexReg 4284; amended to be effective December 30, 1987, 12 TexReg 4683; amended to be effective December 12, 1989, 14 TexReg 6278; amended to be effective June 5, 1992, 17 TexReg 3783; amended to be effective November 11, 1993, 18 TexReg 7551; amended to be effective November 16, 2000, 25 TexReg 11288.

CHAPTER 341. LICENSE RENEWAL

§341.1. Requirements for Renewal.

(a) Biennial renewal. Licensees are required to renew their licenses every two years by the end of the month in which they were originally licensed. A licensee may not provide physical therapy services without a current license or renewal certificate in hand. If a license expires after all required items are submitted, but before the licensee receives the renewal certificate, the licensee may not provide physical therapy services.

(b) General requirements. The renewal application is not complete until all required items are received by the board. The components required for license renewal are:

- (1) a signed renewal application form or the online equivalent, documenting completion of board-approved continuing education (CE), as described in <*>341.2 of this title, concerning Continuing Education;
- (2) the renewal fee, and any late fees which may be due; and
- (3) a passing score on the jurisprudence examination.

(c) Notification of license expiration. The board will send notification to each licensee at least 30 days prior to the license expiration date. The licensee bears the responsibility for ensuring that the license is renewed.

(d) Late renewal. A renewal application is late if all required items are not postmarked prior to the expiration date of the license. Licensees who do not submit all required items prior to the expiration date are subject to late fees as described.

- (1) If the license has been expired for 90 days or less, the late fee is one-half of the examination fee for the license.
- (2) If the license has been expired for more than 90 days but less than one year, the late fee is equal to the examination fee for the license. Licensees who are more than 90 days late in renewing a license are not included in the audit, and must submit documentation of continuing education at time of renewal.
- (3) If the license has been expired for one year or longer, the person may not renew the license. To obtain a new license, the applicant must take and pass the national examination again and

comply with the requirements and procedures for obtaining an original license set by <*>329.1 of this title (relating to General Licensure Procedure).

Source Note: The provisions of this §341.1 adopted to be effective February 18, 2001, 26 TexReg 1339; amended to be effective August 15, 2001, 26 TexReg 6022; amended to be effective September 18, 2005.

§341.2. Continuing Education Requirements.

- (a) All continuing education (CE) submitted to satisfy renewal requirements must be board-approved, as established in §341.3 of this title, concerning Qualifying Continuing Education.
- (b) For each biennial renewal, physical therapists must complete a total of 30 hours of CE; physical therapist assistants must complete a total of 20 hours of CE.
- (c) CE taken to fulfill renewal requirements must be taken within the 24 months prior to the license expiration date.
- (d) Effective January 1, 2001, all licensees must take two hours of board-approved programs in ethics and professional responsibility as part of their total CE requirement.
- (e) The executive council will conduct an audit of a random sample of licensees at least quarterly to determine compliance with CE requirements. Failure to maintain accurate documentation, or failure to respond to a request to submit documentation for an audit within 30 days of the date on the request, may result in disciplinary action by the board. Licensees who are more than 90 days late in renewing a license are not included in the audit, and must submit documentation of continuing education at time of renewal. The board or its committees may request proof of CE claimed for renewal purposes at any time from any licensee.
- (f) The licensee must retain original completion documents, certificates, or college or university transcripts and syllabi for four years as specified in §341.3 of this title.

Source Note: The provisions of this §341.2 adopted to be effective February 18, 2001, 26 TexReg 1339; amended to be effective August 15, 2001, 26 TexReg 6022; amended to be effective February 17, 2005, 30 TexReg 717.

§341.3. Qualifying Continuing Education.

- (a) Continuing education for the profession of physical therapy is a structured process of education designed or intended to support the continuous development of physical therapists and physical therapist assistants, and to maintain and enhance their professional competence. Continuing education is professional education that goes beyond their entry-level education and is applicable to the practice of physical therapy.
- (b) Programs offered as continuing education (CE).
 - (1) One CEU is defined as ten contact hours.
 - (2) Program content and structure must be approved by the board-approved organization. Programs must meet the following criteria:
 - (A) Program content must be easily recognizable as pertinent to the physical therapy profession and in the areas of ethics, professional responsibility, clinical application, clinical management, behavioral science, science, or risk management.
 - (B) The content must be identified by instructional level, i.e., basic, intermediate, advanced. Program objectives must be clearly written to identify the knowledge and skills the participants should acquire and be consistent with the stated instructional level.
 - (C) The instructional methods related to the objectives must be identified and be consistent with the stated objectives.

(D) Programs must be presented by a licensed health care provider, or by a person with appropriate credentials and/or specialized training in the field.

(E) Program providers are prohibited from self-promotion of programs, products, and/or services during the presentation of the program.

(F) The participants must evaluate the program. A summary of these evaluations must be made available to the board-approved organization upon request.

(G) Records of each licensee who participates in the program must be maintained for four years by the CE sponsor and must be made available to the board-approved organization upon request.

(3) CE programs subject to §341.3(b) include the following:

(A) Traditional on-site CE programs.

(i) Documentation for CE programs must include the name and license number of the licensee; the title, sponsor, date(s), and location of the course; the number of CEUs awarded, the signature of an authorized signer, and the program approval number.

(ii) If selected for audit, the licensee must submit the specified documentation.

(B) Home study CE programs (hard copy or web-based).

(i) Documentation must include the name and license number of the licensee; the title, sponsor, date(s), and instructional format of the course; the number of CEUs awarded, the signature of an authorized signer, and the program approval number.

(ii) If selected for audit, the licensee must submit the specified documentation.

(C) Regular inservice-type CE programs over a one-year period where individual sessions are 2 hours or less.

(i) Documentation must include the name and license number of the licensee; the title, sponsor, date(s), and location of the inservice; the signature of an authorized signer, and the program approval number with the maximum CEUs granted and the CEU value of each session or group of sessions specified and justified.

(ii) Additionally, proof of attendance to any or all inservice sessions must be provided so that individual CEUs earned can be calculated by the program sponsor for submission to the board-approved organization.

(iii) If selected for audit, the licensee must submit the specified documentation.

(D) Large conferences with concurrent CE programming.

(i) Documentation must include the licensee's name and license number; title, sponsor, date(s); and location of the conference; the number of CE units awarded, the signature of an authorized signer, and the course approval number.

(ii) If selected for audit, the licensee must submit the specified documentation and proof of attendance.

(c) College or university courses.

(1) College or university courses easily recognizable as pertinent to the physical therapy profession and in the areas of ethics, professional responsibility, clinical application, clinical

management, behavioral science, science, or risk management may be submitted by licensees for consideration of their CE requirement.

(A) Documentation required for submission includes the course syllabus for each course and an official transcript. To be considered, the course must be at the appropriate educational level for the physical therapist or physical therapist assistant.

(B) The licensee should submit the request to the board-approved organization at least 60 days prior to the license expiration date.

(2) One (1.0) CEU is credited for each satisfactorily (grade of C or higher) completed credit hour. If course contact hours are specified in the syllabus, 1.0 CEU is credited for every 10 contact hours in courses where the licensee earned a grade of C or higher.

(3) Documentation must include the approval letter from the board-approved organization. If selected for an audit, the licensee must submit the specified documentation.

(4) College or university sponsored CE programs (no grade, no official transcript) must comply with §341.3(b) of this title.

(d) Self-directed study.

(1) Publications.

(A) Publication(s) pertinent to physical therapy and in the areas of ethics, professional responsibility, clinical application, clinical management, behavioral science, science, or risk management written for the professional or lay audience published within the 24 months prior to the license expiration date may be submitted by the author(s) for consideration of their CE requirement. The author(s) are prohibited from self-promotion of programs, products, and/or services in the publication.

(B) Publication(s) must be approved and CEU value determined by the board-approved organization.

(C) Maximum CEU values for types of original publications are as follows:

(i) A newspaper article may be worth up to 0.3 CEU.

(ii) A regional/national magazine article may be worth up to 1.0 CEU.

(iii) A case study in a peer reviewed publication, monograph, or book chapter(s) may be worth up to 2 CEUs.

(iv) A research article in a peer reviewed publication or an entire book may be worth up to 3.0 CEUs.

(D) The request and final publication(s) should be sent to the board-approved organization at least 60 days prior to the license expiration date. In the event that the publication's release will occur in the 60 days prior to the license expiration date, the author(s) may submit the request, publication in revision form, and letter from the publisher or editor which includes the expected publication release date. In the event that the publication is an entire book or book chapter(s), the author must submit the following: title page, copyright page, entire table of contents, preface or forward if present, and one book chapter authored by the licensee.

(2) Program/Course development, consultation, or teaching.

(A) First time development or presentation of, and teaching or consultation in, programs such as institutes, seminars, workshops, conferences, and college or university courses which are designed to increase professional knowledge in the field of physical therapy or other related fields may be submitted for consideration of the CE requirement. CEUs are

not available for subsequent development, consultation, or teaching of the same CE program or college or university course.

(B) Program/Course development, consultation, or teaching must be approved and CEU value determined by the board-approved organization.

(C) Maximum CEU value cannot exceed twice the value of the CE program or college or university course.

(D) The licensee should submit the request with explanation and evidence of the licensee's roles and responsibilities, along with the CE program approval number, to the board-approved organization at least 60 days prior to the license expiration date. In the event that the licensee is requesting approval for activities not associated with an approved CE program, the licensee must submit the request along with the program/course objectives, outline, date(s), and location(s).

(3) Residencies, Fellowships, and Examinations.

(A) The successful completion of a specialty examination may be submitted for consideration for the CE requirement. A list of the specialty examinations that qualify for CE will be maintained by the board.

(B) The successful completion of an American Physical Therapy Association credentialed residency or fellowship program may be submitted for consideration for the CE requirement.

(C) The successful completion of an examination of the Federation of State Boards of Physical Therapy pertaining to continued competence may be submitted for consideration for the CE requirement excluding any examination for initial licensure or examination required as a part of a disciplinary action.

(D) Maximum CEU values for Residencies, Fellowships, and Examinations shall be as follows but shall not meet the Ethics CEU requirement for license renewal:

(i) Successful completion of a specialty examination shall be worth up to 3.0 CEUs.

(ii) Successful completion of an American Physical Therapy Association credentialed residency or fellowship program shall be worth up to 3.0 CEUs.

(iii) Successful completion of an examination of the Federation of State Boards of Physical Therapy pertaining to continued competence shall be worth up to 1.5 CEUs.

(E) The licensee should submit the request to the board-approved organization with explanation and evidence designated by the Board to verify successful completion of the residency, fellowship, or examination.

(4) Documentation for self-study CE must include supporting evidence for application to the board-approved organization and the resulting approval letter. If selected for audit, the licensee must submit the specified documentation.

(e) Approval of continuing education programs, college or university courses, or self-study by the board-approved organization.

(1) Pursuant to a Memorandum of Understanding (MOU) with the board, the Texas Physical Therapy Association (TPTA) shall act as the board-approved organization and shall be authorized to evaluate and approve continuing education programs, college or university courses, or self-study for purposes of compliance with mandatory CE requirements as set by the board. This authority shall include authority to give, deny, withdraw and limit approval of

programs, college or university courses, or self-study, and to charge and collect fees as set forth in the MOU and in the statute and rules governing the board and the practice of physical therapy in Texas.

(2) To be recognized as qualifying continuing education, a program, college or university course, or self-study must be evaluated and approved by the TPTA. A program may be approved before or after the licensee attends it.

(3) To apply for program approval, the licensee or program sponsor must submit a fee as approved by the board with the CE approval application and any additional documentation as specified in §341.3 to the TPTA. Interested parties may contact the TPTA in Austin, Texas, 512/477-1818, www.tpta.org. College or university courses are exempt from fees.

(4) A program may be provided more than one time and at different locations within one year from the date that it is first offered without payment of additional fees.

(5) Sponsors of approved programs may use the following statement in publicity: "This course has been approved by the Texas Board of Physical Therapy Examiners as meeting continuing education requirements for physical therapists and physical therapist assistants."

(6) Interested parties may contact the TPTA to inquire if a particular program is approved. A list of approved programs is available on the TPTA web site.

(7) Pursuant to the MOU, the TPTA shall provide quarterly reports to the board of its activities. Additionally, the TPTA shall report to the board the results of periodic quality assurance follow-up or review of a representative sample of approved continuing education programs. In the event of sponsor noncompliance, results will be reported to the board in writing for further investigation and direction.

Source Note: The provisions of this §341.3 adopted to be effective November 11, 1993, 18 TexReg 7552; amended to be effective April 12, 1995, 20 TexReg 2386; amended to be effective May 8, 1996, 21 TexReg 3797; amended to be effective February 13, 2000, 25 TexReg 779; amended to be effective November 16, 2000, 25 TexReg 11288; amended to be effective February 17, 2005, 30 TexReg 717; amended to be effective March 5, 2007, 32 TexReg 1074.

§341.5. Waiver of Continuing Education Units (CEUs).

CEUs required for renewal of a license may be waived by the board because of hardship for health and medical problems that prevent a licensee from obtaining the CEUs. Waiver requests must be submitted prior to license expiration. The license cannot be renewed until the waiver has been approved by the Board.

Source Note: The provisions of this §341.5 adopted to be effective November 11, 1993, 18 TexReg 7552; amended to be effective March 2, 2006.

§341.6. License Restoration.

(a) Eligibility. A person whose license has been expired for one year or longer may restore the license without reexamination if she or he holds a current license in another state, and has actively practiced in another state, for the two years preceding the application for restoration.

(b) Duration. When a license is restored, the expiration date will be calculated using the original month of issuance. The restored license will be valid for no less than one year, and no more than two years, from the date of issuance.

(c) Requirements. The components required for restoration of a license are:

- (1) a notarized restoration application;
- (2) a passing score on the jurisprudence examination;
- (3) a fee equal to the cost of the examination fee for licensure;

- (4) Verification of Licensure from the current licensed state for the two years preceding the application; and
- (5) a history of employment for the two years preceding the application.

Source Note: The provisions of this §341.6 adopted to be effective February 18, 2001, 26 TexReg 1339.

§341.7. Restrictions on License Renewal and Restoration.

- (a) The board will not renew a license if a licensee has defaulted on a loan from the Texas Guaranteed Student Loan Corporation (TGSLC). Upon notice from TGSLC that a repayment agreement has been established, the license shall be renewed.
- (b) The board will not renew a license if a licensee has defaulted on court or attorney general's notice of child support. Upon receipt of notification that a repayment agreement has been established, the license shall be renewed.

Source Note: The provisions of this §341.7 adopted to be effective February 18, 2001, 26 TexReg 1339.

§341.8. Inactive Status.

- (a) Inactive status indicates the voluntary termination of the right or privilege to practice physical therapy in Texas. The Board may allow a licensee who is not actively engaged in the practice of physical therapy in Texas to inactivate the license instead of renewing it at time of renewal. A licensee may remain on inactive status for no more than six consecutive years.
- (b) Requirements for initiation of inactive status. The components required to put a license on inactive status are:
 - (1) a signed renewal application form, documenting completion of board-approved continuing education (CE) for the current renewal period, as described in §341.2 of this title, concerning Continuing Education;
 - (2) the inactive fee, and any late fees which may be due; and
 - (3) a passing score on the jurisprudence exam.
- (c) Requirements for renewal of inactive status. An inactive licensee must renew the inactive status every two years. The components required to maintain the inactive status are:
 - (1) a signed renewal application form, documenting completion of board-approved continuing education (CE) for the current renewal period, as described in §341.2 of this title, concerning Continuing Education;
 - (2) the inactive renewal fee, and any late fees which may be due; and
 - (3) a passing score on the jurisprudence exam.
- (d) Requirements for reinstatement of active status. A licensee on inactive status may request a return to active status at any time. After the licensee has submitted a complete application for reinstatement, the board will send a renewal certificate for the remainder of the current renewal period to the licensee.
 - (1) The components required to return to active status are:
 - (A) a signed renewal application form, documenting completion of board-approved continuing education (CE) for the current renewal period, as described in §341.2 of this title, concerning Continuing Education;
 - (B) the renewal fee, and any late fees which may be due; and
 - (C) a passing score on the jurisprudence exam.

(2) The Board will allow the licensee to substitute one of the following actions for the continuing education requirements:

- (A) re-take and pass the national licensure exam;
- (B) attend a university review course pre-approved by the board; or
- (C) complete an internship (equal to 150 hours of continuing education) pre-approved by the board.

(e) Licensees on inactive status are subject to the audit of continuing education as described in §341.2 of this title, concerning Continuing Education Requirements.

Source Note: The provisions of this §341.8 adopted to be effective February 18, 2001, 26 TexReg 1339; amended to be effective August 15, 2001, 26 TexReg 6022.

§341.9. Retired Status.

(a) Retired status means that a licensee is providing physical therapy services only in the domain of voluntary charity care.

(b) As used in the section:

(1) "voluntary charity care" means physical therapy services provided for no compensation as a volunteer of a charitable organization as defined in §84.003 of the Texas Civil Practice and Remedies Code. Charitable organizations include any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization promoting the common good and general welfare for the people in a community, including these types of organizations with a §501.(c)(3) or (4) exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(2) "compensation" means direct or indirect payment of anything of monetary value.

(c) To be eligible for retired status, a licensee must hold a current license on active or inactive status.

(d) Requirements for initiation of retired status. The components required to put a license on retired status are:

- (1) a completed and notarized retired status application form;
- (2) completion of board-approved continuing education (CE) for the current renewal period;
- (3) the retired status fee and any late fees which may be due; and
- (4) a passing score on the jurisprudence exam.

(e) Requirements for renewal of retired status. A licensee on retired status must renew the retired status every two years on his/her license renewal date. The components required to renew the retired status are:

- (1) a completed retired status application form;
- (2) completion of six hours of board-approved continuing education (CE) by both PTs and PTAs;
- (3) the retired status renewal fee, and any late fees which may be due; and
- (4) a passing score on the jurisprudence exam.

(f) Requirements for return to active practice. A licensee who has been on retired status for less than one year must submit the regular license renewal fee and the late fee as described in §341.1, Requirements for Renewal. A licensee who has been on retired status for more than one year must

retake and pass the national licensure examination to return the license to active status. The components required to return the license to active status are:

- (1) a completed and notarized application;
- (2) a fee equal to the license application fee;
- (3) a passing score on the retake of the national examination, and
- (4) a passing score on the jurisprudence exam.

(g) A license may be maintained on retired status indefinitely.

(h) A licensee on retired status may use the designation "PT, retired" or "PTA, retired", as appropriate.

(i) Licensees on retired status are subject to the audit of continuing education as described in §341.2 of this title, concerning Continuing Education Requirements.

(j) Licensees providing voluntary charity care are subject to disciplinary action under the Physical Therapy Practice Act.

Source Note: The provisions of this §341.9 adopted to be effective September 18, 2006, 31 TexReg 8000.

§341.20. Licensees Called to Active Military Service.

(a) **Renewal.** A licensee who is a member of the reserves and called to active military service must submit renewal fees within 90 days after active service has ended if their license expired within the months of active service. The regular renewal month will not change. The licensee must submit official documentation of active service and its inclusive dates.

(b) Continuing education units (CEUs).

(1) A licensee who is a member of the reserves and called to active military service will have his/her CEUs prorated in proportion to the number of months of documented active service.

(2) A licensee whose license expires during the period of active service will be given a complete waiver of CEUs for the past renewal period, and CEUs for months of documented active service in the current renewal cycle will be prorated.

(3) All licensees must take two hours of board-approved programs in ethics and professional responsibility as part of their total CE requirement, which cannot be prorated.

Source Note: The provisions of this §341.20 adopted to be effective November 11, 1993, 18 TexReg 7552; amended to be effective September 18, 2005, 30 TexReg 5801.

§341.21. Report of Malpractice Claims or Actions or Disciplinary Actions.

Each licensee shall submit a copy of any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state to the board within 30 days after such occurrences.

Source Note: The provisions of this §341.21 adopted to be effective April 12, 1995, 20 TexReg 2386.

CHAPTER 342. OPEN RECORDS

§342.1. Open Records.

(a) Open record requests. Inspection of Public Records under the Texas Open Records Act, Texas Civil Statutes, Title 5, Government Code, Chapter 552, provides that all of the records of the board are public records and are available for public inspection during normal business hours except that

investigative files and records of the board are confidential. In addition, the exceptions to disclosure in Government Code, Chapter 552 may protect certain information. This rule is promulgated pursuant to Government Code, Chapter 552 to establish a records review process that is efficient, safe, and timely to the public and to the agency.

- (1) Requests must be in writing and reasonably identify the records requested.
- (2) Records access will be by appointment only.
- (3) Records access is available only during the regular business hours of the agency.
- (4) Unless confidential information is involved, review may be by physical access or by duplication at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will be provided the option of receiving copies. Costs of duplication shall be the responsibility of the requesting party in accordance with the established board fee policy, payable at the time of receipt of records, if a person; or in advance, if by mail. The board may, in its discretion, waive fees if it is in the public interest to do so.
- (5) When the safety of any public record is at issue, physical access may be denied and the records will be provided by duplication as previously described.
- (6) Confidential files will not be made available for inspection or for duplication except under certain circumstances, e.g., court order.
- (7) All open records request appointments will be referred to the executive director or designee before complying with a request.
- (8) The open records coordinator for the agency is the executive director and the alternate is the director's designee.

(b) Charges for copies of public records. The charge to any person requesting reproductions of any readily available record of the Texas State Board of Physical Therapy Examiners will be the charges established by the General Services Commission.

(c) The board may waive these charges if there is a public benefit. The executive director of the Executive Council of Physical Therapy and Occupational Therapy Examiners is authorized to determine whether a public benefit exists on a case by case basis.

Source Note: The provisions of this §342.1 adopted to be effective November 11, 1993, 18 TexReg 7553; amended to be effective October 26, 1994, 19 TexReg 8113.

CHAPTER 343. CONTESTED CASE PROCEDURE

§343.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **Act**--The Texas Physical Therapy Practice Act, Texas Civil Statutes, Article 4512e.
- (2) **Agency**--The Board of Physical Therapy Examiners.
- (3) **APTRA**--The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.
- (4) **Applicant**--A qualified individual who presents application for licensure as a physical therapist or physical therapist assistant or for reinstatement of a previously suspended or revoked license.
- (5) **Board**--The members of the Board of Physical Therapy Examiners who are appointed pursuant to Texas Civil Statutes, Article 4512e.

- (6) **Board order**--A final decision of the board issued in a contested proceeding or in lieu of such proceeding, which may include findings of fact and conclusions of law, separately stated.
- (7) **Complaint**--A sworn statement of allegations filed with the board which includes a statement of the matters asserted and reference to the particular sections of the statutes and rules involved, the filing of which initiates a contested case proceeding.
- (8) **Contested case**--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing.
- (9) **Disciplinary action**--Imposition of a sanction by the board which may include reprimand, suspension, probation, or revocation of a license, or other appropriate requirements.
- (10) **Executive director**--The executive director of the Board of Physical Therapy Examiners.
- (11) **Licensee**--A person who holds a license either permanent or temporary under the Physical Therapy Practice Act.
- (12) **Moral turpitude**--Baseness, vileness, or dishonesty of a high degree.
- (13) **Notice**--A statement of intended date, time, place, and nature of a hearing, and the legal authority and jurisdiction under which a hearing is to be held. Notice may include a formal complaint filed to initiate a contested case proceeding.
- (14) **Party**--Each person with a sufficient legal, economic, or other interest to be named or admitted as such by the agency to a contested case proceeding before the agency.
- (15) **Probation**--Each person whose license is suspended is placed on probation for the length of the suspension.
- (16) **Reinstatement**--The individual with a revoked license must demonstrate or supply evidence to the board of his or her rehabilitation or current fitness to hold a license. Reinstatement petitions shall be considered no sooner than 180 days after the revocation order becomes final and enforceable.
- (17) **Reprimand**--A public and formal censure against a license.
- (18) **Respondent**--A person who has been made the subject of a formal or informal complaint alleging violation of the Texas Physical Therapy Practice Act or rules, regulations, or orders of the Board of Physical Therapy Examiners.
- (19) **Revocation**--The withdrawal or repeal of a license. Revocation is established for minimum period of one year.
- (20) **Staff**--The investigative staff of the Board of Physical Therapy Examiners.
- (21) **Suspension**--The temporary withdrawal of a license. The board may suspend for one day or a designated number of years or until a specified event occurs.

Source Note: The provisions of this §343.1 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.2. Denial of a License and Disciplinary Actions by the Board.

The board has the authority to deny an applicant a license or to suspend or revoke a license, to reprimand or otherwise discipline a licensee, or to place on probation a licensee whose license has been suspended. If a license is suspended, the licensee is placed on probation for the duration of the suspension.

Source Note: The provisions of this §343.2 adopted to be effective January 7, 1992, 16 TexReg 7645; amended to be effective January 12, 1993, 18 TexReg 64.

§343.5. Licensure of Persons with a History of Substance Abuse.

(a) The board may deny a license to or discipline an applicant/respondent who has been found to have a history of substance abuse.

(b) In review of a complaint alleging intemperate use of drugs or alcohol by a respondent/applicant, the board shall consider the following evidence in determining the respondent's/applicant's present fitness to practice physical therapy:

- (1) documentation demonstrating the degree of sobriety obtained;
- (2) documentation showing completion of a drug or alcohol rehabilitation program;
- (3) evidence of participation in board-accepted aftercare;
- (4) a current status report from a drug/alcohol abuse counselor or board-accepted aftercare sponsor; and
- (5) notarized letters of recommendation.

(c) The burden to provide the foregoing documentation to the board shall be solely at the expense of the respondent/applicant.

(d) Provided that the licensee participates in a substance abuse recovery program acceptable to the board, the license may continue on a probationary status with conditions set forth by the full board. Failure to comply and maintain the complete condition of the probation will cause immediate revocation of the license.

Source Note: The provisions of this §343.5 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.6. Other Grounds for Denial of a License or Discipline of a Licensee.

(a) Grounds for the board to deny a license to or discipline an applicant/respondent may include the following:

- (1) attempting to obtain or obtaining a license by fraud, falsification, or deception of an application or examination procedure; or
- (2) having a license to practice physical therapy or a license to practice another health care profession revoked or suspended or had other disciplinary action taken against him or had his application for license refused, revoked, or suspended by the proper licensing authority of another state, territory, or nation;
- (3) failure to meet the qualifications for licensure as set forth in the Act, §§8, 9, or 10, as applicable, and/or to any other rules or procedures set forth by the board relating to these sections;
- (4) cheating on the national examination.

(b) If the board determines that an applicant has falsified his application for licensure in regard to any of the documents or procedures of the licensing process, a license may be denied.

Source Note: The provisions of this §343.6 adopted to be effective January 7, 1992, 16 TexReg 7645; amended to be effective January 12, 1993, 18 TexReg 64; amended to be effective November 11, 1993, 18 TexReg 7554.

§343.7. Gross Negligence in the Practice of Physical Therapy.

(a) The board may deny a license to or discipline an applicant/respondent who is found grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant.

(b) Gross negligence may include, but is not limited to, the provision of physical therapy which the therapist knew or should have known would result in severe physical injury or death of a patient.

Source Note: The provisions of this §343.7 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.8. Licensure of Persons with a History of Voluntary or Involuntary Psychiatric Hospitalization.

(a) The board may deny a license to or discipline an applicant/respondent who has been adjudged mentally incompetent by a court of competent jurisdiction.

(b) In review of a complaint alleging that the respondent/applicant has a history of voluntary or involuntary psychiatric hospitalization, the board shall consider the following evidence in determining the respondent's/applicant's present fitness to practice physical therapy:

- (1) conduct and work activity of the person prior to and after hospitalization;
- (2) documentation to indicate that the person is presently in good mental health. Specifically, a current psychological/psychiatric evaluation, which shall include such information as the agency may require;
- (3) a current status report from a counselor, therapist, or physician; and
- (4) notarized letters of recommendation.

(c) The burden to provide the foregoing documentation to the board shall be solely at the expense of the respondent/applicant.

Source Note: The provisions of this §343.8 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.9. Licensure of Persons with Criminal Convictions.

(a) The board may revoke or suspend an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the practice of physical therapy. Those crimes which the board considers to be directly related to the duties and responsibilities of a licensed physical therapist or physical therapist assistant shall include, but are not limited to:

- (1) any felony which involves an act of fraud, dishonesty, or deceit;
- (2) any criminal violation of the Physical Therapy Practice Act or other statutes regulating or pertaining to physical therapy or the medical profession;
- (3) any crime involving moral turpitude;
- (4) murder;
- (5) assault;
- (6) burglary;
- (7) robbery;
- (8) theft;
- (9) rape or sexual abuse;
- (10) patient/client abuse;
- (11) injury to an elderly person;
- (12) child molestation, abuse, endangerment, or neglect;
- (13) felony conviction for driving while intoxicated, driving under the influence of alcohol or drugs, or driving while ability is impaired;

(14) sale, distribution, or illegal possession of narcotics, controlled substances, or dangerous drugs;

(15) tampering with a governmental record;

(16) offenses which include attempting or conspiring to commit any of the offenses in this subsection.

(b) In determining whether a crime not listed previously relates to physical therapy, the board will consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to practice physical therapy;

(3) the extent to which a license might offer opportunities to engage in further criminal activity of the same type as that in which the person was previously engaged; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and to discharge the responsibilities of a physical therapist or physical therapist assistant.

(c) In review of a complaint alleging that the respondent/applicant has been convicted of a crime which directly relates to the duties and responsibilities of a physical therapist or physical therapist assistant, the board shall consider the following evidence in determining the respondent's/applicant's present fitness to practice physical therapy:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of commission of the crime;

(3) conduct and work activity of the person prior to and after criminal activity;

(4) evidence of rehabilitation while incarcerated or following release;

(5) notarized letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; letters from the sheriff or chief of police where the person resides; and other persons having contact with the convicted person; and

(6) records of steady employment, provision for dependents, payment of all court costs, supervision fees, fines, and restitution if ordered as a result of the person's conviction.

(d) The burden and expense of providing and presenting the foregoing documentation to the board shall be solely that of the respondent/applicant.

(e) A licensee or applicant is required to report to the board a felony of which he is convicted within 60 days after the conviction occurs.

Source Note: The provisions of this §343.9 adopted to be effective January 7, 1992, 16 TexReg 7645; amended to be effective January 12, 1993, 18 TexReg 64.

§343.20. Subpoenas.

The board or its designee shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses, the production of books, records, and documents; to administer oaths and to take testimony concerning all matters within its jurisdiction.

Source Note: The provisions of this §343.20 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.21. Witness Fees and Expenses.

A witness who is not a party to the proceeding and who is subpoenaed to appear at a deposition or hearing or to produce documents, records, or other tangible things, shall receive reimbursement for expenses incurred in complying with the subpoena. Reimbursement shall be based on the minimum set forth in the Administrative Procedure and Texas Register Act (APTRA) or the State of Texas Travel Allowance Guide issued by the Comptroller of Public Accounts, whichever is greater. Said amount shall be paid by the party at whose request the witness is subpoenaed.

Source Note: The provisions of this §343.21 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.22. Service of Notice.

Service of notice of hearing or investigation on the respondent/applicant shall be complete and effective if the document to be served is sent by registered or certified mail to the respondent/applicant at his or her most recent address as shown in the records of the board. Service by mail shall be complete upon deposit of the paper enclosed in a post paid properly addressed wrapper in a post office or official depository under the care and custody of the United States Postal Service.

Source Note: The provisions of this §343.22 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.23. Hearings.

(a) The State Office of Administrative Hearings (SOAH) shall conduct all administrative hearings in contested cases under the Administrative Procedure Act (APA) that are before the board.

(b) Transcription of hearing. Each hearing will be recorded by a court reporter.

(1) The cost of the transcription shall be borne by the person making the request.

(2) A party who appeals a final decision of the board shall pay all of the cost of preparation of the original and any certified copy of the record of the agency proceeding that is required to be transmitted to the reviewing court.

Source Note: The provisions of this §343.23 adopted to be effective January 7, 1992, 16 TexReg 7645; amended to be effective October 26, 1994, 19 TexReg 8113.

§343.24. Payment of Costs for a Contested Case Hearing Resulting in the Discipline of a Licensee or the Denial of an Application for License.

(a) A contested case hearing on the denial of an application must be requested in writing to the board.

(b) A person whose application for a license has been denied by the staff or a licensee who has been found in violation of the Act or rules as a result of a contested case hearing will be required to submit a fee for costs to the board. The costs will be those fees billed by SOAH to the board for conducting the hearing and rendering the proposal for final decision.

Source Note: The provisions of this §343.24 adopted to be effective October 26, 1994, 19 TexReg 8113.

§343.25. Continuance.

A licensee who has been served with proper notice of hearing may make a motion to the board for a continuance of the said hearing in writing. Said motion shall be supported by a sworn affidavit detailing the reasons for the continuance and must be received in the board office no later than five days prior to the set hearing date.

Source Note: The provisions of this §343.25 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.26. Commutation of Time.

(a) Computing time. In computing any period of time prescribed or allowed by order or directive of the agency, or by any applicable statute, unless otherwise specified, the period shall begin on the day after the act or event in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next business day which is neither a Saturday, Sunday, nor a legal holiday.

(b) Extension. Unless otherwise provided by statute, the time for filing any pleading, motion, or request may be extended by order of the executive director, upon written motion filed prior to the expiration of the applicable period of time for the filing of the same, showing that the need for extension is not caused by the neglect, indifference, or lack of diligence of the requesting party.

Source Note: The provisions of this §343.26 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.27. Probation.

In placing a person on probation whose license has been suspended, the board may impose such additional terms and conditions as it deems appropriate for the period of probation. The board shall specify the exact duration of the probationary period. Upon finding that a person placed on probation has failed to comply with the terms and condition of the board's order, the board may take such additional disciplinary action as it deems appropriate, following notice and hearing.

Source Note: The provisions of this §343.27 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.28. Records Retention Schedule.

All records shall be maintained in accordance with the approved records retention schedule on file with the Texas State Library.

Source Note: The provisions of this §343.28 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.29. Failure To Appear at Hearing.

(a) Even though some or all of the parties or their duly authorized representatives should fail to appear, the board may consider fully the matter pending if notice has been given in accordance with this chapter. Such consideration shall be on the basis of any evidence admitted at the hearings and all pleadings, exhibits, briefs, and other materials presented in connection therewith.

(b) Absence of counsel shall not be good cause for a continuance or postponement of a cause when called for hearing, except that it be allowed in the discretion of the hearings examiner or board, upon cause shown or upon matters within the knowledge or information of the hearings examiner or board to be stated on the record.

Source Note: The provisions of this §343.29 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.35. Complaint Investigation and Disposition.

(a) Complaints shall be assigned a priority status in the following categories:

(1) those indicating that credible evidence exists showing a violation of the Physical Therapy Practice Act involving actual deception, fraud or injury to clients or the public or a high probability of immediate deception, fraud, or injury to clients or the public;

(2) those indicating that credible evidence exists showing a violation of the Physical Therapy Practice Act involving a high probability of potential deception, fraud, or injury to clients or the public;

(3) those indicating that credible evidence exists showing a violation of the Physical Therapy Practice Act involving a potential for deception, fraud, or injury to clients or the public;

(4) all other complaints.

(b) Not later than the 30th day after a complaint is received, the staff shall place a timeline for completion, not to exceed one year, in the investigative file and notify all parties to the complaint. Any change in the timeline must be noted in the file and all parties notified of the change not later than seven days after the change was made. For purposes of this rule, completion of an investigation in a disciplinary matter occurs when:

(1) staff determines there is insufficient evidence to demonstrate a violation of the act, board rules, or a board order; or

(2) staff determines there is sufficient evidence to demonstrate a violation of the act, board rules, or board order and drafts proposed formal charges.

(c) The staff shall provide summary data of complaints extending beyond the complaint timeline to the coordinator and the executive director who will then notify the board.

(d) The board shall keep an information file on each complaint submitted to the board. The file will be kept current and include a record of all persons contacted in relation to the complaint, notes about the findings throughout the complaint process, and other relevant information.

(e) The Investigation Committee may determine when and if a private investigator is needed for processing of a complaint.

Source Note: The provisions of this §343.35 adopted to be effective April 12, 1995, 20 TexReg 2386.

§343.36. Filing and Receipt of Complaints.

(a) Complaints may be received in writing on a form prescribed by the board. Complainants shall be invited to explain their allegations. The staff will provide reasonable assistance to a person who wishes to file a complaint.

(b) When a complaint is received, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) Prior to commencing disciplinary proceedings, the staff shall serve the respondent with written notice in accordance with the Texas Government Code, §2001.54(c).

(1) Such notice shall contain a statement of the facts or conduct alleged to warrant an adverse licensure action. The notice shall invite the respondent to show compliance with all requirements of the law for retention of the license.

(2) The respondent shall have not less than ten days to respond in writing.

Source Note: The provisions of this §343.36 adopted to be effective April 12, 1995, 20 TexReg 2386.

§343.40. Informal Conference.

(a) At any time after the filing of a sworn complaint, an informal conference may be held prior to the contested case hearing for the purpose of:

(1) simplifying the issues;

(2) considering proposed admissions or stipulations of fact;

(3) reviewing the procedure to govern the contested case hearing;

- (4) exchanging witness lists and agreeing to limit the number of witnesses; and/or
- (5) doing any act that may simplify the proceedings, and dispose of matters in controversy, including settlement of issues in dispute and preparation of an agreed order for presentation to the board as provided herein.

(b) A licensee or applicant may request an informal settlement conference; however, the decision to hold a conference shall be made by the executive director or the investigation committee.

(c) Participation in an informal conference shall not be mandatory for the licensee or applicant, nor is it a prerequisite to a formal hearing.

(d) The executive director shall decide upon the time, date, and place of the settlement conference and provide written notice to the licensee or applicant of the same. Notice shall be provided no less than 10 days prior to the date of the conference by certified mail, return receipt requested, to the last known address of the licensee or applicant. The 10 days shall begin on the date of mailing. The licensee or applicant may waive the 10-day notice requirement.

(1) The notice shall inform the licensee or applicant of the following:

- (A) the nature of the alleged violation;
- (B) that the licensee may be represented by legal counsel;
- (C) that the licensee or applicant may offer the testimony of witnesses and present other evidence as may be appropriate;
- (D) that board members may be present;
- (E) that a representative of the office of the attorney general will be present;
- (F) that the licensee's or applicant's attendance and participation is voluntary;
- (G) that the complainant and any client involved in the alleged violations may be present; and
- (H) that the settlement conference shall be cancelled if the licensee or applicant notifies the executive director that he or she will not attend.

(2) A copy of the board's rules concerning informal disposition shall be enclosed with the notice of the settlement conference.

(e) The notice of the settlement conference shall be sent by certified mail, return receipt requested, to the complainant at his or her last known address. The complainant shall be informed that he or she may appear and testify or may submit a written statement for consideration at the settlement conference. The complainant shall be notified if the conference is cancelled.

(f) Participants in the informal conference may include board members, agency staff, the complainant, the licensee or applicant, attorneys representing any of the participants, and any other persons determined by the investigation committee or the executive director to be necessary for proper conduct of the conference. All other persons shall be excluded.

(g) The settlement conference shall be informal and shall not follow the procedures established in this chapter for contested cases and formal hearings.

(h) The licensee, the licensee's attorney, committee members, and board staff may question witnesses, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.

(i) An attorney from the office of the attorney general shall attend each settlement conference. The board members or executive director may call upon the attorney at any time for assistance in the settlement conference.

- (j) The licensee or applicant shall be afforded the opportunity to make statements that are material and relevant.
- (k) Access to the board's investigative file may be prohibited or limited in accordance with Texas Civil Statutes, Article 6252-13a, and the Administrative Procedure and Texas Register Act (APTRA).
- (l) No formal recording of the settlement conference shall be made.
- (m) At the conclusion of the settlement conference, the committee members or the executive director may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Physical Therapy Practice Act. The committee or the executive director may also conclude that the board lacks jurisdiction, that a violation of the act or this chapter has not been established, order that the investigation be closed, or refer the matter for further investigation.

Source Note: The provisions of this §343.40 adopted to be effective November 11, 1993, 18 TexReg 7554.

§343.41. Agreed Orders.

- (a) An agreed order may be negotiated with any person under the jurisdiction of the board, the terms of which shall be approved by the investigation committee or by the executive director.
- (b) The agreed order will be sent to the respondent by certified mail. To accept the agreed order, the respondent must sign it in the presence of a notary and return it to the board within 10 days after receipt. Inaction by the respondent constitutes rejection. If the respondent rejects the proposed settlement, the matter shall be referred to the investigation committee or the executive director for appropriate action.
- (c) The agreed order with the notarized signature of the respondent will be presented to the board. The proposed agreed order shall have no effect until such time as the board may, at a regularly scheduled meeting, take action approving the agreed order. When the board has ratified an agreed order the licensee will reimburse the board for all the investigation expenses. The investigation expenses will be included as a condition of the order. A copy of the agreed order will be sent to the licensee's employer, and facility administrator.
- (d) The respondent shall be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.
- (e) Consideration by the board.
- (1) Any board member who participated in the investigation of the complaint or formulation of the proposed agreed order may not participate in the board review of the agreed order.
 - (2) The name and license number of the licensee or the name of the applicant will not be made available to the board until after the board has reviewed and made a decision on the agreed order.
 - (3) Upon an affirmative majority vote, the board shall authorize the agreed order, and the chairperson of the board will sign it. The board-approved agreed order will be provided to the respondent.
 - (4) If the board does not approve the agreed order, the matter will be referred to the investigation committee or the executive director for other appropriate action. The respondent and the complainant shall be so informed.

Source Note: The provisions of this §343.41 adopted to be effective January 12, 1993, 18 TexReg 64; amended to be effective November 11, 1993, 18 TexReg 7554; amended to be effective May 8, 1996, 21 TexReg 3710.

§343.42. Commencement of Disciplinary Proceedings.

- (a) If a complaint is not resolved informally, the staff may commence disciplinary proceedings by filing written charges.
- (b) The charges shall contain the following information:
- (1) the name of the respondent;
 - (2) a statement of the conduct alleged to be in violation of the act or of a rule, regulation, or order of the board; and
 - (3) a reference to the section of the act or to the board rule, regulation, or order which respondent is alleged to have violated.

Source Note: The provisions of this §343.42 adopted to be effective April 12, 1995, 20 TexReg 2386.

§343.48. Dismissal of Complaint.

- (a) Complaints may be dismissed for the following reasons:
- (1) no evidence available;
 - (2) respondent has left the state;
 - (3) insufficient evidence;
 - (4) other reasons which the Investigation Committee believe are justification for dismissal.
- (b) Upon the decision of the Investigation Committee to dismiss a complaint, the person who filed the complaint is provided a letter explaining why the complaint has been dismissed.
- (c) At least four times a year the board is provided with a list of the complaints that were dismissed and the reasons for the dismissals.

Source Note: The provisions of this §343.48 adopted to be effective April 12, 1995, 20 TexReg 2386.

§343.49. Disposal of Complaints.

At least annually, the board will advise the executive council of complaints which have been disposed.

Source Note: The provisions of this §343.49 adopted to be effective April 12, 1995, 20 TexReg 2386.

§343.50. Application for Reinstatement of License.

- (a) At the expiration of 180 days from the date of revocation, the board may consider a request for reinstatement by the former licensee (applicant).
- (b) The request for reinstatement must be submitted to the board office in writing and should include a short and plain statement of the reasons why the applicant believes the license should be reinstated.
- (c) Upon denial of any application for reinstatement, the board may not consider a subsequent application until the expiration of one year from the date of denial of the prior application.
- (d) In taking action to revoke a license, the board may, in its discretion, specify the terms and conditions upon which reinstatement shall be considered.

Source Note: The provisions of this §343.50 adopted to be effective January 7, 1992, 16 TexReg 7645; amended to be effective January 12, 1993, 18 TexReg 64.

§343.51. Evaluation for Reinstatement.

In considering reinstatement of a suspended license, the board will evaluate:

- (1) the severity of the act which resulted in revocation of the license;
- (2) the conduct of the applicant subsequent to the revocation of license;
- (3) the lapse of time since revocation;
- (4) the degree of compliance with all conditions the board may have stipulated as a prerequisite for reinstatement;
- (5) the degree of rehabilitation attained by the applicant as evidenced by sworn notarized statements sent directly to the board from qualified people who have personal and professional knowledge of the applicant; and
- (6) the applicant's present qualifications to practice physical therapy based on his/her history of physical therapy related employment or education.

Source Note: The provisions of this §343.51 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.52. Procedure upon Request for Reinstatement.

- (a) An applicant for reinstatement of a revoked license must personally appear before the board at a scheduled date and time to show why the license should be reinstated.
- (b) Upon submission of proof of past revocation of the applicant's license, the applicant has the burden of proof to show present fitness and/or rehabilitation to practice physical therapy.
- (c) Where the applicant's license has been revoked or voluntarily surrendered based on a finding, admission, or allegation that the applicant was unfit to practice physical therapy by reasons of intemperate use of alcohol or drugs, misappropriation of controlled substances, an adjudication of mental incompetence, or the existence of any mental disorder, the applicant must submit a written psychiatric or psychological evaluation and written medical evaluation. Said evaluations shall be obtained solely at the applicant's expense and forwarded directly to the agency by the examiner. The psychiatric or psychological evaluation must be prepared by a licensed psychiatrist or psychologist and the medical evaluation must be prepared by a licensed physician. Said reports shall include such information as the agency may specifically require with notice to the applicant.
- (d) Upon receipt of a written request for reinstatement and all information required by subsection (c) of this section, the applicant will be notified of a date and time of an appearance before the board.

Source Note: The provisions of this §343.52 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.53. Board Action Possible upon Reinstatement of Revoked License.

After evaluation, the board may:

- (1) deny reinstatement of a revoked license;
- (2) reinstate a revoked license;
- (3) require the satisfactory completion of a specific program or remedial education approved by the agency; and
- (4) require monitoring of the applicant's physical therapy practice as specified by the board.

Source Note: The provisions of this §343.53 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.54. Reinstatement of Suspended License.

A suspended license is immediately reinstated at the end of the suspension period.

Source Note: The provisions of this §343.54 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.55. Failure To Appear.

An applicant for reinstatement of a revoked license who makes a commitment to appear before the board, and fails to appear at a hearing set with notice by the agency, shall not be authorized to appear before the board before the expiration of six months. For good cause shown, the executive director may authorize an exception to this rule.

Source Note: The provisions of this §343.55 adopted to be effective January 7, 1992, 16 TexReg 7645.

§343.56. Monitoring of Licensees.

A licensee who is ordered by the board to perform certain acts will be monitored by the board to ensure that the required acts are completed per the order of the board.

Source Note: The provisions of this §343.56 adopted to be effective April 12, 1995, 20 TexReg 2386.

CHAPTER 344. ADMINISTRATIVE FINES AND PENALTIES

§344.1. Administrative Fines and Penalties.

(a) Any physical therapist or physical therapist assistant who violates any provision of these rules, or any provision of the Physical Therapy Practice Act shall be, at the discretion of the Board, subject to the following penalties.

(1) The Board may impose suspension or revocation of a license, or other disciplinary action including probation, tutorial hours and additional education.

(2) The Board may assess fines, not to exceed \$200 for each day of the offense, based on the following schedule:

(A) first offense: \$100-\$1,000;

(B) subsequent offense: \$200-\$5,000.

(b) Any facility providing physical therapy services in violation of the Texas Physical Therapy Practice Act, shall be, at the discretion of the Board, subject to the following penalties.

(1) The Board may impose suspension or revocation of a facility registration, or other disciplinary action.

(2) The Board may assess fines, not to exceed \$200 for each day of the offense, based on the following schedule:

(A) first offense: \$200-\$3,600;

(B) subsequent offense: \$200-\$10,000.

(c) Assessment of the penalties will follow procedures as established in §343.41 of this title (relating to Agreed Orders). The nature and amount of the penalty shall be based on:

(1) the seriousness of the violation, including nature, circumstances, extent, and gravity of any prohibited act, and hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

(d) The provisions of subsections (a)-(c) of this section shall not be construed so as to prohibit other appropriate civil or criminal action and remedy and enforcement under other laws.

Source Note: The provisions of this §344.1 adopted to be effective October 6, 1998, 23 TexReg 9978.

CHAPTER 345. ACCESSIBLE SERVICES

§345.1. Accessible Services.

In accordance with the Americans with Disabilities Act, Public Law 101-336, and in order to assure equal access to persons with disabilities as defined by that Act, the following is adopted.

- (1) Applicants for licensure by examination. The board requires notification of an applicant's disability no later than the deadline set for receiving completed application forms and fees for each examination by the board, per the Physical Therapy Practice Act, §329.1(a)(1). The notification by the applicant should include the type of accommodation required. Objective documentation of the disability should accompany any request for an accommodation. Accommodations to be made by the board should be reasonable in that they should not impose undue hardship on the board. Accommodations for persons with disabilities may include accommodations that are reasonably appropriate for the disability and are not limited to extended time for the examination, a map of the examination facility indicating wheelchair accessible entrances, elevators, restrooms, and examination rooms. Any costs for reasonable accommodations must be paid by the board.
- (2) Applicants for employment at the board who have disabilities and board employees with disabilities. The board will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. Board employees with disabilities will be provided reasonable accommodations for their disabilities.
- (3) All persons seeking other services from the board. All licensees, applicants, members of the general public, and others desiring services from the board will not be discriminated against in regard to their disabilities. The board will make reasonable accommodations for such persons with disabilities to enable them to access the services of the board.

Source Note: The provisions of this §345.1 adopted to be effective January 12, 1993, 18 TexReg 64.

CHAPTER 346. PRACTICE SETTINGS FOR PHYSICAL THERAPY

§346.1. Educational Settings.

(a) In the educational setting, the physical therapist conducts appropriate screenings, evaluations, and assessments to determine needed services to fulfill educational goals. When a student is determined by the physical therapist to be eligible for physical therapy as a related service defined by Special Education Law, the physical therapist provides written recommendations to the Admissions Review and Dismissal Committee as to the amount of specific services needed by the student (i.e., consultation or direct services and the frequency and duration of services).

(b) The physical therapist implements physical therapy services in accordance with the recommendations accepted by the school committee members and as reflected in the student's Admission Review and Dismissal Committee reports.

(c) The physical therapist may provide general consultation or other physical therapy program services for school administrators, educators, assistants, parents and others to address district, campus, classroom or student-centered issues. For the student who is eligible to receive physical therapy as a related service in accordance with the student's Admission Review and Dismissal Committee reports, the physical therapist will also provide the consultation and direct types of specific services needed to implement specially designed goals and objectives included in the student's Individualized Education Program.

(d) The types of services which may require a physician's referral in the educational setting include the provision of individualized specially designed instructions and the direct physical modeling or hands-on demonstration of activities with a student who has been determined eligible to receive physical therapy as a related service. Additionally, they may include the direct provision of activities which are of such a nature that they are only conducted with the eligible student by a physical therapist or physical therapist assistant. The physical therapist should refer to §322.1 of this title (relating to Provision of Services).

(e) Evaluation and reevaluation in the educational setting will be conducted in accordance with federal mandates under Part B of the Individuals with Disabilities Education Act (IDEA), 20 USC §1414, or when warranted by a change in the child's condition, and include onsite reexamination of the child. The Plan of Care (Individual Education Program) must be reviewed by the PT every 30 days to determine if revisions are necessary.

Source Note: The provisions of this §346.1 adopted to be effective November 11, 1993, 18 TexReg 7555; amended to be effective November 6, 1995, 20 TexReg 8794; amended to be effective April 28, 1997, 22 TexReg 3589; amended to be effective November 29, 2004, 29 TexReg 11032; amended to be effective March 5, 2007, 32 TexReg 1075.

§346.2. Other Practice Settings.

Other practice settings for physical therapy include but are not limited to: hospital, private clinic, industry, home health, and nursing home.

Source Note: The provisions of this §346.2 adopted to be effective November 11, 1993, 18 TexReg 7555.

§346.3. Early Childhood (ECI) Setting.

(a) In the provision of early childhood services through the Early Childhood Intervention (ECI) program, the physical therapist conducts appropriate screenings, evaluations, and assessments to determine needed services to fulfill family-centered goals. When a child is determined by the PT to be eligible for physical therapy, the PT provides written recommendations to the Interdisciplinary Team as to the amount of specific services needed by the child.

(b) Subject to the provisions of §322.1 of this title, the PT implements physical therapy services in accordance with the recommendations accepted by the Interdisciplinary Team, as stated in the Individual Family Service Plan (IFSP).

(c) The types of services which require a referral from a qualified licensed healthcare practitioner include the provision of individualized specially designed instructions, direct physical modeling or hands-on demonstration of activities with a child who has been determined eligible to receive physical therapy. Additionally, a referral is required for services that include the direct provision of treatment and/or activities which are of such a nature that they are only conducted with the child by a physical therapist or physical therapist assistant.

(d) The physical therapist may provide general consultation or other program services, including developmental services (DS), to address child/family-centered issues, and as such, developmental

services are not physical therapy. Supervision by the PT in the provision of developmental services refers to case supervision, i.e., monitoring the needs of the child/family, not supervision of the personnel providing those services, and as such, developmental services are not physical therapy.

(e) Evaluation and reevaluation in the educational setting will be conducted in accordance with federal mandates under Part C of the Individuals with Disabilities Education Act (IDEA), 20 USC §1436, or when warranted by a change in the child's condition, and include onsite reexamination of the child. The Plan of Care (Individual Family Service Plan) must be reviewed by the PT every 30 days to determine if revisions are necessary.

Source Note: The provisions of this §346.3 adopted to be effective October 13, 2002, 27 TexReg 9327; amended to be effective August 4, 2004, 29 TexReg 7303; amended to be effective March 5, 2007, 32 TexReg 1075.

CHAPTER 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES

§347.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Physical therapy facility** — A physical site, such as a building, office, or portable facility, where the practice of physical therapy takes place. An individual or company providing physical therapy services at multiple locations is considered a portable facility if all of the following conditions are met: The location or building in which physical therapy services are provided is not in the care, custody or control of the individual or company providing those services; physical therapy services are not provided on a predictable or regular basis at any one location; and healthcare delivery is not the primary purpose, activity, or business of the site where the services are provided. A physical therapy facility must be under the direction of a physical therapist licensed by the board.

(2) **Physical therapist in charge** — A physical therapist who is designated on the application for registration as the one who has the authority and responsibility for the facility's compliance with the Act and rules pertaining to the practice of physical therapy in the facility.

Source Note: The provisions of this §347.1 adopted to be effective December 24, 1993, 18 TexReg 9192; amended to be effective February 14, 2002, 27 TexReg 911.

§347.2. Requirement for Practice Setting of Licensees.

All licensees of this Act who practice in Texas can practice only in registered facilities or in practices or facilities that are exempted by the Act and rules. A facility shall not be required to register under this section if such facility or any person providing health care services at the facility does not perform or hold itself or themselves out as performing or offering to perform physical therapy.

Source Note: The provisions of this §347.2 adopted to be effective December 24, 1993, 18 TexReg 9192, amended to be effective March 1, 2004, 28 TexReg 10506.

§347.4. Requirements for Registration Application.

(a) Each registration application must include:

- (1) name of the facility;
- (2) physical/street address of the facility;
- (3) mailing address, if different from the street address;
- (4) name of the owner;

- (5) type of ownership;
- (6) identification/contact information for the facility owner as follows:
- (A) Sole proprietor
 - (i) name, home address, date of birth, social security number of the sole proprietor
 - (ii) federal employer identification number if applicable
 - (B) Partnership
 - (i) name, home address, date of birth, social security number of the managing partner
 - (ii) federal employer identification number
 - (C) Corporation
 - (i) names, home addresses, dates of birth, and social security numbers of managing officers (for purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of physical therapy facility operations);
 - (ii) federal employer identification number
 - (D) Governmental entity (federal, state, local)
 - (i) name, home address, date of birth, social security number of the individual completing the application
 - (ii) federal employer identification number
- (7) the name and license number of the physical therapist in charge and his or her notarized signature;
- (8) names and license numbers of all PTs and PTAs who practice in the facility;
- (9) the social security number and notarized signature of the owner, managing partner or officer, or person authorized to complete the registration application;
- (10) the non-refundable application fee, as set by the executive council.
- (b) If one or more facilities are owned by an individual, partnership, corporation, or other entity, the board requires one primary facility application and an additional facility application for each additional site registered.
- (c) An additional facility that registers less than six months before the primary facility's registration expires will receive an expiration date in the same month as the primary, but in the following year. An additional facility that registers six or more months before the primary facility's expiration date will receive the same expiration date as the primary facility.
- (d) A physical therapy facility that has not been registered previously must complete the registration process and have the registration certificate in hand before the first patient treatment.
- (e) The facility application is valid for one year after it is received by the board.

Source Note: The provisions of this §347.6 adopted to be effective December 24, 1993, 18 TexReg 9192, amended to be effective March 1, 2004, 28 TexReg 10506.

§347.5. Requirements for Registered Facilities.

(a) Each facility must have a designated physical therapist in charge. A registered facility is required to report the name and license number of a new physical therapist in charge no later than 30 days after the change occurs.

(b) A registered facility must display the registration certificate in a prominent location in the facility where it is available for inspection by the public. A registration certificate issued by the board is the property of the board and must be surrendered on demand by the board.

(c) A registered facility is subject to random inspection to verify compliance with the Act and this chapter by authorized personnel of the board at any reasonable time.

(d) A registered facility must notify the board within 30 days of any change to the physical/street address or mailing address.

Source Note: The provisions of this §347.6 adopted to be effective December 24, 1993, 18 TexReg 9192, amended to be effective March 1, 2004, 28 TexReg 10506.

§347.6. Exemptions to Registration.

A facility licensed under the Health and Safety Code, Title 4, Subtitle B, is exempt from this definition, i.e., hospitals, nursing homes, ambulatory surgical centers, birthing centers, abortion, continuing care, personal care, and special care facilities. Colleges, universities, schools, and home health settings are exempted from registration. These types of facilities are automatically exempt and are not required to obtain a formal exemption from the board.

Source Note: The provisions of this §347.6 adopted to be effective December 24, 1993, 18 TexReg 9192.

§347.8. Change in Facility Ownership.

(a) When a facility changes ownership, the new owner must register it as a new facility within 30 days. A change of ownership takes place when one of the following occurs:

- (1) a sole proprietor (individual) incorporates or changes to a partnership;
- (2) a partnership incorporates or changes to a sole proprietor;
- (3) a corporation dissolves and changes its status to a partnership or sole proprietor;
- (4) a sole proprietor (individual), partnership or corporation purchases, sells or transfers the ownership to another individual, partnership or corporation.

(b) If there is a change of managing partners in a partnership or managing officers in a corporation, the owner of the facility must send the board written notification within 30 days. For purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of physical therapy facility operations. The written notification shall include the effective date of such change and the following information for the new managing partners or officers:

- (1) name and title;
- (2) home address;
- (3) date of birth; and
- (4) social security number.

(c) The new or former owner of a facility must return the previous registration certificate and current renewal certificate to the board within 30 days of the change of ownership. In lieu of the actual

documents, the Board may accept a notarized statement from the new or former owner that the certificates have been destroyed or lost.

Source Note: The provisions of this §347.8 are adopted to be effective March 1, 2004, 28 TexReg 10507.

§347.9. Renewal of Registration.

(a) The owner of a physical therapy facility must renew the registration annually. Licensees may not provide physical therapy services in a facility if the registration is not current.

(b) Requirements to renew a facility registration are:

- (1) a renewal application signed by the owner, managing partner or officer, or a person authorized by the owner to complete the renewal;
- (2) a list of all PTs and PTAs working at the facility, including license and social security numbers;
- (3) the renewal fee as set by the executive council, and any late fees which may be due; and
- (4) a physical therapist in charge form with the notarized signature of the physical therapist.

(c) The renewal date of a primary facility registration is the last day of the month in which the registration was originally issued. The renewal date for an additional facility will be the same as the renewal date for the primary facility.

(d) The board will notify a facility at least 30 days prior to the registration expiration date. The facility bears the responsibility for ensuring that the registration is renewed. Failure to receive notification from the board does not exempt the facility from paying the renewal fee in a timely manner.

(e) The facility renewal certificate must be displayed with the original certificate and is the property of the board.

(f) A facility will be allowed to renew without a late fee if the renewal application and fee are received prior to the expiration date. However, the board will not issue the renewal certificate prior to the receipt of the signed and notarized physical therapist in charge form and a list of the name(s) of the PTs and PTAs working at that facility. Physical therapy services may not be provided at the facility until the certificate is displayed in a prominent location in the facility where it is available for inspection by the public.

Source Note: The provisions of this §347.6 adopted to be effective December 24, 1993, 18 TexReg 9192, amended to be effective March 1, 2004, 10506.

§347.11. Failure to Register.

Facilities which fail to register facilities with the board as required by Act and rule will be notified of their noncompliance with the Act and the disciplinary actions by this board to which they are subject. Additionally, all licensees of this Act employed at the facility will be notified that they are in violation of the Act and rules and thereby subject to disciplinary action.

Source Note: The provisions of this §347.11 adopted to be effective December 24, 1993, 18 TexReg 9192.

§347.12. Restoration of Registration.

(a) When a facility fails to renew its registration before the expiration date, the facility may restore the registration by completing the renewal requirements and paying renewal and restoration fees as set out by the Executive Council.

- (1) If the facility registration has been expired for 90 days or less, the facility may renew by paying the required renewal fee and a restoration fee that is one-half of the renewal fee.

(2) If the facility registration has been expired for more than 90 days but less than one year, the facility may renew by paying all unpaid renewal fees and a restoration fee that is equal to the renewal fee.

(3) If the facility registration has been expired for more than one year, the facility may renew the registration by paying all unpaid renewal fees and a restoration fee which is double the renewal fee.

(b) The owner of a facility may cancel a facility registration if physical therapy services will no longer be provided at that facility. To cancel a registration, the owner must notify the board and return the registration certificate and the current renewal certificate (if applicable) to the board. If the owner decides to resume the provision of physical therapy services at a future date, the facility registration may be restored with the previous expiration date by meeting the requirements in §347.9 of this title (relating to Renewal of Registration).

(c) An owner may not register a new facility in lieu of renewal or restoration of a previously registered facility in the same location.

Source Note: The provisions of this §347.6 adopted to be effective December 24, 1993, 18 TexReg 9192, amended to be effective March 1, 2004, 28 TexReg 10507.

§347.15. Disciplinary Action.

(a) The board may assign disciplinary action to a registered facility for violation of the Act or rules. The disciplinary action may include: revocation or suspension of the registration; probation; penalty fees; or other appropriate disciplinary action.

(b) The processing of complaints against applicants for registered facilities, or registered facilities, is accomplished in accordance with Chapter 343 of this title (relating to Contested Case Procedure).

(c) A revocation or suspension of a registration affects all facilities registered under one primary registration.

Source Note: The provisions of this §347.15 adopted to be effective December 24, 1993, 18 TexReg 9192.

EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 651. FEES

§651.2. Physical Therapy Board Fees.

(a) Application /Permanent License.

(1) PT--\$170.

(2) PTA--\$116.

(b) Application to Retake the Examination.

(1) PT--\$25.

(2) PTA--\$25.

(c) Temporary License.

(1) PT--\$80.

(2) PTA--\$60.

(d) Provisional License.

(1) PT--\$80.

(2) PTA--\$75.

(e) Active to Inactive License.

(1) PT--a fee equal to one-half of the renewal fee.

(2) PTA--a fee equal to one-half of the renewal fee.

(f) License Renewal.

(1) Active license.

(A) PT--\$217.

(B) PTA--\$167.

(2) Inactive license. (Inactive license renewal fees are effective September 1, 2001)

(A) PT--a fee equal to one-half of the renewal fee.

(B) PTA--a fee equal to one-half of the renewal fee.

(g) Inactive to Active License (Reactivation).

(1) PT--a fee equal to the renewal fee.

(2) PTA--a fee equal to the renewal fee.

(h) Retired Status.

(1) Application--\$25

(2) Renewal--\$25

(i) Late Fees--Renewal (all licensees).

(1) Late 90 days or less--the renewal fee plus a late fee equal to one-half of the examination fee.

- (2) Late more than 90 days but less than one year--the renewal fee plus a fee equal to the examination fee.
- (j) License Restoration (all licensees, under the conditions set out in §341.6 of the Physical Therapy Board Rules)--a fee equal to the examination fee.
- (k) Facility Registration.
- (1) First facility--\$314.
- (2) Additional site--\$124.
- (l) Facility Renewal.
- (1) First facility--\$306.
- (2) Additional site--\$126.
- (m) Late Fees--All Facilities.
- (1) Late 90 days or less--a fee equal to one-half of the renewal fee, in addition to the renewal fee.
- (2) Late more than 90 days but less than one year--a fee equal to the renewal fee, in addition to the renewal fee.
- (n) Facility Restoration (all facilities)--renewal fee(s) plus a restoration fee that is double the renewal fee.

Source Note: The provisions of this §651.2 adopted to be effective May 28, 2001, 26 TexReg 3747; amended to be effective April 7, 2002, 27 TexReg 2437; amended to be effective June 2, 2002, 27 TexReg 4572; amended to be effective January 1, 2004, 28 TexReg 11095; amended to be effective December 2, 2004, 29 TexReg 11035; amended to be effective September 1, 2005, 30 TexReg 4834; amended to be effective October 12, 2006.

§651.3. Administrative Services Fees.

- (a) Verification/Transfer of Licensure--\$50.
- (b) Duplicate/Replacement License--\$30.
- (c) Duplicate Renewal Certificate/Wallet Card--\$30.
- (d) Duplicate of Facility Registration Certificate--\$30.
- (e) Reinstatement of Suspended or Revoked License--\$50.
- (f) Insufficient Funds Check Fee--\$25.
- (g) ACH Return Fee--\$25.

Source Note: The provisions of this §651.3 adopted to be effective August 16, 1996, 21 TexReg 7381; amended to be effective January 1, 2004, 28 TexReg 11095; amended to be effective September 1, 2005, 30 TexReg 4835.