

Alabama Physical Therapy Jurisprudence

Goals & Objectives

Course Description

“Alabama Physical Therapy Jurisprudence” is an asynchronous online continuing education program for Alabama licensed physical therapist and physical therapist assistants. Information presented includes sections on The Alabama Physical Therapy Practice Act, Alabama, Board of Physical Therapy Administrative Code, The Health Insurance Portability and Accountability Act (HIPAA), Chapter 14 of the Public Health Laws of Alabama, and hypothetical case studies.

Course Rationale

This course was developed in accordance with the Jurisprudence CE requirement defined by 700-X-2.08,5,(d),4 of the Alabama Board of Physical Therapy Administrative Code; and is intended to promote and facilitate lawful behavior by Alabama licensed physical therapists and physical therapist assistants

Course Goals & Objectives

At the end of this course, the participants will be able to:

1. Identify legal requirements and lawful physical therapy practices as defined by each of the section of the Alabama Physical Therapy Practice Act.
2. Identify legal requirement and lawful physical therapy practices as defined by each section of the Alabama board of Physical Therapy Administrative Code.
3. Recognize patients’ rights relating to confidentiality as defined by the federal The Health Insurance Portability and Accountability Act (HIPAA)
4. Recognize the reporting responsibilities for reporting Child Abuse as defined by Alabama Public Health Law, Chapter 14
5. Apply Alabama and Federal regulations to clinical situations to identify lawful physical therapy practices.

Course Provider – Innovative Educational Services

Course Instructor - Michael Niss, DPT

Target Audience – Alabama licensed physical therapists and physical therapist assistants

Course Educational Level - This course is applicable for introductory learners.

Course Prerequisites – None

Method of Instruction – Online text-based course available continuously.

Criteria for Issuance of CE Credits - 70% correct or greater on the course post-test.

Continuing Education Credits - Two (2) hours of continuing education credit

Determination of Credits – Established via pilot study methodology

Fees - \$9.95

Conflict of Interest – No conflict of interest exists for the instructor or provider of this course.

Refund Policy - Unrestricted 100% refund upon request. The request for a refund by the learner shall be honored in full without penalty or other consideration of any kind. The request for a refund may be made by the learner at any time without limitations before, during, or after course participation.

Alabama Physical Therapy Jurisprudence

Course Outline

| | Page(s) | |
|--|---------|--------------|
| Course Goals & Objectives | 1 | start hour 1 |
| Course Outline | 2 | |
| Alabama Physical Therapy Practice Act | 3-6 | |
| Division 1 General Provisions | 3-4 | |
| Section 34-24-191. Definitions | 3 | |
| Section 34-24-192. Board of PT – Generally | 3-4 | |
| Section 34-24-193. Board of PT - Powers and duties | 4 | |
| Division 2 Registrations and Licenses | 5-6 | |
| Section 34-24-210. Evaluation and treatment by PT | 5 | |
| Section 34-24-216. Renewal of license; continuing ed | 5 | |
| Section 34-24-217. Refusal, suspension, revocation of license. | 5-6 | |
| Alabama Board of Physical /Therapy Administrative Code | 6-24 | |
| Chapter 700-X-1 Organization, Administration, and Procedure | 6-8 | |
| Chapter 700-X-2 Licensure | 8-15 | |
| Chapter 700-X-3 Professional Conduct | 15-20 | end hour 1 |
| Chapter 700-X-4 Disciplinary Actions | 20-23 | start hour 2 |
| Chapter 700-X-5 Amendment of Rules | 23-24 | |
| Public Health Laws of Alabama – Chapter 14 | 14-25 | |
| Health Insurance Portability and Accountability Act (HIPAA) | 25-27 | |
| Illegal Remunerations | 28 | |
| Case Studies | 28-31 | |
| Case #1 – Confidentiality | 28-29 | |
| Case #2 - Conflicts of Interest | 29-30 | |
| Case #3 – Practice Qualifications | 30 | |
| Case #4 – Referral Relationships | 31 | |
| References | 32 | |
| Post-Test | 33-34 | end hour 2 |

Alabama Physical Therapy Practice Act

The following is an abridged version of the Alabama Physical therapy Practice Act. To read the unedited Act in its entirety, please go to: <http://pt.alabama.gov/pdf/PRACTICEACTzv2.pdf>

Division 1 General Provisions.

Section 34-24-191. Definitions.

(a) For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed by this section:

(4) Physical Therapy. The treatment of a human being by the use of exercise, massage, heat, cold, water, radiant energy, electricity, or sound for the purpose of correcting or alleviating any physical or mental condition or preventing the development of any physical or mental disability, or the performance of neuromuscular-skeletal tests and measurements to determine the existence and extent of body malfunction; provided, that physical therapy shall be practiced only upon the referral of a physician licensed to practice medicine or surgery, a dentist licensed to practice dentistry, a licensed chiropractor, a licensed assistant to a physician acting pursuant to a valid supervisory agreement, or a licensed certified registered nurse practitioner in a collaborative practice agreement with a licensed physician, except as otherwise provided in this chapter. Physical therapy does not include radiology or electrosurgery.

(5) Physical Therapist. A person who practices physical therapy.

(7) Physiotherapist. Synonymous with the term "physical therapist," and the term shall be used to identify only those persons licensed under this article. The physical therapist may use the letters "P.T." or "R.P.T." in connection with his or her name or place of business to denote his or her registration hereunder.

(8) Physical Therapist Assistant. A person who assists in the practice of physical therapy and whose activities require an understanding of physical therapy but do not require professional or advanced training in the anatomical, biological, and physical sciences involved in the practice of physical therapy. The physical therapist assistant shall practice only under the direction of a licensed physical therapist.

(9) Physical Therapy Aide. A person trained under the direction of a physical therapist who performs designated and supervised routine tasks related to physical therapy services.

Section 34-24-192. Board of Physical Therapy - Generally.

(a) The Board of Physical Therapy shall consist of seven members. Four members shall be physical therapists, two members shall be physical therapist assistants, and one member shall be a consumer. The members shall be appointed by the Governor. The physical therapist assistant members shall be nominated from the northern and southern areas of the state. The consumer member shall be nominated from the state at large. The board members shall be appointed for staggered terms of five years each, so that at least one member's term expires each year. As each member's term expires, the board shall provide a method of nominating members to the board so that each congressional district in the state is potentially represented on the board whenever possible. No person shall be appointed for more than two consecutive terms.

(b) Qualifications of members. Each physical therapist or physical therapist assistant board member shall possess all the following qualifications:

- (1) Be a resident and citizen of this state.
- (2) Have practiced physical therapy, or acted as a physical therapist assistant, within the State of Alabama for the three years preceding his or her appointment.
- (3) Have no disciplinary action against his or her license for the three years preceding his or her appointment.

(d) Officers; compensation and expenses of members. The board shall designate one of its members as chair, one as secretary, and one as treasurer. Members of the board shall receive a fee for every day actually spent in the performance of their duties and in addition thereto shall be reimbursed according to the state travel policy for their other expenses in the same amounts and under the same conditions as state employees are reimbursed. The exact amount of the above-mentioned fee shall be fixed by the board.

Section 34-24-193. Board of Physical Therapy - Powers and duties; certification fee; administrative fines; impaired practitioner program.

(a) It shall be the duty of the board to pass upon the qualifications of applicants for licensing as physical therapists and licensing as physical therapist assistants, to conduct examinations, to issue licenses and renewals to physical therapists and physical therapist assistants qualifying under this article and in a proper case to suspend or revoke the license of such persons. The board may adopt rules and regulations not inconsistent with law as it may deem necessary for the performance of its duties; however, the board shall not issue any rules or regulations that require a physical therapist assistant to be within sight of a consulting physical therapist or a physical therapist supervisor while working under the direction of that physical therapist or issue any rules, regulations, or orders inconsistent with Section 34-24-217(b).

(c) The board may collect a fee from providers of continuing education programs.

(d) The board is hereby authorized to discipline its licensees by the adoption and collection of administrative fines, not to exceed one thousand dollars (\$1,000) per violation, and it is further authorized to institute any legal proceedings necessary to effect compliance with this chapter.

(1) The board shall promote the early identification, intervention, treatment, and rehabilitation of physical therapy licensees who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances, or as a result of any physical or mental condition.

(8) If the board has reasonable cause to believe that a physical therapy licensee is impaired, the board may cause an evaluation of the physical therapy licensee to be conducted by the committee for the purpose of determining if there is an impairment. The committee shall report the findings of its evaluation to the board.

Division 2 Registration and Licenses.

Section 34-24-210.1. Evaluation and treatment by physical therapist.

(a) Without prescription or referral, a licensed physical therapist may perform an initial evaluation or consultation of a screening nature to determine the need for physical therapy and may perform the physical therapy and other services provided in subdivisions (1) to (5), inclusive, of subsection (b). Implementation of physical therapy shall otherwise be based on the referral of a person licensed to practice medicine, surgery, dentistry, chiropractic, licensed assistant to a physician acting pursuant to a valid supervising agreement, or a licensed certified registered nurse practitioner in a valid collaborative practice agreement with a licensed physician.

(b) The physical therapy and other services referred to in subsection (a), which may be performed without prescription or referral, include and are limited to the following:

- (1) To a child with a diagnosed developmental disability pursuant to the plan of care for the child.
- (2) To a patient of a home health care agency pursuant to the plan of care for the patient.
- (3) To a patient in a nursing home pursuant to the plan of care for the patient.
- (4) Related to conditioning or to providing education or activities in a wellness setting for the purpose of injury prevention, reduction of stress, or promotion of fitness.
- (5) To an individual for a previously diagnosed condition or conditions for which physical therapy services are appropriate after informing the health care provider rendering the diagnosis. The diagnosis shall have been made within the immediately preceding 90 days. The physical therapist shall provide the health care provider who rendered the diagnosis with a plan of care for physical therapy services within the first 15 days of physical therapy intervention.

Section 34-24-216. Renewal of license; continuing education.

(a) All licenses issued by the board to physical therapists and physical therapist assistants shall expire on the first day of October of the year next succeeding the issuance thereof. A license may be renewed on the payment, on or before November first of each year, to the board of a fee set by the board. A license which has expired may, within five years of its expiration date, be renewed on the payment to the board of a fee set by the board for each year or part thereof during which the license was ineffective and the payment of a restoration fee set by the board. After the five-year period, a license may be obtained only by complying with the provisions hereinabove relating to the issuance of an original license.

Section 34-24-217. Grounds for refusal, suspension, or revocation of license.

(a) The board shall refuse to issue a license to any person and, after notice and hearing in accordance with its regulations and rules, shall suspend or revoke the license of any person who has:

- (1) Practiced physical therapy other than upon the referral of a physician licensed to practice medicine or surgery, a dentist licensed to practice dentistry, a licensed

chiropractor, a licensed assistant to a physician acting pursuant to a valid supervisory agreement, or a licensed certified registered nurse practitioner in a valid collaborative practice agreement with a licensed physician, or practiced as a physical therapist assistant other than under the direction of a licensed physical therapist;

(2) Used drugs or intoxicating liquors to an extent which affects his or her professional competency;

(3) Been convicted of a felony or of a crime involving moral turpitude;

(4) Obtained or attempted to obtain a license by fraud or deception;

(5) Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;

(6) Been adjudged mentally incompetent by a court of competent jurisdiction;

(7) Been guilty of conduct unbecoming a person licensed as a physical therapist or licensed as a physical therapist assistant or of conduct detrimental to the best interest of the public;

(8) Been convicted of violating any state or federal narcotic law;

(9) Treated or undertaken to treat human ailments otherwise than by physical therapy as defined in this article;

(10) Advertised unethically according to standards as set by the board; or

(11) Failed or refused to obey any lawful order or regulation of the board.

(b) For purposes of this article and notwithstanding any other provision of this article or any rules or regulations adopted by the board, any person licensed under this article who has a bona fide employment or independent contract with a physician, a physician group, or an entity with which a physician has a legal compensation arrangement, including fair market value wages, compensation, benefits, or rents for services or property provided, or in which a physician has a legal financial interest, including any direct or indirect ownership or investment interest, shall not be deemed to be engaged in conduct unbecoming a person licensed under this article, or to be engaged in conduct detrimental to the best interest of the public, or to be in violation of any other provision of this article by virtue of any of the above relationships, and shall not be subject to licensure denial, suspension, revocation, or any other disciplinary action or penalty under this article: (1) by virtue of such employment or contract, or (2) by virtue of the provision of physical therapy services pursuant to a referral from the employing or contracting physician, or from a physician with a legal compensation arrangement with or a legal financial interest in the employing or contracting physician group.

ALABAMA BOARD OF PHYSICAL THERAPY ADMINISTRATIVE CODE

The following is an abridged version of the Alabama Board of Physical Therapy administrative Code. To read the unedited Code in its entirety, please go to: http://pt.alabama.gov/PDF/AdminCode_June2019.pdf

Chapter 700-X-1 Organization, Administration, and Procedure

700-X-1-.02 Composition and Selection of Board.

(1) The Board of Physical Therapy shall consist of seven members appointed by the Governor.

(2) Board members shall be appointed for staggered terms of five years each, so that at least one member's term expires each year. No person shall be appointed for more than two consecutive terms. Four members shall be physical therapists, two members shall be physical therapist assistants, and one member shall be a consumer.

(3) The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

700-X-1-.03 General Description of Organization and Operation.

The Board is an independent agency of the State of Alabama. All costs of operating the Board, including administrative, secretarial, clerical, and investigative, are paid from legislative appropriation of fees collected by the Board. The attorney general and his assistants provide legal services to the Board.

(a) The Board shall, elect a chair, a secretary, and a treasurer, annually at the first meeting held after October 1.

(2) Compensation and Expenses. Board members shall be compensated on a per diem basis for days actually spent in performance of their duties in an amount that shall be fixed from time to time by resolution of the Board. Additionally, members of the Board shall be reimbursed according to the state travel policy for their other expenses.

700-X-1-.05 Executive Director.

The Board shall employ an Executive Director who shall be responsible for the administration of Board policy. The Executive Director is designated as agent for the Board for service of legal process upon the Board. All correspondence to the Board, including requests for information and all submissions and other requests, should be made to the Executive Director at the Board's headquarters as follows:

Executive Director
Alabama Board of Physical Therapy
100 North Union Street, Suite 724
Montgomery, Alabama 36130-5040

700-X-1-.06 Meetings.

(1) Meetings may be called by the chair or by a quorum of the Board.

(2) Each member of the Board shall be given at least seven days' notice of the time, place, and purpose of any regular or special meeting by the chair or the executive director, unless such notice is waived by the individual member or unless such member is present at the called meeting.

(3) The Board shall conduct an annual meeting at which all physical therapists and physical therapist assistants shall have the right to attend, nominate, and vote on persons for positions on the board. Special meetings may be called as necessary.

700-X-1-.07 Voting.

All members of the Board, including the chair, are entitled to vote and to make or second motions. A majority of those members of the Board present and voting on any matter shall decide that matter before the Board. The chairman shall vote as a member of the Board and his/her vote shall count no more than the vote of any other member.

700-X-1-.08 Use of Forms.

All applications and requests for which the Board has prescribed a form must be made on the prescribed form. Copies of instructions and forms are available from the executive director.

700-X-1-.09 Records.

(1) Specific public records are available for inspection at Board headquarters during regular business hours.

(2) Any person wishing to obtain copies of specific public records may request same from the executive director and will be supplied copies upon payment of the cost of copying, handling and postage, which costs will be estimated and set from time to time by resolution by the Board.

700-X-1-.10 Directory.

The Board shall make available a directory listing all persons licensed to practice in Alabama as physical therapists or physical therapist assistants. Copies of the directory shall be made available from the executive director upon request and payment of the cost of copying, handling and postage, the costs of which will be the same as set forth in rule 700-X-.09 above.

Chapter 700-X-2 Licensure

700-X-2-.01 Appropriate Education Required.

(1) United States Educated Applicants. Each applicant for licensure as a physical therapist or physical therapist assistant must have completed a program of physical therapy education appropriate for preparation as a physical therapist or physical therapist assistant, respectively, which is approved by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education (CAPTE).

(2) Non-United States Educated Applicants.

(a) Statement of Policy. Foreign educated physical therapist applicants must demonstrate educational equivalency to United States educated physical therapists as measured by the Federation of State Boards of Physical Therapy (FSBPT).

(b) Submission of Educational Credentials. Foreign educated physical therapist applicants shall submit their education credentials to:

FOREIGN CREDENTIALING COMMISSION ON PHYSICAL THERAPY
(FCCPT) 124 West St., South
3rd Floor

Alexandria, VA 22314
Fax: 703-684-8715

700-X-2-.02 Application Required.

(1) Application form. Each applicant for licensure shall complete an application form prescribed by the Board and supplied by the executive director.

(2) Documentation. The documents provided in this section must be received by the executive director before an application is considered complete.

(a) Applicants for Licensure by Examination.

1. The following must be submitted by the applicant:

- (i) Completed application form, including photograph.
- (ii) The required fees as prescribed by the Board.

2. The following must be submitted directly to the Board by the appropriate person or entity:

- (i) An official transcript of grades showing graduation or completion of the requisite physical therapy program. (Must be received prior to issuance of a permanent license.)

(b) Applicants for Licensure by Endorsement.

1. The following must be submitted by the applicant:

- (i) Completed application form, including photograph.
- (ii) The required fee as prescribed by the Board.

2. The following must be submitted directly to the Board by the appropriate person or entity:

- (i) An official transcript of grades showing graduation or completion of the requisite physical therapy program.
- (ii) Verification of all of applicant's licenses in other states as a physical therapist or physical therapist assistant.
- (iii) Applicants who took the examination between August 1965, and February 1991, must have passed each part of the examination, as well as the entire examination, by at least 1.5 sigma below the national mean. Applicants who took the examination between February 1991, and March 1993, must have passed the examination by at least 1.5 sigma below the national mean. Applicants who took the examination from March 1993, to the present must have passed the examination with a criterion referenced score of at least 600.

(c) Foreign-educated applicants.

1. The following must be submitted directly to the Board by the appropriate person or entity:

- (i) A certified copy of the evaluation by the approved credentials evaluating agency of the applicant's education prior to application.
- (ii) Any other certifying documents deemed necessary by the Board to establish professional status.

2. The following must be submitted by the applicant:

- (i) Completed application form.

- (ii) The required fees as prescribed by the Board.

700-X-2-.04 Examinations Required.

(1) Examinations.

- (a) Each candidate for licensure must pass licensure examination and a jurisprudence examination approved by the Board.
- (b) The cost of the examinations is in addition to the application fee provided for in Rule 700-X-2-.03 and the payment should be made directly to the examination service.

(2) Each candidate must register with FSBPT to take the National Physical Therapy Exam (NPTE) and select Alabama as the jurisdiction for which the applicant will be testing to have the first score sent to this state.

(3) Scoring of Examinations.

- (a) Examinations shall be scored by and maintained on file by the appropriate examination service, and a record of the applicant's examination scores shall be kept by the Board.
- (b) Passing Score.
 - 1. Physical Therapist Applicants. Physical therapist applicants must pass the examinations with a score of at least 600.
 - 2. Physical Therapist Assistant Applicants. Physical therapist assistant applicants must pass the examinations with a score of at least 600.

(4) Reexamination.

- (a) Any candidate who fails to pass the first licensure or jurisprudence examination may reschedule for reexamination with the examination service. Applicant is responsible for all fees required by the examination service for reexamination.
- (b) Applicants fee for licensure with the board remains valid until the candidate exhausts all opportunities to pass examinations under the established guidelines provided by the examination service.

700-X-2-.05 Licensure Without Examination.

Any individual licensed prior to 1978 who applies for licensure without examination under the provisions of Code of Ala. 1975, §34-24-214, must provide the Board with a copy of the law under which he/she was licensed and, where appropriate, have the licensing authority or appropriate score reporting service provide the Board with a copy of his/her examination scores.

700-X-2-.06 Issuance of License.

Each license shall be dated and numbered in the order of issuance and shall be signed by the chair and the executive director.

700-X-2-.07 Temporary Licenses.

(1) Upon application for licensure by qualified candidates under the provisions of Code of Ala. 1975, §34-24-215(b), and upon submission of documentation required by Rule 700-X-2-.02, a candidate shall be issued a temporary license to practice as a physical therapist or physical therapist assistant. The temporary license shall be valid only until the first examination is scored and the Board determines whether a license shall be issued. Physical therapists practicing under a temporary license must be under the direct, on-site supervision of a licensed physical therapist. Physical therapist assistants practicing under a temporary license must be under the direct, on-site supervision of a licensed physical therapist or a licensed physical therapist assistant, with the approval of the supervising physical therapist.

(2) The Board shall issue a temporary license under the provisions of Code of Ala. 1975, §34-24-215(a), upon application and payment of a fee not to exceed \$100.00, which fee shall be set from time to time by resolution of the Board.

700-X-2-.08 Renewal of License.

(1) Annual Renewal Required. Each license expires on October 1 of the year following its issuance.

(2) Renewal Fee Required. A renewal fee shall be required for annual renewal of license.

(3) Expired Renewal Fee. Anyone wishing to renew an expired license after November 1 of the license issuance year shall pay an Expired Renewal Fee. This Fee is in addition to the restoration fee set by Administrative Regulation 700-X-2-.09. After the five-year period, a license shall only be obtained by complying with the provisions relating to the issuance of an original license.

(4) Continuing Education Required. Continuing education activities are required to assure continued competency of licensees and thereby public protection. Successful completion of continuing education activities shall be a requirement for the renewal of licenses and for initial licensure without examination.

(5) Effective October 1, 2014, the Board does not pre-approve continuing education providers, sponsors or individual programs. It is the licensee's responsibility, using her/his professional judgment, to determine if the continuing education activities they complete are applicable, appropriate, and meet the requirements of the Board. All continuing education offerings, regardless of source will be accepted provided that it is directly related to the licensee's practice of physical therapy and meets the following general guidelines.

(a) General Guidelines

(1) Maintain, improve or expand skills or knowledge of the practice of physical therapy

(2) Contribute to the professional competency of the licensee by means of an organized activity with clearly described or outlined course content, dates or timelines for completion, and times of instruction or activity engagement expectations.

(3) Pertain to common subjects related to the practice of physical therapy and are based upon referenced scientific evidence; practice-based evidence; case studies; clearly identified anecdotal experience; current or proposed regulation of practice; accepted professional guidelines; policy documents; or best practices

(4) Conducted by experts in the subject matter - individuals with special education, training, and experience,

(5) Include stated program goals/objectives.

(6) Identify target audience or describes prerequisite levels of experience

(7) Describe requirements for successful progression or completion when using self-directed methods of learning (i.e., self-study, online, video, audio, teleconference, etc.). Self-directed methods of instruction may utilize a post-test but cannot result in a pass/fail grade

(8) Include a certificate or other sufficient proof of completion - For a concurrent session conference that does not provide documentation of individual session(s) completed, each individual course attended must be verified by having a conference official or course instructor sign or stamp the session description in the conference program if the conference does not use an automated format that allows for individual course verification

(b) Non-traditional continuing education activities shall have the following credit values:

1. Completion of physical therapy related academic coursework – awarded fifteen (15) hours of credit per semester hour completed

2. Participation in a physical therapy related clinical residency or fellowship program – awarded fifteen (15) hours of credit for each 1,000 hours completed

3. Completion of a physical therapy related specialty certification or recognition of advanced proficiency – awarded three (3) hours of credit for the initial certification or recognition and one (1) hour of credit for recertification or subsequent recognition

4. Publication in a peer-reviewed publication – awarded five (5) hours of credit for a book, three (3) hours of credit for a chapter or single author publication, or two (2) hours of credit for a multi-author publication

5. Teaching or lecturing in a physical therapy related continuing education activity – awarded two (2) hours per hour taught. Teaching or lecturing in the academic setting is also included, if teaching is not the licensee's primary occupation

6. Once every five (5) years, a formal internal or external peer review of practice, with verification of acceptable practice – awarded three (3) hours of credit

(c) Limited non-traditional continuing education activities are also permitted by the Board but shall not exceed forty percent (40%) of a licensee's total annual continuing education requirement and shall have the following credit values:

1. Publication in a peer-reviewed publication of an abstract, scientific review of a research paper, or book review - awarded one (1) hour of credit

2. Participation as a book or manuscript reviewer – awarded one (1) hour of credit
3. Database publication of a clinical practice guideline - awarded one (1) hour of credit
4. Authorship of a presented scientific poster or platform presentation – awarded one (1) hour of credit
5. Acting as the primary clinical instructor for CAPTE accredited PT or PTA program students – awarded one (1) hour for each 200 hours completed
6. Developing alternative media materials, including computer software, programs, and digital instructional materials – awarded one (1) hour for each project released for public access.

(d) Requirements

1. Each physical therapist and physical therapist assistant licensed to practice by this Board shall complete for each compliance period, a minimum of ten (10) hours of continuing education activities. One hour of continuing education is defined as 50 minutes of engagement in the continuing education activity. October 1 through September 30 of the next year shall constitute a compliance period.
 - (i) For licensure without examination, the applicant must demonstrate a total of ten (10) hours of acceptable continuing education in the twelve (12) months prior to application.
 - (ii) Individuals licensed within one year of graduation from a CAPTE approved program will not be required to meet the continuing education requirement for initial licensure or first renewal.
2. Beginning with the compliance period starting October 1, 2015, licensees shall begin retaining a record of completed courses for five (5) years, including an agenda, brochure or other documentation that substantiate how the activities meet the accepted general guidelines, as well as documentation to establish the completion of those activities Licensees shall provide the Board a copy of their records, or grant access to any online recording and reporting system the licensee elects to use for purposes of the Board verifying completion of the continuing education requirements.
3. Continuing education hours earned by a physical therapist or physical therapist assistant in excess of ten (10) hours during a compliance period, may be carried forward into the next compliance period; but, no more than ten (10) hours may be carried forward.
4. Beginning with the compliance period starting October 1, 2015, licensees complete at least two (2) hours of continuing education every fifth year on the topic of Alabama physical therapy jurisprudence, covering both the Practice Act and the Administrative Code. Both PTs and PTAs will be required to fulfill this requirement when renewing their license in years ending in zero (0) or five (5) (i.e., 2020, 2025, 2030, etc.). Individuals licensed without examination shall also complete this expectation within 30 days of initial licensure.

(e) Unacceptable activities for continuing education:

1. Regularly scheduled education opportunities provided within the employment setting such as orientations, in-services, staff meetings, informal rounds, case conferences, equipment or procedural updates, CPR, blood-borne pathogens, etc.
2. Meetings for purposes of policy decisions
3. Non-educational meetings at annual conferences, chapter or organizational meetings
4. Entertainment or recreational meetings or activities
5. Committee meetings, holding office, serving as an organizational delegate
6. Visiting exhibits, poster presentations
7. Entry-level coursework, activities, or presentations made by the lay public or non- medical professionals
8. Activities of less than fifty (50) minutes duration

(f) Failure to Meet Requirement

1. No license will be renewed in the absence of satisfactory evidence that the required hours have been earned. The Board may consider exceptions in extenuating circumstances
2. Upon audit, the licensee is responsible for demonstrating that the completed continuing education activities were of an acceptable nature. Should an audited activity prove to be unacceptable the licensee will have sixty (60) days to successfully meet the continuing education expectations. Failure to meet the continuing education requirements within that timeframe will result in disciplinary action.
3. A licensee that is licensed without examination who is unable to document ten (10) hours of continuing education activities in the twelve (12) months prior to application shall have thirty (30) days after the initial issuance of the license to successfully meet this requirement. This requirement is in addition to the annual renewal requirement of ten (10) hours.
Failure to meet the continuing education requirements within that timeframe will result in disciplinary action.

700-X-2-.09 Restoration of License.

All licenses shall expire on the first day of October. Any person who permits his/her license to lapse past September 30 may restore the license upon application to the Board and submission of all fees due on or before November first. After November first, a restoration fee set by the board will be required, in addition to the expired renewal fee. Upon receipt of all fees applicable, a license will be reinstated and restored effective the date that all fees are received in the board office.

700-X-2-.10 Lost or Destroyed License or Name Change.

(1) Lost or destroyed license. Any licensee whose license is lost or destroyed may be issued a replacement license upon making application to the Board. Such application must be accompanied with the appropriate form and fee set by the board.

(2) Name change. Any licensee whose name is changed by marriage or court order shall provide proof of name change and apply for a replacement license within 60 days.

700-X-2-.11 Fee for Verification of Licensure.

The board is authorized to establish and collect a fee for certifying to other boards or entities that a licensee is a member in good standing with the Alabama Board.

700-X-2-.12 Schedule of Fees Set by The Board.

| | |
|--|---------|
| Application Fee – Endorsement or Examination (PT or PTA) | \$150 |
| Annual Renewal Fee (PT)..... | \$130 |
| Annual Renewal Fee (PTA)..... | \$93 |
| Expired Renewal Fee (PT)..... | \$230 |
| Expired Renewal Fee (PTA)..... | \$193 |
| Restoration Fee..... | \$50 |
| Original License Reprint..... | \$10 |
| Verification of AL Licensure..... | \$25 |
| Directory of Licensees (PT)..... | \$75 |
| Directory of Licensees (PTA)..... | \$75 |
| Copy Records..... | \$1/pg. |
| Temporary License..... | \$100 |

Chapter 700-X-3 Professional Conduct

700-X-3-.01 Statement of Policy.

Physical therapists and physical therapist assistants are to respect the rights and dignity of all individuals and are to be guided at all times by concern for the welfare of those patients entrusted to their care. Inherent within this charge of care for a patient is a code of conduct which includes both required and prohibitive actions.

700-X-3-.02 Unbecoming Conduct/Conduct Detrimental to The Best Interest of The Public Prohibited.

(1) "Unbecoming Conduct" is defined as incompetent, illegal, unethical, unprofessional, or dishonorable conduct which violates those standards which have become accepted as obligations reasonably necessary for the protection of the public interest and for professional accountability.

(2) Certain Conduct Specifically Prohibited.

While the statements of conduct apply universally, the application or interpretations are usually based on specific individual circumstances. The determination as to what constitutes unbecoming conduct shall be solely within the judgment of the Board of Physical Therapy. The Board finds that and declares that unbecoming conduct shall include, but not be limited to, the following either singularly, in part, or in combination:

- (a) Practicing with an expired license.
- (b) Willful or grossly negligent failure to comply substantially with provisions of laws, rules or regulations governing the practice of the profession.

- (c) Abandoning or neglecting a patient in need of immediate professional care without making reasonable arrangements for the continuation of such care.
- (d) Willfully harassing, abusing, or intimidating a patient, co-worker, student, volunteer, or any individual either physically or verbally while practicing physical therapy.
- (e) Suggesting to a patient referred by one practitioner that the patient seek the services of another practitioner without first consulting the referring practitioner.
- (f) Guaranteeing that satisfaction or a cure will result from the performance of professional services.
- (g) Administering excessive tests or treatment; use of treatment procedures or equipment not warranted by the condition of the patient.
- (h) Claiming that the quality of services is greater than the quality of services performed by other physical therapists or other physical therapist assistants.
- (i) Using the word "doctor" in offering to perform professional services without also indicating the discipline in which the licensee holds a doctorate.
- (j) Accepting and undertaking the performance of responsibilities which the licensee knows or has reason to know that he or she is not qualified to perform, or performing without adequate supervision or direction, services which the licensee is authorized to perform only under the supervision or direction of licensed persons.
- (k) Delegating responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by education, by experience, or by licensure to perform them.
- (l) Failing to exercise appropriate supervision or direction over persons who are authorized to practice only under the supervision or direction of the licensed professional.
- (m) Failing to maintain appropriate records which accurately reflect the evaluation and treatment for each patient.
- (n) Revealing personally identifiable facts, data, or information obtained in a practitioner capacity without the prior consent of the patient or client, except as authorized or required by law.
- (o) Failing to make available to a patient, or, upon a patient's request, to another licensed health care practitioner consistent with that practitioner's authorized scope of practice, copies of reports, tests, records, or evaluations relating to the patient, or failing to complete forms or reports required for the reimbursement of a patient by a third party.
- (p) Endorsing equipment, products or services to the patient and the lay public if any remuneration is received in return for such endorsement without notifying the patient or lay person that you would profit from the sale of the equipment, products or services.
- (q) Failing to report known incompetent, illegal or unprofessional conduct.
- (r) Engaging in sexual misconduct. Sexual misconduct, for the purpose of this section, includes but is not limited to the following:
 - 1. Engaging in or soliciting sexual relationships with a patient currently under your care.
 - 2. Sexually harassing patients under your care.

- (s) Charging unreasonable or fraudulent fees for services performed or not performed.
- (t) Interfering with or refusing to cooperate in an investigation or disciplinary proceeding conducted by the Board or other any governmental agency where cooperation is required.

700-X-3-.03 Roles and Responsibilities of Licensees.

(1) Within the provision of physical therapy service there are three recognized levels of personnel: The physical therapist who is licensed to practice physical therapy; the physical therapist assistant who is licensed to assist the physical therapist; and the physical therapist aide who is an unlicensed person. The physical therapist must assume primary responsibility for physical therapy care rendered under his/her supervision or direction. Both direction and supervision include, when appropriate, observation of the application of physical therapy procedures, conferences related to patient progress, verbal and written reports.

(2) Definitions.

- (a) Direction means the action of the physical therapist in delegating duties to a physical therapist assistant, maintaining close communication with the physical therapist assistant, and overseeing the physical therapist assistant's activities on a frequent regularly scheduled basis.
- (b) Supervision means the direct onsite overseeing of the performance of assigned or delegated duties or functions.
- (c) Diagnosis for physical therapy means the identification of functional limitations and/or impairments and/or disabilities which are used to guide physical therapy treatments. It is not a medical diagnosis or the identification of a disease.

(3) Roles and Responsibilities, Specifically.

(a) Physical Therapist. The roles and responsibilities of a person licensed by this Board to practice physical therapy in the State of Alabama generally are:

1. To interpret a practitioner's referral.
2. To perform and document the initial evaluation, as well as the physical therapy plan of care which may include:
 - (i) Diagnosis rendered by the referring or previously diagnosing health care provider
 - (ii) Diagnosis for physical therapy
 - (iii) Presenting problems
 - (iv) Past medical history including, but not limited to, conditions for which patient is taking medication and conditions which are currently being treated by a physician
 - (v) List of medications being taken by the patient
 - (vi) Objective findings of the physical therapy evaluation
 - (vii) Assessment as to what the current problem(s) is/are that require physical therapy intervention
 - (viii) Goals, both short-term and long-term if appropriate

(ix) Physical therapy plan of treatment including frequency and duration

3. A Physical Therapist will not be disciplined for accepting a referral from a licensed assistant to a physician acting pursuant to a valid supervisory agreement or a licensed certified registered nurse practitioner in a valid collaborative practice agreement with a licensed physician as long as the physical therapist has a reasonable good faith belief that the assistant to a physician is acting pursuant to a valid supervisory agreement or the nurse practitioner is in a valid collaborative practice agreement with a licensed physician.
4. To identify and document precautions, special problems, contraindications, anticipated progress, and plans for reevaluation.
5. To implement and supervise that program.
6. To select and delegate the appropriate portions of the treatment plan and program.
7. To delegate only those patient care duties to supportive personnel who are qualified under the provisions of these rules to perform such duties.
8. To reevaluate the patient and adjust the treatment plan, perform the final evaluation of the patient and discharge planning.
9. To designate or establish channels of written and oral communication.
10. To maintain adequate records of the case and report to appropriate sources.
11. To direct no more than four licensed physical therapist assistants at one time.
12. To refuse to carry out treatment procedures that they believe to be not in the best interest of the patient.
13. To provide supervision of physical therapist and/or physical therapist assistant students who are on clinical experiences approved by their school as part of their Commission on Accreditation of Physical Therapy Education (CAPTE) approved educational program.

(b) Physical Therapist Assistant.

When using an abbreviated title, the physical therapist assistant should use the letters PTA. The roles and responsibilities of a person licensed by this Board to practice as a physical therapist assistant in the State of Alabama generally are:

1. To practice only under the direction of a physical therapist licensed to practice in the State of Alabama.
2. To assist with but not perform patient disability evaluations.
3. To perform treatment procedures as delegated by the physical therapist but not to initiate or alter a treatment plan.
4. To supervise other supportive personnel as charged by the physical therapist.
5. To notify the physical therapist of changes in patient's status, including all untoward patient responses.
6. To discontinue immediately any treatment procedures which in their judgment appear to be harmful to the patient.

7. To refuse to carry out treatment procedures that they believe to be not in the best interest of the patient.
8. To provide supervision of physical therapist assistant students who are on clinical experiences approved by their school as part of their CAPTE approved educational program.

(c) Physical Therapy Aide.

The roles and responsibilities of physical therapy aides in physical therapy care are to perform patient related support duties that do not require decision making skills of a licensee.

700-X-3-.04 Advertising.

(1) Statement of Policy. Advertising must be done in accordance with this rule which is designed to reasonably facilitate the flow of accurate information and prevent false and/or misleading advertising.

(2) Certain Advertising Prohibited.

(a) The advertising is intentionally designed to mislead or deceive its intended audience.

(b) Licensees are not to compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity in a news item. A paid advertisement is to be identified as such unless it is apparent from the context that it is a paid advertisement.

(3) The following shall be deemed appropriate means advertising:

(a) Advertising any form not prohibited by paragraph 1 and 2 above.

(b) Listings in directories published by third parties which are open to all qualified members of the profession practicing in the geographic area covered by the directories. The listings may include such factual material as name, address, telephone number, office days and hours, and approved area(s) of specialty.

(c) Endeavoring to educate the public to an awareness of the physical therapy profession.

(d) Preparation of articles for nonmedical publications and participation in seminars, lectures, and civic programs designed to educate the public to the services offered by the profession.

700-X-3-.05 Identification Required.

(a) Licensees shall be identified as a physical therapist or physical therapist assistant in a legible manner to individuals that come in contact with them during the provisions of physical therapy services. The appropriate credentials, Physical Therapist or Physical Therapist Assistant, or the appropriate abbreviations, PT or PTA, shall be displayed on their person via proper identification. Non-licensed physical therapy support personnel shall be identified as physical therapy aide in a legible manner to individuals that come in contact with them while working under the supervision of a PT/PTA. Primary identification as a physical therapy aide may be followed by other license credentials or certifications. Proper identification includes, but is not limited to, embroidery, clip-ons,

paper nametags, name badges, or other appropriate means. This rule shall be effective as of January 1, 2011.

(b) There shall at all times be prominently displayed in the place of business of each licensee under this Act a sign containing the name, mailing address, and telephone number of this Board.

(c) Students shall be identified as a physical therapist student or a physical therapist assistant student in a legible manner, when in a clinical affiliation arrangement and will be in contact with patients. This may be achieved by the student wearing the name tag given to them by the educational institution they are enrolled in or by wearing a name tag issued by the clinical institution they are assigned to. The name tag must identify them as a physical therapist student or a physical therapist assistant student.

700-X-4 Disciplinary Actions

700-X-4-.01 Complaints.

Complaints alleging any violation of the laws of the State of Alabama or rules of this Board may be lodged by any person in writing with the executive director.

700-X-4-.02 Probable Cause.

Beginning January 21, 2009, upon the lodging of a complaint, the executive director shall refer the complaint to the chair of the Board. Subsequent to investigation the chair shall, in consultation with the executive director the Board's attorney, and a second board member appointed by the Chair, determine whether probable cause exists for the issuing of a summons and complaint by the Board. If a summons and complaint is issued, the chair and the second board member involved who made the probable cause determination shall not vote at the disciplinary hearing held pursuant to the summons and complaint.

700-X-4-.03 Summons and Complaint.

(1) Preparation. In the event the Board determines that probable cause exists for the filing of a summons and complaint, the Board shall instruct its counsel to prepare it and it shall be filed with the Board.

(2) The summons and complaint shall be mailed certified mail, return receipt requested, to the most recent address of the respondent on file with the Board and shall be mailed at least 30 days prior to the scheduled date of the hearing. In the event the summons and complaint are refused, or the return receipt has not been received by the Board or its attorney at least 20 days before the scheduled hearing, respondent may be served by mailing a copy of the summons and complaint first class mail at least 15 days before the hearing date.

(3) Contents. The summons and complaint shall give notice in substantial compliance with the Alabama Administrative Procedures Act S12(2).

700-X-4-.04 Pre-Hearing Discovery.

(1) Permitted. Pre-hearing discovery shall be permitted in accordance with this rule to the extent necessary to prevent fraud, conserve the Board's time, prevent undue surprise at hearing and facilitate the carriage of justice.

(2) Extent Allowed. The attorney for the Board or the respondent may, upon application to the Administrative Law Judge, obtain discovery regarding any matter not privileged which is relevant to the subject matter involved in the pending action, whether it relates to the charge of the Board or the defense of the respondent.

(3) Methods of Discovery.

(a) Upon written application to the Administrative Law Judge, the following discovery may be allowed or ordered:

1. Deposition upon oral examination of any expert witness.
2. Interrogatories to respondent.
3. Order for production and copying of documents and things and entry upon land for inspection and other purposes, against any person.

(b) The discovery must be done in accordance with the Alabama Administrative Procedures Act.

700-X-4-.05 Disciplinary Hearings.

(1) Conduct of Hearing.

(a) Administrative Law Judge. The Board may, in its discretion, appoint some person to act as Administrative Law Judge at disciplinary hearings. In the event an Administrative Law Judge is appointed, he/she shall preside at the hearing and shall rule on all questions of evidence and procedure, notwithstanding other provisions of these rules to the contrary.

(b) Plea. The respondent shall plead either "guilty" or "not guilty" to the charges set forth in the complaint.

(c) Opening Statement. Each side shall be permitted to make a short opening statement.

(d) The state shall present its evidence, followed by the respondent, followed by rebuttal by the state. Each witness called may be examined in the following manner:

1. Direct examination.
2. Cross examination.
3. Examination by Board.
4. Re-direct examination.
5. Re-cross examination.
6. Reexamination by Board.

(e) Closing Argument. Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.

(f) The Board may request one or both sides to prepare within seven days for the Board's consideration a proposed order of the Board including findings of fact,

official notice, and conclusions of law. Underlying facts of record which support the findings should be cited.

(g) Order. The Board shall issue an order within 30 days of the date of the final hearing, which shall include findings of fact, official notice taken, and conclusions of law, stated separately. Respondent shall be delivered a copy of the order by certified mail, return receipt requested, and a copy shall be mailed first class to each attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with the Alabama Administrative Procedure Act Section 13.

(3) Emergency Suspension. Emergency suspensions shall be governed by Ala. Code §41-22-19(d).

700-X-4-.06 Discipline.

(1) Revocation or suspension of License. Upon a finding that respondent has violated any enumerated provision of Code of Ala. 1975, §34-24-217, or any rule adopted pursuant thereto, the Board may restrict, revoke or suspend respondent's license to practice as a physical therapist or physical therapist assistant in Alabama.

(2) Stay of Execution of Order. The Board may, in its discretion, permanently or temporarily stay the execution of its order to restrict, revoke or suspend respondent's license. The stay may be conditioned on any provision the Board deems appropriate under all the circumstances of a particular case.

(3) Considerations. In determining whether a license should be restricted, revoked or suspended, and whether execution of the order should be stayed, and upon what conditions, the Board shall consider all relevant factors, including, but not limited to, the following:

- (a) The severity of the offense;
- (b) The danger to the public;
- (c) The number of repetitions of offenses;
- (d) The length of time since the date of violation;
- (e) The number of complaints filed against the licensee;
- (f) The length of time the licensee has practiced;
- (g) The actual damage, physical or otherwise, to the patient;
- (h) The deterrent effect of the penalty imposed;
- (i) The effect of the penalty upon the licensee's livelihood;
- (j) Any efforts of rehabilitation; and
- (k) Any other mitigating or aggravating circumstances.

(4) Public Notice. The Board shall publish semi-annually a listing of names, with offenses, of licensees disciplined via formal or informal means.

700-X-4-.07 Costs and Fines.

(1) Fines. The Board is authorized to discipline its licensees by the adoption and collection of administrative fines, not to exceed \$1,000 per violation, and it is further authorized to institute any legal proceedings necessary to effect compliance with this chapter.

(2) Costs. The Board may, with the agreement of a licensee, tax the costs of the Board's investigation or adjudication of a complaint.

700-X-4-.08 Reinstatement of License After Revocation.

(1) Application for Reinstatement. Any person whose license has been revoked may apply to the Board for reinstatement of the license at any time within two years of the revocation. In his/her application for reinstatement, the applicant should state why he/she feels the license should be reinstated and should specifically set forth any changed circumstances which would justify reinstatement. Applicant must include in his/her application evidence that he/she meets the current requirements for licensure.

(2) Board Action. Upon receipt of such application, the Board may grant the applicant a hearing to consider reinstatement, at which time applicant may appeal to the Board to reinstate his/her license.

700-X-4-.09 Conflict and Bias.

(1) No Board member shall be entitled to vote in any disciplinary matter if the Board member is personally biased against the respondent or when such voting would violate the provisions of the Alabama Administrative Procedure Act, Section 18(1).

(2) Any respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing with the executive director at least three days before the scheduled disciplinary hearing an affidavit asserting the disqualification together with the underlying factual basis for the assertion.

(3) The Board shall consider the assertion of disqualification on the record as a preliminary matter at the hearing before any other question is decided.

Chapter 700-X-5 Amendment of Rules

(1) Any person who wishes to propose that the Board adopt, repeal, or amend any rule may do so on the form prescribed by the Board and supplied by the executive director.

(2) When a proposal to adopt, repeal or amend a rule is received by the Board, the executive director shall place the proposal on the agenda of the next board meeting under "new business".

700-X-5-.02 Public Hearings.

The Board shall permit all interested persons reasonable opportunity to submit data, views, or arguments concerning any proposed rule action. Data, views, or arguments submitted in writing must be received by the executive director at least ten days before

the date specified in the notice as the day of the public hearing. Those persons wishing to appear before the Board to present data, views, or arguments orally should submit a request to appear before the Board to the executive director, and such request should be received by the executive director at least ten days before the scheduled public hearing.

700-X-5-.03 Board Decision.

The Board shall fully consider all written and oral submissions concerning every proposed rule action. Upon adoption of a rule, the Board, if conflicting views are submitted on the proposed rule, may issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling any consideration urged against its adoption.

700-X-5-.04 Emergency Rules.

The Board may adopt emergency rules under the provisions of Ala. Code § 41-22-5(b).

Public Health Laws of Alabama

Chapter 14: Reporting Child Abuse

26-14-1 Definitions - For the purposes of this Chapter, the following terms shall have the meanings respectively ascribed to them by this section:

1. Abuse. Harm or threatened harm to a child's health or welfare. Harm or threatened harm to a child's health or welfare can occur through nonaccidental physical or mental injury, sexual abuse or attempted sexual abuse, or sexual exploitation or attempted sexual exploitation. "Sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children as those acts are defined by Alabama law. "Sexual Exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes.
2. Neglect. Negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, supervision, clothing, or shelter.
3. Child. Either of the following:
 - a. A person under the age of 18 years
 - b. A person under the age of 19 years who is in need of protective services and does not qualify for adult protective services under Chapter 9 of Title 38

26-14-3 Mandatory Reporting

All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, physical therapists, nurses, public and private K-12 employees, school teachers and officials,

peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals, employees of public and private institutions of post-secondary and higher education, members of the clergy, or any other person called upon to render aid or medical assistance to any child, when the child is known or suspected to be a victim of child abuse or neglect, shall be required to report orally, either by telephone or direct communication immediately, followed by a written report to a duly constituted authority.

26-14-9 Immunity from Liability for Actions Under Chapter

Any person, firm, corporation, or official, including members of multidisciplinary child protection team, quality assurance team, child death review team, or other authorized case review team or panel, by whatever designation, participating in the making of a good faith report in an investigation or case review authorized under this Chapter or other law or department practice or in the removal of a child pursuant to this chapter, or participating in a judicial proceeding resulting therefrom, shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

26-14-13 Penalty for Failure to Make Required Report

Any person who shall knowingly fail to make the report required by this chapter shall be guilty of a misdemeanor and shall be punished by a sentence of not more than six month's imprisonment or a fine of not more than \$500.00

The Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, and Breach Notification Rules protect the privacy and security of health information and provide individuals with certain rights to their health information. Physical therapy professionals play a vital role in protecting the privacy and security of patient information.

HIPAA Privacy Rule

The Privacy Rule sets national standards for when protected health information (PHI) may be used and disclosed. It establishes standards to protect PHI held by these entities and their business associates:

- Health plans
- Health care clearinghouses
- Health care providers that conduct certain health care transactions electronically

The Privacy Rule gives individuals important rights with respect to their protected PHI, including rights to examine and obtain a copy of their health records in the form and manner they request, and to ask for corrections to their information. Also, the Privacy Rule permits the use and disclosure of health information needed for patient care and other important purposes.

The Privacy Rule gives individuals important rights with respect to their protected PHI, including rights to examine and obtain a copy of their health records in the form and manner they request, and to ask for corrections to their information. Also, the Privacy Rule permits the use and disclosure of health information needed for patient care and other important purposes.

The Privacy Rule protects PHI held or transmitted by a covered entity or its business associate, in any form, whether electronic, paper, or verbal. PHI includes information that relates to all of the following:

- The individual's past, present, or future physical or mental health or condition
- The provision of health care to the individual
- The past, present, or future payment for the provision of health care to the individual PHI includes many common identifiers, such as name, address, birth date, and Social Security number.

The Health Insurance Portability and Accountability Act (HIPAA) governs how Covered Entities (CEs) protect and secure Protected Health Information (PHI). Under HIPAA, a CE can disclose (whether orally, on paper, by fax, or electronically) PHI to another CE or that CE's business associate for the following subset of health care operations activities of the recipient CE without needing patient consent or authorization:

- Conducting quality assessment and improvement activities
- Developing clinical guidelines
- Conducting patient safety activities as defined in applicable regulations
- Conducting population-based activities relating to improving health or reducing health care cost
- Developing protocols
- Conducting case management and care coordination (including care planning)
- Contacting health care providers and patients with information about treatment alternatives
- Reviewing qualifications of health care professionals
- Evaluating performance of health care providers and/or health plans
- Conducting training programs or credentialing activities
- Supporting fraud and abuse detection and compliance programs.

In general, before a CE can share PHI with another CE for one of the reasons noted above, the following three requirements must also be met:

1. Both CEs must have or have had a relationship with the patient (can be a past or present patient)
2. The PHI requested must pertain to the relationship
3. The discloser must disclose only the minimum information necessary for the health care operation at hand.

Under HIPAA's minimum necessary provisions, a health care provider must make reasonable efforts to limit PHI to the minimum necessary to accomplish the purpose of the use, disclosure or request. For example, in sharing information with an individual's health plan for population health programs (for example, a diabetes management

program), a provider should disclose the PHI that is necessary for the program to be effective.

HIPAA Security Rule

The HIPAA Security Rule specifies safeguards that covered entities and their business associates must implement to protect ePHI confidentiality, integrity, and availability.

Covered entities and business associates must develop and implement reasonable and appropriate security measures through policies and procedures to protect the security of ePHI they create, receive, maintain, or transmit. Each entity must analyze the risks to ePHI in its environment and create solutions appropriate for its own situation. What is reasonable and appropriate depends on the nature of the entity's business as well as its size, complexity, and resources. Specifically, covered entities must:

- Ensure the confidentiality, integrity, and availability of all ePHI they create, receive, maintain, or transmit
- Identify and protect against reasonably anticipated threats to the security or integrity of the ePHI
- Protect against reasonably anticipated, impermissible uses or disclosures
- Ensure compliance by their workforce.

The HIPAA Breach Notification Rule

The HIPAA Breach Notification Rule requires covered entities to notify affected individuals; HHS; and, in some cases, the media of a breach of unsecured PHI. Generally, a breach is an impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of PHI. The impermissible use or disclosure of PHI is presumed to be a breach unless you demonstrate there is a low probability the PHI has been compromised based on a risk assessment of at least the following factors:

- The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification
- The unauthorized person who used the PHI or to whom the disclosure was made
- Whether the PHI was actually acquired or viewed
- The extent to which the risk to the PHI has been mitigated.

Most notifications must be provided without unreasonable delay and no later than 60 days following the breach discovery. Notifications of smaller breaches affecting fewer than 500 individuals may be submitted to HHS annually. The Breach Notification Rule also requires business associates of covered entities to notify the covered entity of breaches at or by the business associate.

**U.S. Code § 1320a–7b
Illegal Remunerations**

Illegal Remunerations

(1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind -

(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program, shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$100,000 or imprisoned for not more than 10 years, or both.

(2) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person -

(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program, shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$100,000 or imprisoned for not more than 10 years, or both.

Case Studies

Case Study #1 - Confidentiality

John Jones PT, Sue Brown (therapy receptionist), and Mary Smith (Director of Managed Care Contracting), are in a private PT office discussing the fact that they are treating Biff Simpson, a star NFL quarterback. John says, "I can't believe that I'm actually treating Biff Simpson." Mary asks, "How bad do you think his injury is?" John replies, "I saw his MRI report, it looks like he is going to need surgery."

Is this a breach in confidentiality?

The information contained in each patient's medical record must be safeguarded against disclosure or exposure to nonproprietary individuals. The right to know any medical information about another is always predicated on a sound demonstration of need. Frequently, many individuals require access to information contained in a patient's medical record. Their right to access this information is limited to only that

information which is deemed necessary for them perform their job in a safe, effective, and responsible manner.

The first questions we must ask are “What information is being disclosed and do the three individuals engaged in the conversation have a need to know this information?” John’s first statement discloses the name of person receiving care, and his second statement reveals private patient medical information. Certainly, as the primary therapist, John would need to know the patient’s name and therapy related diagnosis in order to provide care. Sue, the receptionist, may also need this information to schedule appointments and perform other essential clerical tasks. Mary, whose job it is to contract with managed care organizations, most likely has no compelling reason to know either the patient’s identity or any of his medical information. Therefore, the disclosure to Mary of the patient’s identity and medical information is a breach of patient confidentiality.

Applicable Rules & Regulations:

HIPAA Privacy Rule: The Privacy Rule protects Protected Health Information (PHI) held or transmitted by a covered entity or its business associate, in any form, whether electronic, paper, or verbal. PHI includes information that relates to the provision of health care to the individual.

Alabama Board of Physical Therapy Administrative Code 700-X-3-.02(2)(n): Revealing personally identifiable facts, data, or information obtained in a practitioner capacity without the prior consent of the patient or client, except as authorized or required by law.

Case Study #2 – Conflicts of Interest

Debi Jones PT works in an acute care hospital. She is meeting with a vendor whose company is introducing a new brace onto the market. He offers her 3 free braces to “try out” on patients. The vendor states that if Debi continues to order more braces, she will qualify to receive compensation from his company by automatically becoming a member of its National Clinical Assessment Panel.

Does this represent a conflict of interest?

Yes, there exists a conflict of interest in this situation. Debi has two primary obligations to fulfill. The first is to her patient. It is her professional duty to recommend to her patient a brace that, in her judgment, will benefit them the most. The second obligation is to her employer, the hospital. As an employee of the hospital it is her responsibility to manage expenses by thoroughly and objectively seeking effective products that also demonstrate economic efficiency. The conflict of interest occurs when she begins to accept compensation from the vendor in direct or indirect response for her brace orders. Even if she truly believes it is the best brace for her patient, and it is the most cost-effective brace the hospital could purchase, by accepting the money she has established at least an apparent conflict of interest. Under this situation she is obligated

to disclose to all parties her financial interest in ordering the braces. This disclosure is necessitated because the potential for personal gain would make others rightfully question whether her objectivity was being influenced.

Applicable Rules & Regulations:

Alabama Board of Physical Therapy Administrative Code 700-X-3-.02(2)(p): Endorsing equipment, products or services to the patient and the lay public if any remuneration is received in return for such endorsement without notifying the patient or lay person that you would profit from the sale of the equipment, products or services.

Case Study #3 – Qualifications of Practice

You work in very busy outpatient rehab clinic. One of your coworkers is a physical therapy aide who has worked in rehabilitation for more than 20 years. Frequently, she performs treatments that should be done by a PT or PTA. The patients always give her compliments, and often times request her to treat them. She demonstrates exceptional skills and achieves outstanding outcomes.

Is the clinic providing ethical/legal care to its patients?

The practice of physical therapy is regulated by the State of Alabama. It is each physical therapy licensee's professional responsibility to adhere to the standards of care and licensure requirements as specified in the State's Rules and Regulations. Physical therapists must ensure that all care provided under their supervision, also meets these standards.

In this situation, the aide's abilities and outcomes are considered irrelevant. The key sentence in the paragraph is: "performs treatments that should be done by a PT or PTA.". The "should" in this case must not be interpreted as merely a casual suggestion but rather a legal definition regulated by the state's Physical Therapy Practice Act. Any treatment or procedure that should be performed by a licensed professional must be performed by a licensed professional.

Applicable Rules & Regulations:

Alabama Board of Physical Therapy Administrative Code 700-X-3-.03(3)(a)7: To delegate only those patient care duties to supportive personnel who are qualified under the provisions of these rules to perform such duties.

Alabama Board of Physical Therapy Administrative Code 700-X-3-.02(2)(k): Delegating responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by education, by experience, or by licensure to perform them.

Alabama Board of Physical Therapy Administrative Code 700-X-3.03: The roles and responsibilities of physical therapy aides in physical therapy care are to perform patient related support duties that do not require decision making skills of a licensee.

Case Study #4 – Referral Relationships

Larry Jones PT owns a private practice. Business has been poor. He decides to sublease half of his space to a physician who specializes in Geriatric medicine. Larry's current lease is at \$20/sq ft. The doctor wants to pay \$15/sq ft. They come to a compromise of \$17/sq ft. Larry also agrees that if the doctor is his top Medicare referral source each month, he'll make him the Medical Director of the facility and pay him a salary of \$500/month.

Is this a legal arrangement?

No, this agreement is not legal. The most notable infraction involves offering to designate and compensate the physician as the Medical Director contingent upon the number of referrals he sends. It is perfectly acceptable (and required in some instances) to have a physician as a Medical Director; however, compensating the Medical Director based on their referral volume is not legal. Another area of concern is the rent. At first glance, the rent amount of \$17/sq ft seems fair because it was a compromise between the two parties. However, closer scrutiny reveals this to be illegal. The fair market value for rent has been established as \$20/sqft. (Larry's current rental agreement with his landlord) By discounting the doctor \$3/sq ft on his rent, Larry is giving a referral source something of value.

It is illegal for a physical therapist to offer anything of value to physicians or any other referral source in direct response for the referral of patients or services relating to any federal program. This includes cash, rebates, gifts, discounts, reduced rent, services, equipment, employees, or marketing. Many mistakenly believe that it is a normal acceptable business practice to offer these things to referral sources. Exchanges of valued items or services between therapists and referral sources must never have any relationship to the referral of patients. Goodwill gifts of nominal value are acceptable provided that no correlation can be made between the magnitude or frequency of the gift giving and referral patterns. All business agreements and transactions should always be well documented and most importantly, reflect fair market value.

Applicable Rules & Regulations:

U.S. Code § 1320a–7b: Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person to refer an individual to a person for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program.

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Alabama Physical Therapy Jurisprudence

Post-Test

1. The AL Board of Physical Therapy consists of ____ PTs, ____ PTAs, and ____ consumer(s). (p. 3)
 - A. 3, 3, 2
 - B. 4, 2, 1
 - C. 5, 1, 1
 - D. 4, 1, 2
2. Which profession is NOT listed as being able to make a referral for physical therapy? (p. 5)
 - A. Podiatrist
 - B. Chiropractor
 - C. Dentist
 - D. Licensed assistant to a physician
3. Physical therapy services may be performed without a referral (pursuant to a plan of care) to which of the following: (p. 5)
 - A. A child with a diagnosed developmental disability.
 - B. A patient of a home health agency.
 - C. A patient in a nursing home.
 - D. All of the above
4. Physical therapists practicing under a temporary license must be under what type of supervision? (p. 11)
 - A. General supervision of a licensed PT.
 - B. Indirect supervision of a licensed PT.
 - C. Direct, on-site supervision of a licensed PT.
 - D. Continuous, line-of-site supervision of a licensed PT
5. Which of the following statements is TRUE regarding continuing education? (p. 11)
 - A. The Board does not pre-approve CE providers, sponsors, or individual programs.
 - B. It is the licensee's responsibility to determine if the CE activities are applicable, appropriate, and meet the Board's requirements.
 - C. All CE offering will be accepted provided that it is directly related to the licensee's practice of physical therapy and meets the general guidelines of 700-X-2-.08(5)(a).
 - D. All of the above
6. Which of the following is NOT a continuing education requirement for Alabama licensed physical therapy professionals? (p. 13)
 - A. Licensees must complete 10 hours of continuing education each compliance period.
 - B. Licensees must complete a 1-hour CPR certification course annually.
 - C. Licensees must retain a record of completed courses for 5 years.
 - D. Licensees must complete at least 2 hours of CE every fifth year (years ending in 0 or 5) on Alabama physical therapy jurisprudence.
7. Alabama physical therapy licensees are permitted to do which of the following? (p 15-17)
 - A. Guarantee satisfaction will result from the performance of professional services.
 - B. Claim that the quality of their services is greater than the quality of services offered by other physical therapists.
 - C. Use the word "doctor" when offering to perform services provided that the licensee also indicates the discipline in which they hold a doctorate.
 - D. Withhold forms or reports required for the reimbursement of a patient by a third party.

Alabama Physical Therapy Jurisprudence

8. Sexual misconduct is prohibited, and is defined as: (p. 16-17)
 - A. Soliciting a sexual relationship with a patient currently under your care.
 - B. Engaging in a sexual relationship with a patient currently under your care.
 - C. Sexually harassing a patient currently under your care.
 - D. All of the above
9. Diagnosis for physical therapy means: (p. 17)
 - A. The identification of functional limitations, impairments, and/or disabilities that guide physical therapy treatments.
 - B. The medical diagnosis.
 - C. The identification of a disease or disorder.
 - D. The differential diagnosis established by a referring healthcare provider.
10. A physical therapist may direct no more than ____ licensed PTAs at one time. (p. 18)
 - A. 2
 - B. 3
 - C. 4
 - D. 5
11. A physical therapist assistant may _____. (p. 18-19)
 - A. Practice without the direction of a physical therapist.
 - B. Perform patient disability evaluations.
 - C. Refuse to carry out treatment procedures that they believe to be not in the best interest of the patient.
 - D. All of the above
12. Where must Alabama physical therapy licensees display their credentials during the provision of physical therapy services? (p. 19)
 - A. On their person via proper identification.
 - B. On the wall of the facility within 100 feet of treatment areas.
 - C. At a centralized patient accessible location.
 - D. They are not required to display their credentials.
13. Alabama licensed physical therapists are required to report known or suspected child abuse or neglect. (p. 24-25)
 - A. True
 - B. False
14. HIPAA requires covered entities to notify affected individuals of a breach of unsecured Protected Health Information no later than ____ following the breach discovery. (p. 27)
 - A. 72 hours
 - B. 60 days
 - C. 90 days
 - D. 180 days
15. Individuals convicted of soliciting or receiving remuneration for referring an individual for the furnishing of an item or service for which payment is made under a Federal health care program shall be fined as much as _____ or imprisoned for as long as _____, or both. (p. 28)
 - A. \$1000; 6 months
 - B. \$10,000; 3 years
 - C. \$50,000; 6 years
 - D. \$100,000; 10 years

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