# WEST VIRGINIA CODE CHAPTER 30 ARTICLE 20

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## §30-20-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice physical therapy in this state without a license or permit issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that they are a physical therapist or a physical therapist assistant unless the person has been duly licensed or permitted under the provisions of this article, and the license or permit has not expired, been suspended or revoked.

(b) A business entity may not render any service or engage in any activity which, if rendered or engaged in by an individual, would constitute the practice of physical therapy, except through a licensee or permittee.

(c) A person who is not licensed under this article as a physical therapist may not characterize himself or herself as a "physical therapist", "physiotherapist", or "doctor of physical therapy", nor may a person use the designation "PT", "DPT", "LPT", "CPT", or "RPT".

(d) A person who is not licensed under this article as a physical therapist assistant may not characterize himself or herself as a "physical therapist assistant", nor may a person use the designation "PTA".

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## §30-20-2. Applicable law.

The practices licensed under the provisions of this article and the Board of Physical Therapy are subject to article one of this chapter, the provisions of this article, and any rules promulgated hereunder.

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**§30-20-3. Definitions.**

As used in this article:

(1) "Applicant" means any person making application for an original or renewal license or a temporary permit under the provisions of this article.

(2) "Board" means the West Virginia Board of Physical Therapy.

(3) "Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity providing physical therapy services.

(4) "Consultation" means a physical therapist renders an opinion or advice to another physical therapist or health care provider through telecommunications.

(5) "Direct supervision" means the actual physical presence of the physical therapist in the immediate treatment area where the treatment is being rendered.

(6) "General supervision" means the physical therapist must be available at least by telecommunications.

(7) "License" means a physical therapist license or license to act as a physical therapist assistant issued under the provisions of this article.

(8) "Licensee" means a person holding a license under the provisions of this article.

(9) "On-site supervision" means the supervising physical therapist is continuously on-site and present in the building where services are provided, is immediately available to the person being supervised, and maintains continued involvement in appropriate aspects of each treatment session.

(10) "Permit" or "temporary permit" means a temporary permit issued under the provisions of this article.

(11) "Permittee" means any person holding a temporary permit issued pursuant to the provisions of this article.

(12) "Physical therapy aide" means a person trained under the direction of a physical therapist who performs designated and routine tasks related to physical therapy services under the direction supervision of a physical therapist.

(13) "Physical therapist" means a person engaging in the practice of physical therapy who holds a license or permit issued under the provisions of this article.

(14) "Physical therapist assistant" means a person holding a license or permit issued under the provisions of this article who assists in the practice of physical therapy by performing

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patient related activities delegated to him or her by a physical therapist and performs under the supervision of a physical therapist and which patient related activities commensurate with his or her education and training, including physical therapy procedures, but not the performance of evaluative procedures or determination and modification of the patient plan of care.

(15) "Practice of physical therapy" or "physiotherapy" means the care and services as described in section nine of this article.

(16) "Telecommunication" means audio, video or data communication.

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**§30-20-4. West Virginia Board of Physical Therapy.**

(a) The West Virginia Board of Physical Therapy is continued.

(b) The board shall consist of the following members:

(1) Five physical therapists;

(2) One physical therapist assistant;

(3) One person who is a certified athletic trainer; and

(4) One citizen member, who is not licensed under the provisions of this article and who does not perform any services related to the practice of the professions regulated under the provisions of this article or have a financial interest in any health care profession, for a term of three years.

(c) After the initial appointment term, the term shall be for five years. Appointments to the board shall be made by the Governor by and with the advice and consent of the Senate.

(d) A licensed member of the board, at the time of his or her appointment, shall have held a license in this state for a period of not less than five years immediately preceding the appointment.

(e) A member of the board shall be a resident of this state during the appointment term.

(f) A member may not serve more than two consecutive full terms. A member may continue to serve until a successor has been appointed and has qualified.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty days of the vacancy.

(h) The Governor may remove a member from the board for neglect of duty, incompetency or official misconduct.

(i) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice is suspended or revoked.

(j) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(k) The board shall elect annually one of its members as chairperson who serves at the will of the board.

(l) In the event of a tie vote on any matter properly brought before the board, the

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chairperson shall cast one additional vote to break the tie. If the chairperson is recused or absent, the longest-serving board member who is present and not recused shall cast one additional vote.

(m) A member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.

(n) A majority of the members of the board constitutes a quorum.

(o) The board shall hold at least two annual meetings. Other meetings may be held at the call of the chairperson or upon the written request of two members, at the time and place as designated in the call or request.

(p) Prior to commencing his or her duties as a member of the board, a member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

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**§30-20-5. Powers and duties of the board.**

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law.

(b) The board shall:

(1) Hold meetings, conduct hearings and administer examinations;

(2) Establish requirements for licenses and permits;

(3) Establish procedures for submitting, approving and rejecting applications for licenses and permits;

(4) Determine the qualifications of any applicant for licenses and permits;

(5) Prepare, conduct, administer and grade examinations for licenses;

(6) Determine the passing grade for the examinations;

(7) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examinations and the pass and fail rate;

(8) Hire, discharge, establish the job requirements and fix the compensation of the executive secretary;

(9) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees, investigators and contracted employees necessary to enforce the provisions of this article;

(10) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;

(11) Conduct disciplinary hearings of persons regulated by the board;

(12) Determine disciplinary action and issue orders;

(13) Institute appropriate legal action for the enforcement of the provisions of this article;

(14) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(15) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(16) Establish the continuing education requirements for licensees;

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(17) Issue, renew, combine, deny, suspend, restrict, revoke or reinstate licenses and permits;

(18) Establish a fee schedule;

(19) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and

(20) Take all other actions necessary and proper to effectuate the purposes of this article.

(c) The board may:

(1) Contract with third parties to administer examinations required under the provisions of this article;

(2) Sue and be sued in its official name as an agency of this state; and

(3) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

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**§30-20-6. Rulemaking.**

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

(1) Standards and requirements for licenses and permits;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare or administer, or both, examinations and reexaminations;

(4) Educational and experience requirements;

(5) The passing grade on the examinations;

(6) Standards for approval of courses and curriculum;

(7) Procedures for the issuance and renewal of licenses and permits;

(8) A fee schedule;

(9) The scope of practice and supervision of physical therapist assistants;

(10) Responsibilities of a physical therapist and physical therapist assistant concerning the practice and supervision of physical therapy aides;

(11) Continuing education requirements for licensees;

(12) Establishing a maximum ratio of physical therapist assistants, or physical therapy aides involved in the practice of physical therapy, or any combinations that can be supervised by a physical therapist at any one time;

(13) Exceptions to the ratio of physical therapist assistants a physical therapist may supervise including emergencies, safety and temporary situations;

(14) Permitting a physical therapist assistant to directly supervise a physical therapy aide in an emergency situation;

(15) The procedures for denying, suspending, restricting, revoking, reinstating or limiting the practice of licensees and permittees;

(16) Adopt a standard for ethics;

(17) Requirements for inactive or revoked licenses or permits; and

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(18) Any other rules necessary to effectuate the provisions of this article.

(b) The board shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code, to establish a maximum ratio of physical therapist assistants, or physical therapy aides involved in the practice of physical therapy, or any combinations that can be supervised by a physical therapist at any one time.

(c) All of the board's rules in effect on July 1, 2010, shall remain in effect until they are amended or repealed and references to provisions of former enactments of this article are interpreted to mean provisions of this article.

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## §30-20-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "West Virginia Board of Physical Therapy Fund", which is continued. The fund is used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as fines pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

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**§30-20-8. License to practice physical therapy.**

(a) To be eligible for a license to engage in the practice of physical therapy, the applicant must:

(1) Submit an application to the board;

(2) Be at least eighteen years of age;

(3) Be of good moral character;

(4) Have graduated from an accredited school of physical therapy approved by the Commission on Accreditation in Physical Therapy Education or a successor organization;

(5) Pass a national examination as approved by the board;

(6) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a twelve-step program or other similar group or process, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within ten years preceding the date of application for license which conviction remains unreversed;

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of physical therapy, which conviction remains unreversed; and

(9) Has fulfilled any other requirement specified by the board.

(b) A physical therapist shall use the letters "PT" immediately following his or her name to designate licensure under this article.

(c) A license to practice physical therapy issued by the board prior to July 1, 2010, is considered a license issued under this article: Provided, That a person holding a license issued prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

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## §30-20-8a. West Virginia Board of Physical Therapy criminal history record checks.

(a) The West Virginia Board of Physical Therapy is authorized to require state and national criminal history record checks for the purpose of issuing licenses. The West Virginia Board of Physical Therapy shall require an applicant, including physical therapists and physical therapy assistants, as a condition of eligibility for initial license to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of §29B-1-1 et seq. of this code.

(e) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(f) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(g) The board may not disqualify an applicant for initial licensure because of a prior criminal conviction that has not been reversed unless that conviction is for a crime that bears a rational nexus to the occupation requiring licensure.

(h) The board may not use crimes involving moral turpitude in making licensure determinations.

(i) If an applicant is disqualified for licensure because of a criminal conviction that has not been reversed, the board shall afford the applicant the opportunity to reapply for licensure after the expiration of five years from the date of conviction or date of release from the

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penalty that was imposed, whichever is later, if the individual has not been convicted of any other crime during that period of time: Provided, That convictions for violent or sexual offenses or offenses shall subject an individual to a longer period of disqualification, to be determined by the board.

(j) An individual with a criminal record who has not previously applied for licensure, certification, or registration may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license or other authorization to practice. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The board shall inform the individual of his or her standing within 60 days of receiving the petition from the applicant. The board may charge a fee established by rule to recoup its costs for each petition.

(k) The board shall propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be proposed pursuant to the provisions of §29A-3-1 et seq. of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2020.

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## §30-20-9. Scope of practice of a physical therapist.

A physical therapist may:

(1) Examine, evaluate and test patients or clients with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement related conditions in order to determine a diagnosis, prognosis and plan of treatment intervention, and to assess the ongoing effects of intervention: Provided, That electromyography examination and electrodiagnostic studies other than the determination of chronaxia and strength duration curves shall not be performed except under the supervision of a physician electromyographer and electrodiagnostician;

(2) Alleviate impairments, functional limitations and disabilities by designing, implementing and modifying treatment interventions that may include, but are not limited to: therapeutic exercise; functional training in self-care in relation to motor control function; mobility; in home, community or work integration or reintegration; manual therapy techniques including mobilization of the joints; therapeutic massage; fabrication of assistive, adaptive, orthothic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; patient-related instruction; mechanical and electrotherapeutic modalities; and physical agent or modalities including, but not limited to, heat, cold, light, air, water and sound;

(3) Reduce the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health and wellness in populations of all ages; and

(4) Engage in administration, consultation and research.

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## §30-20-10. License to act as a physical therapist assistant.

(a) To be eligible for a license to act as a physical therapist assistant, the applicant must:

(1) Submit an application to the board;

(2) Be at least eighteen years of age;

(3) Be of good moral character;

(4) Have graduated from a two-year college level education program for physical therapist assistants which meets the standards established by the Commission on Accreditation in Physical Therapy Education and the board;

(5) Have passed the examination approved by the board for a license to act as a physical therapist assistant;

(6) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a twelve-step program or other similar group or process, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within ten years preceding the date of application for license which conviction remains unreversed;

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of physical therapy, which conviction remains unreversed; and

(10) Meet any other requirements established by the board.

(b) A physical therapist assistant shall use the letters "PTA" immediately following his or her name to designate licensure under this article.

(c) A license to act as a physical therapist assistant issued by the board prior to July 1, 2010, is considered a license issued under this article: Provided, That a person holding a license issued prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

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**§30-20-11. License to practice physical therapy from another jurisdiction.**

(a) The board may issue a license to practice physical therapy to an applicant who holds a valid license or other authorization to practice physical therapy from another state, if the applicant:

(1) Holds a license or other authorization to practice physical therapy in another state which was granted after completion of educational requirements substantially equivalent to those required in this state;

(2) Passed an examination that is substantially equivalent to the examination required in this state;

(3) Does not have charges pending against his or her license or other authorization to practice, and has never had a license or other authorization to practice revoked;

(4) Has not previously failed an examination for a license to practice physical therapy in this state;

(5) Has paid the applicable fee;

(6) Is a citizen of the United States or is eligible for employment in the United States; and

(7) Has fulfilled any other requirement specified by the board.

(b) The board may issue a license to practice physical therapy to an applicant who has been educated outside of the United States, if the applicant:

(1) Provides satisfactory evidence that the applicant's education is substantially equivalent to the educational requirements for physical therapists under the provisions of this article;

(2) Provides written proof that the applicant's school of physical therapy is recognized by its own ministry of education;

(3) Has undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule;

(4) Has paid the applicable fee;

(5) Is eligible for employment in the United States; and

(6) Complete any additional requirements as required by the board.

(c) The board may issue a restricted license to an applicant who substantially meets the criteria established in subsection (b) of this section.

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## §30-20-12. Temporary permits.

(a) Upon completion of the application and payment of the nonrefundable fees, the board may issue a temporary permit, for a period not to exceed ninety days, to an applicant to practice as a physical therapist in this state or act as a physical therapist assistant in this state, if the applicant has completed the educational requirements set out in this article, pending the examination and who works under a supervising physical therapist with the scope of the supervision to be defined by legislative rule.

(b) The temporary permit expires thirty days after the board gives written notice to the permittee of the results of the first examination held following the issuance of the temporary permit, if the permittee receives a passing score on the examination. The permit shall expire immediately if the permittee receives a failing score on the examination.

(c) A temporary permit may be revoked by a majority vote of the board.

(d) An applicant may be issued only one temporary permit, and upon the expiration of the temporary permit, may not practice as a physical therapist or act as physical therapist assistant until he or she is fully licensed under the provisions of this article.

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**§30-20-13. Special volunteer physical therapist license, physical therapist assistant license; civil immunity for voluntary services rendered to indigents.**

(a) There is established a special volunteer license for physical therapists or physical therapist assistants, as the case may be, retired or retiring from active practice who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Physical Therapy to physical therapists or physical therapist assistants licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant's acknowledgment that:

(1) The applicant's practice under the special volunteer license will be exclusively devoted to providing physical therapy care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any physical therapy services rendered under the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer physical therapists or physical therapist assistants license, as the case may be.

(b) Any person engaged in the active practice of physical therapy in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physical therapist's office or the clinical setting.

(c) Any physical therapist or physical therapist assistant who renders any physical therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the physical therapy

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service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the physical therapist or physical therapist assistant. In order for the immunity under this subsection to apply, there must be a written agreement between the physical therapist or physical therapist assistant and the clinic stating that the physical therapist or physical therapist assistant will provide voluntary uncompensated physical therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the physical therapist or physical therapist assistant at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physical therapist or physical therapist assistant rendering voluntary physical therapy services at or for the clinic under a special volunteer license authorized under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure for a physical therapist or physical therapist assistant, as the case may be, except the fee requirements.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any physical therapist or physical therapist assistant whose license is or has been subject to any disciplinary action or to any physical therapist or physical therapist assistant who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physical therapist or physical therapist assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary thereof the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physical therapist or physical therapist assistant who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

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## §30-20-14. Renewal requirements.

(a) All persons regulated by this article shall annually or biannually before January 1, renew his or her license by completing a form prescribed by the board and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a license and shall charge a late fee for any renewal not paid by the due date.

(c) The board shall require as a condition of renewal that each licensee complete continuing education.

(d) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

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## §30-20-15. Delinquent and expired license requirements.

(a) If a license is not renewed when due, then the board shall automatically place the licensee on delinquent status.

(b) The fee for a person on delinquent status shall increase at a rate, determined by the board, for each month or fraction thereof that the renewal fee is not paid, up to a maximum of thirty-six months.

(c) Within thirty-six months of being placed on delinquent status, if a licensee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as set by rule.

(d) After thirty-six months of being placed on delinquent status, a license is automatically placed on expired status and cannot be renewed. A person whose license has expired must reapply for a new license.

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## §30-20-16. Inactive license requirements.

(a) A licensee who does not want to continue an active practice shall notify the board in writing and be granted inactive status.

(b) A person granted inactive status is not subject to the payment of any fee and may not practice physical therapy or act as a physical therapist assistant in this state.

(c) When the person wants to return to the practice of physical therapy or act as a physical therapist assistant, the person shall submit an application for renewal along with all applicable fees as set by rule.

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**§30-20-17. Exemptions from licensure.**

(a) The following persons are exempt from licensing requirements under the provisions of this article:

(1) A person who practices physical therapy pursuant to a course of study at an institution of higher learning, including, but not limited to, activities conducted at the institution of higher learning and activities conducted outside the institution if under the on-site supervision of a physical therapist;

(2) A person who practices physical therapy in the United States Armed Services, United States Public Health Service or Veterans Administration pursuant to federal regulations for state licensure of health care providers;

(3) A physical therapist who is licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person is teaching, demonstrating or providing physical therapy services in connection with teaching or participating in an educational seminar of no more than sixty calendar days in a calendar year;

(4) A physical therapist who is licensed in another state if that person is consulting;

(5) A physical therapist who is licensed in another jurisdiction, if that person by contract or employment is providing physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the state for no more than sixty calendar days in a calendar year;

(6) A physical therapist who is licensed in another jurisdiction who enters this state to provide physical therapy during a declared local, state or national disaster or emergency. This exemption applies for no longer than sixty calendar days in a calendar year following the declaration of the emergency. The physical therapist shall notify the board of their intent to practice;

(7) A physical therapist licensed in another jurisdiction who is forced to leave his or her residence or place of employment due to a declared local, state or national disaster or emergency and due to the displacement seeks to practice physical therapy. This exemption applies for no longer than sixty calendar days in a calendar year following the declaration of the emergency. The physical therapist shall notify the board of their intent to practice;

(8) A person administering simple massages and the operation of health clubs so long as not intended to constitute or represent the practice of physical therapy;

(9) A physical therapist assistant assisting an exempt physical therapist; and

(10) Nothing contained in this article prohibits a person from practicing within his or her



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scope of practice as authorized by law.

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## §30-20-18. Display of license.

(a) The board shall prescribe the form for a license and permit, and may issue a duplicate license or permit upon payment of a fee.

(b) Any person regulated by the article shall conspicuously display his or her license or permit at his or her principal business location.

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**§30-20-19. Complaints; investigations; due process procedure; grounds for disciplinary action.**

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules promulgated pursuant to this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license or permit or the imposition of sanctions against the licensee or permittee. Any hearing shall be held in accordance with the provisions of this article.

(e) Any member of the board or the executive secretary of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its executive secretary may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license or permit by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk, as defined by legislative rule of the board;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization revoked or suspended by the proper authorities of another jurisdiction;

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(6) Aiding or abetting unlicensed practice; or

(7) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare or safety of the public.

(h) For the purposes of subsection (g) of this section, effective July 1, 2010, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Restrictions;

(4) Administrative fine, not to exceed $1,000 per day per violation;

(5) Mandatory attendance at continuing education seminars or other training;

(6) Practicing under supervision or other restriction; or

(7) Requiring the licensee or permittee to report to the board for periodic interviews for a specified period of time.

(i) In addition to any other sanction imposed, the board may require a licensee or permittee to pay the costs of the proceeding.

WV Legislature

## §30-20-20. Procedures for hearing; right of appeal.

(a) Hearings are governed by the provisions of section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the executive secretary of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee or permittee has violated provisions of this article or the board's rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

WV Legislature

## §30-20-21. Judicial review.

Any licensee or permittee adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

WV Legislature

## §30-20-22. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee or permittee has committed a criminal offense under this article, the board may bring its information to the attention of an appropriate law-enforcement official.

(b) A person violating section one of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $5,000 or confined in jail not more than six months, or both fined and confined.

WV Legislature