

## BOARDS AND COMMISSIONS

### Board of Physical Therapy (Amendment)

#### **201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants.**

RELATES TO: KRS 327.040, 327.070

STATUTORY AUTHORITY: KRS 327.040(11), (12), (13), 367.4082

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(12) requires the Board of Physical Therapy to establish by administrative regulation a code of ethical standards and standards of practice for physical therapists and physical therapist assistants. This administrative regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070.

#### Section 1. Code of Ethical Standards.

- (1) A physical therapist and a physical therapist assistant shall:
  - (a) Respect the rights and dignity of all patients;
  - (b) Practice within the scope of the credential holder's training, expertise and experience;
  - (c) Ensure that all personnel involved in the delivery of physical therapy services are identified to the patient by name and title;
  - (d) Report to the board any reasonably suspected violation of KRS Chapter 327, KRS 367.4082, or 201 KAR Chapter 22 by a credential holder or applicant within thirty (30) days;
  - (e) Report to the board any civil judgment, settlement, or civil claim involving the credential holder's practice of physical therapy made against the credential holder relating to the credential holder's own physical therapy practice within thirty (30) days; and
  - (f) Comply with the provisions of KRS 367.4082.
- (2) A physical therapist and a physical therapist assistant shall not:
  - (a) Verbally or physically abuse a client; or
  - (b) Continue physical therapy services beyond the point of reasonable benefit to the patient, unless the patient consents in writing~~[-];~~ or
  - (c) Engage in sexual misconduct or sexual harassment with a patient:
    1. While that person is a patient or client of the physical therapist or physical therapist assistant; or
    2. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical therapist assistant provides physical therapy services; and
- (3) A physical therapist or physical therapist assistant shall be solely responsible in regard to a relationship with a patient. A patient's initiation of a personal or sexual relationship shall not justify, excuse, or provide a defense for a violation of this section; and
- (4) Consensual sexual relationships established prior to the initial evaluation will not be subject to portions of this regulation.

#### Section 2. Standards of Practice for the Physical Therapist. While engaged in the practice of physical therapy, a physical therapist shall:

- (1) Perform screenings in order to:
  - (a) Provide information on a person's health status relating to physical therapy;
  - (b) Determine the need for physical therapy evaluation and treatment;

- (c) Make a recommendation regarding a person's ability to return to work or physical activity; and
- (d) Provide physical therapy services;
- (2) Evaluate each patient prior to initiation of treatment;
- (3) Upon receipt of a patient under an active plan of care from another physical therapist:
  - (a) Complete an evaluation in compliance with subsection (2) of this section and Section 5(2)(a)-(d) of this administrative regulation;
  - (b) Ensure the evaluation and plan of care from the other physical therapist is current and appropriate;
  - (c) Retain the evaluation and plan of care from the other physical therapist in the medical record; and
  - (d) Comply with reassessment requirements based on the date of the most recent evaluation.
- (4) Reassess each patient in accordance with the following:
  - (a) Reassessing inpatients in either a hospital or comprehensive rehabilitation facility every fourteen (14) days;
  - (b) Reassessing every ninety (90) days, with the physical therapist assistant present, patients in:
    - 1. A facility defined in 902 KAR 20:086 as an intermediate care facility (ICF) for the mentally retarded (MR) and developmentally disabled (DD); or
    - 2. A school system.
      - a. A forty-five (45) day grace period shall be allowed upon transfer from another school district or from the start of the school year;
      - b. During this grace period treatment may continue based upon the previous reassessment or evaluation;
  - (c) Reassessing each patient not otherwise noted every thirty (30) days following the last evaluation or subsequent reassessment;
  - (d) Reassessing a patient whose medical condition has changed;
- (5) Refer the patient to other professionals or services if the treatment or service is beyond the physical therapist's scope of practice;
- (6) Be responsible for the physical therapy record of each patient;
- (7) Be responsible for the plan of care until the patient is received by another physical therapist pursuant to subsection (3) of this section;
- (8) Provide services that meet or exceed the generally accepted practice of the profession;
- (9) Explain the plan of care to the patient and to others designated by the patient;
- (10) Make it clear to the patient that the patient has the right to choose any qualified professional or equipment supplier if the physical therapist makes recommendations for those; and
- (11) Disclose in writing to each patient any financial interest, compensation, or other value to be received by the referral source:
  - (a) For services provided by the physical therapist;
  - (b) For equipment rental or purchase; or
  - (c) For other services the physical therapist may recommend for the patient.

Section 3. Standards of Practice for the Physical Therapist Assistant. While engaged in the practice of physical therapy, the physical therapist assistant shall:

- (1) Provide services only under the supervision and direction of a physical therapist;
- (2) Refuse to carry out procedures that the assistant believes are not in the best interest of the patient or that the assistant is not competent to provide by training or skill level;
- (3) Initiate treatment only after evaluation by the physical therapist;
- (4) Upon direction from the physical therapist, gather data relating to the patient's disability, but not determine the significance of the data as it pertains to the development

of the plan of care;

(5) Refer to the physical therapist inquiries that require an interpretation of patient information related to rehabilitation potential;

(6) Comply with the plan of care established by the physical therapist;

(7) Communicate with the physical therapist any change or lack of change that occurs in the patient's condition that may indicate the need for reassessment; and

(8) Discontinue physical therapy services if reassessments are not done in compliance with Section 2(4) of this administrative regulation, and inform the supervising physical therapist.

Section 4. Standards for Supervision. While supervising the physical therapist assistant and supportive personnel, the physical therapist shall:

(1)

(a) At all times, including all work locations in all jurisdictions, be limited to supervising not more than four (4) physical therapist assistants or supportive personnel; and

(b) Abide by the maximum staffing ratio of physical therapists to physical therapist assistants or supportive personnel required in this section except that a maximum of seven (7) work days in a sixty (60) consecutive day period shall not constitute a violation of this standard;

(2) Provide direct supervision when supervising supportive personnel as defined by 201 KAR 22:001, Section 1(23), effective September 1, 2013;

(3) Not delegate procedures or techniques to the physical therapist assistant that are outside his or her scope of training, education or expertise;

(4) Not delegate procedures or techniques to supportive personnel that are outside his or her scope of training, education or expertise.

(a) Scope of training and competency for supportive personnel shall be documented and verified at least annually.

(b) Documentation of training and competency shall be immediately available for review; and

(5) Be responsible for:

(a) Interpreting any referral;

(b) Conducting the physical therapy evaluation;

(c) Establishing reporting procedures to be followed by the physical therapist assistant and supportive personnel;

(d) Evaluating the competency of the physical therapist assistant and supportive personnel;

(e) Supervising the physical therapist assistant by being available and accessible by telecommunications during the working hours of the physical therapist assistant;

(f) Ensuring that if supportive personnel provide direct patient care that there is direct supervision as defined by 201 KAR 22:001, Section 1(6), effective September 1, 2013 by a physical therapist or physical therapist assistant;

(g) Ensuring that a physical therapy student fulfilling clinical education requirements shall receive on-site supervision by a physical therapist;

(h) Ensuring that a physical therapist assistant student fulfilling clinical education requirements shall receive on-site supervision of which eighty (80) percent may be by a credentialed physical therapist assistant;

(i) Establishing discharge planning for patients who require continued physical therapy; and

(j) Directing and being accountable for services rendered by physical therapist students or physical therapist assistant students, including documentation requirements in Section 5 of this administrative regulation.

## Section 5. Standards for Documentation.

- (1) The physical therapist shall be responsible for the physical therapy record of a patient. The physical therapy record shall include an evaluation and, as required, ongoing documentation and reassessment.
- (2) An evaluation in the physical therapy record consists of a written or typed report signed and dated by the physical therapist who is performing the evaluation or who is supervising the physical therapist student performing the evaluation. The evaluation shall include:
  - (a) Pertinent medical and social history;
  - (b) Appropriate subjective and objective information;
  - (c) An assessment, which may indicate problems, interpretations, and a diagnosis identifying the nature and extent of the patient's impairment; and
  - (d) The plan of care, which includes the:
    1. Treatment; and
    2. Measurable goals, including anticipated time frame of achievement.
- (3) Ongoing documentation in the physical therapy record shall:
  - (a) Be completed at least weekly or, if treatment is less than weekly, at each patient visit;
  - (b) Be written or typed, signed, and dated:
    1. By the physical therapist or physical therapist assistant rendering treatment;
    2. By the supervising physical therapist or physical therapist assistant if treatment was rendered by a physical therapist student or physical therapist assistant student; or
    3. By the physical therapist student or physical therapist assistant student rendering treatment if countersigned and dated by the supervising physical therapist;
  - (c) Include:
    1. The treatment rendered since the last evaluation, ongoing documentation, or reassessment;
    2. The patient's response to treatment; and
    3. Appropriate subjective and objective information;
- (4) The reassessment included in the physical therapy record for the revision or reaffirmation of the existing plan of care, or the establishment of a new plan of care shall be written or typed, signed, and dated by a physical therapist.
  - (a) The reassessment shall be in compliance with Section 2(4) of this administrative regulation.
  - (b) A reassessment shall include:
    1. Subjective, objective, and medical information acquired by the physical therapist, physical therapist student, physical therapist assistant, or physical therapist assistant student;
    2. An assessment in compliance with subsection (2)(c) of this section completed by the physical therapist or physical therapist student; and
    3. A plan of care in compliance with subsection (2)(d) of this section completed by the physical therapist or physical therapist student.
- (5) The correct designation following the signature of the person who has entered a statement into the patient record shall be as follows:
  - (a) If written by a physical therapist: "PT". Appropriate designations for advanced physical therapy degrees may follow "PT";
  - (b) If written by a physical therapist assistant: "PTA";
  - (c) If written by supportive personnel: "PT Aide", or "Physical Therapy Aide", or "PT Tech"; and
  - (d) If written by a student: "Physical Therapist Student" or "PT Student"; "Physical Therapist Assistant Student" or "PTA Student".

Section 6. ~~Appointment~~ [Apportionment] of Fees. Unless prohibited by law, all members of a business entity shall be allowed to pool or apportion fees received in accordance with a business agreement.

*STEPHEN CURLEY, Executive Director*

APPROVED BY AGENCY: November 18, 2021

FILED WITH LRC: January 14, 2022 at 9:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2022, at 3:00 p.m. (ET) at 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, (502) 429-7140 and Fax (502) 429-7142, [Stephen.Curley@ky.gov](mailto:Stephen.Curley@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person:** Stephen Curley

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to the Board's role in public protection as it addresses the rising boundary violations complaints the Board is receiving.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

This amendment to the regulation adds provisions to the regulations prohibiting sexual misconduct between a PT or PTA and patients during the course of treatment.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This amendment adds provisions to the regulations prohibiting sexual misconduct between a PT or PTA and patients during the course of treatment. This will allow the Board to more clearly define prohibited conduct and thoroughly investigate alleged sexual misconduct.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

The amendment adds provisions to the regulations more clearly defining and prohibiting sexual misconduct between a PT or PTA during the course of treatment.

**(b) The necessity of the amendment to this administrative regulation:**

This amendment is necessary to the Board's role in public protection as it more clearly defines misconduct and addresses the rising boundary violations complaints the Board is receiving.

**(c) How the amendment conforms to the content of the authorizing statutes:**

The amendment gives the Board the authority to address a growing trend by adding provisions to the regulations more clearly defining sexual misconduct and prohibiting sexual misconduct between a PT or PTA during the course of treatment.

**(d) How the amendment will assist in the effective administration of the statutes:**

It adds provisions to the regulations more clearly defining and prohibiting sexual misconduct between a PT or PTA and patients during the course of treatment. This will allow the Board to more thoroughly investigate and administratively prosecute alleged sexual misconduct.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

Approximately 6,515 physical therapists and physical therapist assistants.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

The regulated entities identified in question (3) will not be required to do anything to comply. This administrative regulation is necessary to the Board's role in public protection as it addresses the rising boundary violations complaints the Board is receiving.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

Nothing

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

As a result of compliance the Board will be able to further public protection. This compliance will protect the ethical boundaries of the profession and enhance public trust in the profession which is beneficial to the entities identified in question (3).

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

No new costs will be incurred by the change.

**(b) On a continuing basis:**

No new costs will be incurred by the change.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

Agency Revenue Fund.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

There will be no increase in fees or funding

**(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:**

This regulation does not change the fees directly or indirectly.

**(9) TIERING: Is tiering applied?**

Tiering was not used in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

## **FISCAL NOTE ON STATE OR LOCAL GOVERNMENT**

**(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

This administrative regulation will impact physical therapists and physical therapist assistants credentialed by the board.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 327.040 and 327.070.

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

None.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

None.

**(c) How much will it cost to administer this program for the first year?**

None.

**(d) How much will it cost to administer this program for subsequent years?**

None.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**