

## **848-001-0005**

### **Attorney General's Model Rules of Procedure**

The following Model Rules of Procedure promulgated by the Attorney General of the State of Oregon, in effect [~~January 15, 2004~~] **January 1, 2008**, are adopted by the Board by reference. These rules apply to rulemaking; OAR 137-001-0005 through 137-001-0080.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Physical Therapist Licensing Board.]

## **848-001-0010**

### **Time for Requesting a Contested Case Hearing**

A request for a contested case hearing must be in writing and must be received by the Board within [~~twenty one (21)~~] **thirty (30)** days from the date the proposed notice of disciplinary action was served.

**848-005-0020**

**Board Fees and Refunds**

(1) The following fees shall be paid to the Board:

(a) Physical Therapist or Physical Therapist Assistant Examination Application Fee of \$150.00, plus the actual cost to the Board of conducting a nationwide background check.

(b) Physical Therapist or Physical Therapist Assistant Endorsement Application Fee of \$150.00, plus the actual cost to the Board of conducting a nationwide background check.

(c) Physical Therapist Annual License Renewal Fee of \$100.00, plus the actual cost to the Board of conducting ~~[a statewide law enforcement background check]~~ **a workforce demographics survey as required by HB 2009 Section 1174.**

(d) Physical Therapist Assistant Annual License Renewal Fee of \$65.00, plus the actual cost to the Board of conducting ~~[a statewide law enforcement background check]~~ **a workforce demographics survey as required by HB 2009 Section 1174.**

(e) Lapsed License Renewal Fee of \$50.00 for renewal applications postmarked or received by the Board after March 31st.

**(f) On-line renewal and application convenience fee not to exceed the actual processing costs of an on-line electronic transaction.**

~~{(f)}~~ **(g)** Physical Therapist or Physical Therapist Assistant Temporary Permits Fee of \$50.00.

~~{(g)}~~ **(h)** Duplicate License Fee of \$25.00.

[{(h)}] **(i)** Physical Therapist or Physical Therapist Assistant Wall Certificate Fee of \$15.00.

~~{(i)}~~ **(j)** Physical Therapist or Physical Therapist Assistant Verification of Oregon Licensure Letters/Forms Fee of \$25.00.

~~{(j)}~~ **(k)** Non-Sufficient Funds (NSF) Check Fee of \$25.00.

~~{(k)}~~ **(l)** Miscellaneous Fees:

(A) Physical Therapist and/or Physical Therapist Assistant electronic mailing list fee of \$150.00.

(B) Photocopying Fee of ten cents (\$0.10) per copy.

(2) Board refunds of overpayments in any amount less than \$25.00 will be held by the Board unless the payor requests a refund in writing.

**848-005-0030**

**Name, Address and Telephone Number of Record**

(1) Every applicant, licensee and temporary permit holder shall keep their legal name on file with the Board.

(2) Every applicant, licensee and temporary permit holder shall keep their home address on file with the Board. The home address must be a residential address and may not be a post office box number.

(3) Every applicant, licensee and temporary permit holder shall keep a current contact telephone number and electronic mail address, if available, on file with the Board.

(4) Every applicant, licensee and temporary permit holder shall keep the name, address and telephone number of their current employer or place of business on file with the Board.

(5) Every applicant, licensee and temporary permit holder shall keep a current designated mailing address on file with the Board.

(6) Whenever an applicant, licensee or temporary permit holder legally changes their name, they shall notify the Board in writing within 30 days of the name change and provide the Board with legal documentation of the name change.

(7) Whenever an applicant, licensee or temporary permit holder changes their home address, their employer or place of business, their contact telephone number, electronic mail address or their mailing address, they shall within 30 days, notify the Board in writing. Written notification may be by regular mail, electronic mail or facsimile.

**(8) Unless requested for a public health or state health planning purpose or unless extenuating circumstances exist, the Board will withhold the personal electronic mail address, home address and personal telephone number of a licensee.**

## 848-010-0015

### Examinations

(1) Examinations for licensing of physical therapists and of physical therapist assistants shall be provided by an examination service approved by the Board. The overall passing score shall be based on a formula using the criterion-referenced scoring system. An applicant may sit for the examination a maximum of three times in any jurisdiction within a 12-month period, measured from the date of the first examination. ~~[Prior to a fourth attempt, the applicant must take and complete a refresher course approved by the Board. Applicant may test two times in any jurisdiction following completion of the refresher course. If applicant fails to pass the examination within two attempts following completion of the refresher course, applicant can not be licensed in Oregon.]~~

(2) All completed applications for examination, the non-refundable examination fee and other necessary forms must be approved by the Board prior to the scheduling of each examination in Oregon. For applicants taking the examination in another state or territory of the United States, or other Board approved location, and applying to Oregon for licensure by examination, all completed applications, the non-refundable fee and other necessary forms must be approved by the Board prior to licensure.

(3) Unless qualified for licensure by endorsement under OAR 848-010-0022, a foreign educated physical therapists must submit directly to the Board, prior to obtaining an application:

(a) A Credentials Evaluation Statement ("the Report") of professional education and training prepared by a Board-approved credentials evaluation agency. It is the applicant's responsibility to pay the expenses associated with the credentials evaluation.

(A) The Report must provide evidence and documentation that the applicant's education outside a state or territory of the United States is substantially equivalent to the education of a physical therapist who graduated from an accredited physical therapy education program approved by the Board pursuant to ORS 688.050(2).

(B) To determine substantial equivalency, the approved credentialing evaluation agency shall use the appropriate Course Work Tool ("CWT") adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist graduated from their physical therapy program.

(b) English Language Proficiency

(A) Verification that English is the native language of the country of origin, and the physical therapy program employs English as the language of training; or

(B) Verification that the applicant has achieved a score of not less than 560 on the paper Test of English as a Foreign Language (TOEFL) or a score of not less than 220 on the computer Test of

English as a Foreign Language (TOEFL), a score of not less than 50 on the Test of Spoken English (TSE) and a score of not less than 4.5 on the Test of Written English (TWE); or

(C) Verification that the applicant has achieved the following minimum scores for each category of the new internet based TOEFL (ibTOEFL) examination: writing, 24; speaking, 26; reading, 21; listening, 18; with an overall score of not less than 89.

(c) If applicant has taken a Board-approved national licensing examination prior to application for licensure in Oregon, a report of applicant's examination scores must be submitted to the Board directly from the Board-approved examination service.

(d) If applicant holds or has held a license in the country in which the applicant received their physical therapy education, the applicant must provide primary source verification of the license.

(e) For purposes of section (3) of this rule, the requirements and criteria considered for credentialing will be "as of" the date the most recent credentialing report was received by the Board from the Board-approved credentialing agency.

(4) The Examination must be given in the English language.

(5) No person shall be allowed to take the physical therapist examination or physical therapist assistant examination for licensure in Oregon until all academic requirements are completed.

(6) The examination will be administered at a location approved by the Board. Applicants taking the examination in Oregon must sit for the examination within 60 days from the date of the letter of authorization from the Board-approved examination service.

(7) Any applicant who has graduated from an approved school of physical therapy and passed a Board-approved examination or a Board-approved equivalent examination more than five years prior to application for licensure in the State of Oregon and who has not been actively licensed in any other state or territory of the United States for a five year period must demonstrate competence to practice physical therapy. If the applicant fails to demonstrate competence, the Board may require the applicant to serve an internship under a restricted license or satisfactorily complete a refresher course approved by the Board, or both, at the discretion of the Board. The Board may also require the applicant to pass an examination approved by the Physical Therapist Licensing Board as provided in OAR 848-010-0015.

## **848-010-0022**

### **Endorsement of Out-of-State Foreign Educated Physical Therapists**

A foreign educated physical therapist not licensed in the State of Oregon may be licensed by endorsement if the applicant meets or fulfills the requirements of subsections (1), (2), (4) and (5) of OAR 848-010-0020 and the Board receives all of the following additional items: (1) A certified copy of the [~~Credentials Evaluation Statement (“the report”)~~] **Course Work Tool (“CWT”)** used by a physical therapy licensing authority of a state or territory of the United

States to make the determination to issue a license in that state or territory. The report must indicate that the applicant's foreign physical therapy education was determined to be substantially equivalent to the education of a physical therapist who graduated from an accredited physical therapy program approved by the Oregon Board pursuant to ORS 688.050(2). **To determine substantial equivalency, the approved credentialing evaluation agency shall use the appropriate CWT adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist graduated from their physical therapy program.** The licensing authority of the state or territory must certify the report and must send it directly to the Oregon Board.

(2) Proof of completion of a minimum of 1000 hours of clinical practice each year in a state or territory of the United States for three of the last ten years immediately prior to application. To meet this requirement, however, no more than five years can have elapsed since the applicant has had clinical practice in a state or territory of the United States. The applicant's current or prior employer(s) must send this proof directly to the Oregon Board.

(3) A written statement from the applicant's most recent employer stating that the applicant practiced safely and competently. The employer must send this proof directly to the Oregon Board.

(4) A foreign educated physical therapist who does not meet the requirements of this section may apply for licensure under OAR 848-010-0015(3).

## **848-010-0026**

### **Temporary Permits**

(1) The Board may issue a temporary permit to practice as a physical therapist or physical therapist assistant for a period of [~~90~~] **60** calendar days to an applicant who meets the requirements of this rule.

(a) A person who has completed a CAPTE accredited physical therapist or physical therapist assistant program in a state or territory of the United States and who is applying for the first time to take the licensing examination in Oregon shall:

(A) Submit a completed application for license by examination and pay the required fee;

(B) Submit a completed application for a temporary permit and pay the required fee; and

(C) Submit a Board Certificate of Professional Education providing primary source verification of completion of a CAPTE accredited physical therapist or physical therapist assistant program.

(b) A person who holds a valid current license to practice in another state or territory of the United States shall:

(A) Provide written primary source verification of current licensure in another state or territory;

(B) Submit a completed application for license by endorsement and pay the required fee;

(C) Submit a completed application for a temporary permit and pay the required fee; ~~and~~

(D) Submit a Board Certificate of Professional Education providing primary source verification of completion of a CAPTE accredited physical therapist or physical therapist assistant program; **and**

**(E) Have passed the physical therapist or physical therapist assistant examination with the minimum overall passing score set out in OAR 848-010-0020(5).**

(c) A person who is a foreign educated physical therapist who has graduated from a CAPTE accredited physical therapist program shall:

(A) Submit a completed application for license by examination or endorsement and pay the required fee;

(B) Submit a completed application for a temporary permit and pay the required fee;

(C) Submit a Board Certificate of Professional Education providing primary source verification of completion of a CAPTE accredited physical therapist program; and

(D) Submit proof of passing scores on the TOEFL, TSE and TWE tests or ibTOEFL test. However, this requirement does not apply if the physical therapist program was taught in English and English is the national language of the country where the physical therapist program was taught.

(2) A person who holds a temporary permit must practice under supervision as provided in this rule.

(3) A person who holds a temporary permit issued under subsection (1)(a) or (1)(c) of this rule must practice under on-site supervision, which means that at all times a supervising therapist is in the same building and immediately available for consultation. Entries made in the patient record by a temporary permit holder must be authenticated by the permit holder and by a supervising therapist.

(4) A person who holds a temporary permit issued under subsection (1)(b) of this rule must practice under general supervision, which means that at all times a supervising therapist must be readily available for consultation, either in person or by telecommunication.

(5) As used in this rule, "supervising therapist" means a physical therapist if the permit holder is a physical therapist or a physical therapist assistant. "Supervising therapist" also means a physical therapist assistant if the permit holder is a physical therapist assistant. A physical therapist assistant may not supervise a physical therapist permit holder.

(6) If a physical therapist assistant is supervising a physical therapist assistant permit holder, a physical therapist must be readily available for consultation, either in person or by telecommunication, as provided in OAR 848-015-0020.

(7) Within five (5) working days of beginning practice the permit holder must submit to the Board a completed "Temporary Permit Letter from Employer" form. The permit holder must notify the Board of any change in employment during the [~~three-month~~] **60 day** period by submitting a new "Temporary Permit Letter from Employer" within five (5) working days.

(8) A temporary permit issued under this rule shall terminate automatically by operation of law if the permit holder fails the Board-approved national licensing examination or the person's score on the Board-approved national licensing examination taken for purposes of licensure in another state or territory does not meet Oregon Board requirements. A permit holder must return the permit certificate to the Board immediately, by a method that provides delivery verification, upon notification that the permit has terminated.

(9) The Board may refuse to issue a temporary permit to an applicant or may revoke a permit after issuance on any of the grounds set out in OAR 848-010-0044 or 848-045-0020. A person whose permit is revoked must return the certificate to the Board immediately by a method that provides delivery verification.

(10) A permit holder whose permit has terminated or has been revoked is not eligible to apply for another permit.

(11) A person who has taken and failed the Board-approved national licensing examination is not eligible to apply for a temporary permit. A person who has failed and has not subsequently passed the national licensing examination in another state, or whose score on the examination taken for purposes of licensure in another state or territory does not meet Oregon Board requirements, is not eligible to apply for a temporary permit.

(12) In its discretion the Board may grant one [~~90~~] **60** calendar day extension to a person who holds a temporary permit issued under (1)(b) of this rule.

(13) A person who holds a temporary permit issued under this rule is subject to all statutes and rules governing a licensee.

## **848-035-0020**

### **Required Hours and Period for Completion**

(1) A licensed physical therapist is required within each certification period to complete 24 hours of continuing education relating to the delivery or provision of physical therapy services.

(2) A licensed physical therapist assistant is required within each certification period to complete 12 hours of continuing education relating to the delivery or provision of physical therapy services.

(3) Notwithstanding the provisions of subsection (1) of this rule, any person who is first issued an Oregon physical therapist license through examination pursuant to OAR 848-010-0015, or through endorsement pursuant to OAR 848-010-0020, anytime during the first year of a certification period (April 1st of an even numbered year through March 31st of an odd numbered year), must complete the full 24 hours of continuing education required for that certification period. A person who is first issued an Oregon physical therapist license anytime during the second year of a certification period (April 1st of an odd numbered year through March 31st of an even numbered year), must complete one-half (12 hours) of the continuing education required for that certification period. Thereafter, such licensees must complete the same continuing education requirements as other licensees who hold the same license.

(4) Notwithstanding the provisions of subsection (2) of this rule, any person who is first issued an Oregon physical therapist assistant license through examination pursuant to OAR 848-010-0015, or through endorsement pursuant to OAR 848-010-0020, anytime during the first year of a certification period (April 1st of an even numbered year through March 31st of an odd numbered year), must complete the full 12 hours of continuing education required for that certification period. A person who is first issued an Oregon physical therapist assistant license anytime during the second year of a certification period (April 1st of an odd numbered year through March 31st of an even numbered year), must complete one-half (6 hours) of the continuing education required for that certification period. Thereafter, such licensees must complete the same continuing education requirements as other licensees who hold the same license.

(5) Notwithstanding the provisions of subsection (1) of this rule, a physical therapist whose Oregon license has lapsed pursuant to OAR 848-010-0033(1), and who subsequently renews the lapsed license pursuant to OAR 848-010-0035, anytime during the first year of a new certification period (April 1st of an even numbered year through March 31st of an odd numbered year), must complete the full 24 hours of continuing education required for that certification period. A person whose lapsed physical therapist license is renewed anytime during the second year of a certification period (April 1st of an odd numbered year through March 31st of an even numbered year), must complete one-half (12 hours) of the continuing education required for that certification period. However, if a person who is renewing a lapsed license practiced in Oregon at any time while the person's license was lapsed, the person must complete the full 24 hours of continuing education required for the certification period. Thereafter, such licensees must complete the same continuing education requirements as other licensees who hold the same license.

(6) Notwithstanding the provisions of subsection (2) of this rule, a physical therapist assistant whose Oregon license has lapsed pursuant to OAR 848-010-0033(1), and who subsequently renews the lapsed license pursuant to OAR 848-010-0035, anytime during the first year of a new certification period (April 1st of an even numbered year through March 31st of an odd numbered year), must complete the full 12 hours of continuing education required for that certification period. A person whose lapsed physical therapist assistant license is renewed anytime during the second year of a certification period (April 1st of an odd numbered year through March 31st of an even numbered year), must complete one-half (6 hours) of the continuing education required for that certification period. However, if a person who is renewing a lapsed license practiced in Oregon at any time while the person's license was lapsed, the person must complete the full 12 hours of continuing education required for the certification period. Thereafter, such licensees must complete the same continuing education requirements as other licensees who hold the same license.

(7) Any licensee whose license lapses on April 1st of an even numbered year, regardless of the reason, and who subsequently renews the lapsed license during the first 12 months of a new certification period, shall provide documentation of completion of the continuing education requirements for the immediately prior certification period before the license will be renewed.

(8) For purposes of determining whether a licensee has satisfied the continuing education requirement under section (3), (4), (5) or (6) of this rule, the Licensing Board will accept all qualifying continuing education hours completed from the beginning date of the 24 month certification period in which the license was issued or renewed, regardless of the specific date the license was issued or renewed. For example, a person whose license is issued or renewed on June 15, 2009 will receive credit for all qualifying continuing education hours completed at any time during the certification period of April 1, 2008 to March 31, 2010.

(9) The initial certification period for a licensee to complete the required hours shall be January 1, 2006, through and including March 31, 2008. Thereafter, each twenty-four month period for completion of the required hours shall be April 1st of the even numbered year through March 31st of the next even numbered year. For example, the second twenty-four month period will be from April 1, 2008, through March 31, 2010.

(10) Failure to complete the required continuing education by March 31st of an even-numbered year shall constitute a violation of this division 35.

**(11) Notwithstanding the provisions of this rule and OAR 848-010-0033(6), a physical therapist or physical therapist assistant who is renewing a license during an even numbered year and who was first licensed in Oregon between January 1<sup>st</sup> to and including March 31<sup>st</sup> of that even numbered year, is not required to complete continuing education for the current certification period. Thereafter such licensees shall be subject to the continuing education requirement for all subsequent continuing education certification periods.**

## 848-040-0100

### Definitions

As used in this Division:

(1) "Authentication" means the process by which the licensee reviews and validates the accuracy of the record entry. By authenticating a record entry, the licensee certifies that the services described were performed by the authenticating licensee or performed by a person under that licensee's supervision.

(2) [~~"IDEiA"~~] **"IDEA"** means Individuals with Disabilities Education Improvement Act.

(3) "IEP" means an Individualized Education Plan developed for a child/student qualified under the [~~IDEiA~~] **IDEA** program.

(4) "IFSP" means an Individualized Family Services Plan developed for a child qualified under the [~~IDEiA~~] **IDEA** Early Intervention Program.

(5) "Licensee" means a physical therapist or a physical therapist assistant and includes a temporary permit holder.

(6) "Patient" means one who seeks and receives physical therapy services. For purposes of these rules, patient may include a person receiving services in a home or clinical setting, a student in a school setting, a child receiving early intervention services, a resident of a care facility, or an animal.

(7) "Permanent Record" means the final version of the record of each evaluation, reassessment or treatment provided to a patient which becomes part of the patient's medical record.

(8) "Physical therapy intervention" means a treatment or procedure and includes but is not limited to: therapeutic exercise; gait and locomotion training; neuromuscular reeducation; manual therapy techniques (including manual lymphatic drainage, manual traction, connective tissue and therapeutic massage, mobilization/manipulation of soft tissue or spinal or peripheral joints, and passive range of motion); functional training related to physical movement and mobility in self-care and home management (including activities of daily living (ADL) and instrumental activities of daily living (IADL)); functional training related to physical movement and mobility in work (job/school/play), community, and leisure integration or reintegration (including IADL, work hardening, and work conditioning); prescription, application, and, as appropriate, fabrication of devices and equipment (assistive, adaptive, orthotic, protective, or supportive); airway clearance techniques; integumentary repair and protective techniques; electrotherapeutic modalities; physical agents and mechanical modalities; and patient related instruction and education.

(9) "Plan of care" means a written course of physical therapy treatment established by a physical therapist following an initial evaluation which integrates the evaluation data collected to

determine the degree to which physical therapy interventions are likely to achieve anticipated goals and expected outcomes.

(10) "Record" means a written account of the detailed information gathered from each evaluation, reassessment, and the treatment provided to a patient. This documentation may be used to create the separate, permanent record, or it may serve as the permanent record.

(11) "Student" means a child ages 3 to 21 who is enrolled in an educational institution and who qualifies for services under ~~[IDEiA]~~ **IDEA** or Section 504 of the Rehabilitation Act, or other designated plan of care, or a child ages 0-2 who qualifies under the ~~[IDEiA]~~ **IDEA** Early Intervention Program.

**(12) "Student PT or Student PTA" means a person enrolled in a CAPTE accredited physical therapist or physical therapist assistant program.**

**848-040-0147**

### **Standards for Treatment by ~~[Students]~~ a Student PT or Student PTA**

(1) A physical therapist may allow a student physical therapist (SPT) or student physical therapist assistant (SPTA), **as defined in OAR 848-040-0100 (12)**, to provide treatment consistent with the individual student's education, experience and skills.

(2) A physical therapist assistant may allow an SPTA to provide treatment consistent with the individual student's education, experience and skills.

(3) At all times, a supervising physical therapist must provide on-site supervision of an SPT or SPTA who provides treatment to a patient.

(4) For purposes of this rule "supervising physical therapist" means the physical therapist who is responsible for that patient's treatment on the day the SPT or SPTA provides treatment.

(5) For purposes of this rule "on-site supervision" means that at all times the supervising physical therapist is in the same building and immediately available to provide in person direction, assistance, advice or instruction to the student.

(6) A physical therapist may delegate supervision of an SPTA to a physical therapist assistant and the provision of subsections (3), (4) and (5) of this rule shall apply to the physical therapist assistant.

(7) Documentation by a student physical therapist (SPT) shall be authenticated on the same day by the student and by a supervising physical therapist. Documentation by a student physical therapist assistant (SPTA) shall be authenticated by the student and by a supervising physical therapist or supervising physical therapist assistant. A SPT's documentation must be completed pursuant to OAR 848-010-0110.

## 848-045-0020

### Grounds for Discipline of a Licensee

(1) The Board may impose a sanction as provided in 848-045-0010(1) on a licensee for illegal, unethical or unprofessional conduct. As used in this rule, "licensee" **means a physical therapist or a physical therapist assistant, [includes] a temporary permit holder, and a person who was a licensee at the time the illegal, unethical or unprofessional conduct occurred regardless of whether the person's license has lapsed.**

(2) A licensee commits or engages in illegal, unethical or unprofessional conduct if the licensee:

(a) Fails to disclose requested information, conceals material facts or provides false or materially misleading information on an application or during the application process for a temporary permit, license or renewal, or willfully makes a false statement on an application;

(b) Is disciplined by another Oregon state licensing board or out-of-state licensing board for conduct which if committed in Oregon would be grounds for discipline under this rule;

(c) Is convicted of violating any federal law or state law relating to controlled substances, subject to the provisions of ORS 670.280(2);

(d) Is convicted of any crime that is a felony or misdemeanor under the laws of any state or of the United States, subject to the provisions of ORS 670.280(2) **,or fails to notify the Board within 10 working days of a conviction of a misdemeanor, or an arrest for or conviction of a felony;**

(e) Commits gross negligence or multiple acts of negligence in practice. The Board may take into account relevant factors and practices, including but not limited to the standard of practice generally and currently followed and accepted by persons licensed to practice physical therapy in this state, the current teachings at accredited physical therapy schools and relevant technical reports published in recognized physical therapy journals in determining the definition of gross negligence;

(f) Practices physical therapy while under the influence of intoxicating liquors or under the influence of a controlled substance;

(g) Has an addiction to or dependency on alcohol, legend drugs or controlled substances which impairs the licensee's ability or competency to practice physical therapy in a manner consistent with the public health and safety;

(h) Violates the provisions of ORS 688.010 to 688.220 or any administrative rule, or violates or fails to comply with any order of the Board;

(i) Engages in any act involving moral turpitude, including, but not limited to fraud, deceit, dishonesty, violence, or illegal activity undertaken for personal gain, subject to the provisions of ORS 670.280(3);

(j) Unnecessarily exposes a patient's body to the view of the therapist or other persons;

(k) Engages in a conversation with a patient that is not necessary for the provision of treatment and that is personally intrusive or otherwise inappropriate;

(L) Commits or engages in any act of sexual misconduct involving a patient, including but not limited to any acts or statements of a sexual nature that do not contribute to appropriate physical therapy treatment;

(m) Engages in any sexual conduct, including dating, with a patient, whether initiated by the patient or the licensee. For purposes of this subsection, "patient" includes any person who has not been discharged from that therapist's care;

(n) Obtains or attempts to obtain any fee by fraud or misrepresentation, or makes a false or fraudulent claim for health care payment as provided in ORS 165.690 to 165.694;

(o) Engages in exploitation of a patient, which includes but is not limited to the following:

(A) Failure to maintain an appropriate patient/therapist relationship;

(B) Obtaining or attempting to obtain compensation for physical therapy services that were not provided to the patient;

(C) Provides physical therapy services or participates in physical therapy services solely for reasons of personal or institutional financial gain;

(D) Provides physical therapy services under circumstances where there is no benefit to be obtained by the patient from such services;

(E) Accepting, soliciting or borrowing anything of more than nominal value from a patient or a member of the patient's family except for reasonable compensation for physical therapy services provided to the patient. Nominal value shall be determined in the context of the particular relationship and circumstances; or

(F) Influencing a patient or the patient's family to utilize, purchase or rent any equipment based on the direct or indirect financial interests of the licensee rather than on the therapeutic value to the patient. A licensee who owns or has a direct financial interest in an equipment or supply company must disclose the interest if the licensee sells or rents the equipment or recommends the purchase or rental of the equipment to the patient.

(p) Knowingly makes a false entry or false alteration in a patient record;

(q) Engages in deceptive consumer practices, including but not limited to:

(A) Using, disseminating or publishing any advertising matter, promotional literature, testimonial, claim or guarantee that is false, misleading or deceptive;

(B) Practicing under a false, misleading or deceptive name, impersonating another licensee or fraudulently using or permitting the use of a license number in any way;

(C) Making a representation as to the licensee's skill or the efficacy or value of a treatment that the licensee knows or should know is false or misleading; or

~~[(D) Using the title "Doctor" or "Dr." with patients in a practice setting or on business cards, letterhead or professional advertisement or signage. A physical therapist who holds a doctoral degree in physical therapy may only use the initials "DPT" or the words "doctorate in physical therapy" after the physical therapist's name.]~~

(r) Practices physical therapy with a lapsed license;

(s) Knowingly or with reason to know, employs, aids, abets or permits any unlicensed person or person with a lapsed license to practice physical therapy;

(t) Fails to report in writing to employer that licensee provided physical therapy services while unlicensed or with a lapsed license or fails to provide a copy to the Board of such report;

(u) Fails to cooperate with the Board, which includes but is not limited to the following:

(A) Failure to respond fully and truthfully to a question or request for information from the Board;

(B) Failure to provide information or documents to the Board within the time specified by the Board;

(C) Failure to appear and provide information at an interview requested by the Board;

(D) Failure to timely produce and temporarily surrender custody of an original patient record requested by the Board and which is in the possession or under the control of the licensee, or failure to produce all portions of the patient record requested;

(E) Deceiving or attempting to deceive the Board regarding any matter, including by altering or destroying any record or document; or

(F) Failure to comply with the terms, conditions and recommendations of a Confidential Advisory Letter as issued by the Board;

(v) Interferes with or uses threats or harassment to delay or obstruct any person in providing information or evidence to the Board in any matter, investigation, contested case proceeding or other legal action instituted by the Board;

(w) Discharges an employee based primarily on the employee's attempt to comply or aid in the compliance with Board rules;

(x) Fails to notify the Board of any conduct by another licensee **of this Board** which reasonably appears to be illegal, unethical, unprofessional under the licensing statutes or these administrative rules, aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.220 or rules of the Board; [ø]

**(y) Fails to notify the appropriate licensing board of any conduct by another licensed medical provider when the licensee has reasonable cause to believe that the medical provider has engaged in prohibited or unprofessional conduct. As used in this subparagraph, “prohibited conduct” means a criminal act against a patient or a criminal act that creates a risk of harm to a patient and “unprofessional conduct” means conduct unbecoming a medical provider or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the medical provider’s profession or conduct that endangers the health, safety or welfare of a patient; or**

~~(y)~~ **(z)** Fails to notify the Board of a change in the licensee's name, address, contact telephone number or place of employment or business as required by OAR 848-005-0030.

## **848-050-0100**

### **Policy Governing Substance Abuse Diversion and Treatment**

~~{The Board recognizes the value of early recognition and treatment options for licensees whose competency is impaired due to the abuse of drugs or alcohol. The Board prefers that such licensees be treated and their treatment monitored in order that they can return to or continue to practice physical therapy in a manner which safeguards the public. To accomplish this, the Board may approve a licensee's voluntary participation in a substance abuse treatment and monitoring program approved by the Board as an alternative to instituting disciplinary proceedings under OAR 848-045-0010.}~~

## **848-050-0110**

### **Definitions**

~~{As used in division 50:}~~

~~{(1) "Approved Treatment Program" means an organized program that meets the Board's standards, in an inpatient, outpatient, or residential setting whose primary function is the evaluation and treatment of clients with substance dependence or abuse. The treatment program shall meet the following criteria:}~~

~~{(a) Employ staff qualified by education and experience to treat the client's disorder;}~~

~~{(b) Have a formalized plan of care which includes:}~~

~~{(A) Assessment and diagnosis;}~~

~~{(B) Treatment goals including establishing and evaluating treatment outcomes;}~~

~~{(C) Discharge criteria;}~~

~~{(D) Guidelines for continuing recovery; and}~~

~~{(e) Provide a written report addressing all parts of the plan of care.}~~

~~{(2) "Body Fluid Testing" means the collection of blood, urine, or other bodily substances or emissions for the purpose of evaluating the presence of prescription or non-prescription drugs and alcohol. The collection and testing shall be performed by a pre-approved laboratory in a manner which preserves the integrity of the specimen.}~~

~~{(3) "Licensee" means a physical therapist, physical therapist assistant or temporary permit holder.}~~

~~[(4) "Substance" means alcohol and other depressants, cannabis, cocaine and other stimulants, opiates, hallucinogens, inhalants and abusable gases, and over the counter drugs with a potential for abuse.]~~

~~[(5) "Substance abuse" means a pattern of substance use leading to clinically significant impairment or distress as manifested by one or more of the following within a 12-month period:]~~

~~[(a) Recurrent substance use resulting in failure to fulfill obligations at work, school or home;]~~

~~[(b) Recurrent substance use when such use is physically hazardous;]~~

~~[(c) Recurrent substance-related legal problems; or]~~

~~[(d) Continued substance use despite recurrent consequences socially or interpersonally. Substance abuse, if left untreated, may progress to substance dependence.]~~

~~[(6) "Substance dependence" means a pattern of substance use leading to clinically significant impairment or distress as manifested by three or more of the following, occurring at any time in the same 12-month period:]~~

~~[(a) Increased tolerance to the substance;]~~

~~[(b) Withdrawal symptoms when not using the substance;]~~

~~[(c) Increased use of the substance;]~~

~~[(d) Unsuccessful efforts to decrease or eliminate use;]~~

~~[(e) Increased time spent either obtaining the substance or recovering from its' effects;]~~

~~[(f) Decreased social, occupational or recreational activities because of substance use; or]~~

~~[(g) Continued use of the substance despite evidence of physical or psychological harm or consequences.]~~

**848-050-0120**

### **Participation in Approved Substance Abuse Treatment Program**

~~[(1) As an alternative to initiating disciplinary action, the licensee and the Board may enter into a confidential agreement under which the licensee agrees to the following:]~~

~~[(a) Undergo evaluation for substance abuse or dependence by a qualified health care professional with specialized education and expertise in the evaluation and treatment of chemical abuse or dependency who will not be the provider of the recommended treatment;]~~

~~[(b) Undergo treatment in an approved treatment program and comply with all requirements of the program;]~~

~~[(c) Abstain from the use of all mind-altering or potentially addictive substances, including alcohol, over the counter or prescription drugs, except as prescribed by an authorized prescriber;]~~

~~[(d) Authorize the evaluation and treatment providers or counselors to provide periodic reports to the Board regarding the licensee's evaluation, treatment, prognosis, goals, progress and compliance with treatment program requirements;]~~

~~[(e) Submit to random testing of body fluid to screen for the presence of drugs or alcohol as specified by the treatment program;]~~

~~[(f) Fulfill the requirements of the prescribed aftercare program, which may include individual or group counseling; and]~~

~~[(g) Comply with specified employment conditions and restrictions, including disclosure as appropriate to an employer, as set out in the agreement with the Board.]~~

~~[(2) The licensee is responsible for paying the costs of the evaluation, treatment program, random drug or alcohol screening and aftercare.]~~

~~[(3) The Board may disclose general information regarding the licensee's participation in treatment only to those in the practice setting who are in a position of direct or general supervision of the licensee and have a need to know to ensure adequate monitoring. Information regarding the licensee's participation in treatment may be disclosed to others only with the licensee's written consent. Persons who receive information under this section about the licensee's participation in a treatment program shall keep it confidential and shall not disclose it to persons who do not have a need to know the information.]~~

~~[(4) If the licensee fails to complete the treatment program, fails to comply with the terms of the agreement, relapses or fails to correct deficiencies in the aftercare or recovery program, or violates the practice conditions or restrictions, the Board may initiate disciplinary proceedings for the original and any subsequent violation of the provisions of OAR 848-045-0020.]~~

~~[(5) Pursuant to ORS 192.502 and 676.175 to 676.180, the records of licensee's evaluation, treatment and follow-up and reports to the Board shall be confidential and shall not be disclosed to the public and shall not be admissible in evidence except as they may be relevant to any disciplinary proceeding brought by the Board as provided in section (4) of this rule.]~~