

STATE OF NEVADA

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PHYSICAL THERAPY BOARD

3291 North Buffalo Drive, Suite 100
Las Vegas, NV 89129

NOTICE OF INTENT TO ADOPT A REGULATION

Notice of Public Hearing for the Adoption of LCB File No. R124-21 Nevada Physical Therapy Board

The Nevada Physical Therapy Board (Board) will hold a Public Hearing at 3:00 pm on Monday, December 5, 2022.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of LCB File No. R124-21, a regulation that pertains to chapter 640 of the Nevada Administrative Code.

The Public Hearing will be conducted and may be attended via videoconference or teleconference. An agenda for the meeting will be posted in accordance with Nevada's Open Meeting Law by 3:00 pm three working days prior to the meeting. To participate remotely, individuals may enter the meeting from the Zoom website: <https://us06web.zoom.us/j/87163864771?pwd=WEExqTlg2UHBtTXV1UjVNZFdINDBtQT09>, and enter:

- Meeting ID: 871 6386 4771
- Access Code: 488313

To participate via audio only, individuals may dial the number: 1 (719) 359 4580, and enter:

- Meeting ID: 871 6386 4771
- Passcode: 488313

The Board office recommends that individuals unfamiliar with ZOOM visit the website in advance to familiarize themselves with the format by viewing the online tutorials and reading the FAQs. To learn more about ZOOM, go to <https://zoom.us/>.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendments:

LCB File No. 124-21: A regulation relating to physical therapy; revising the requirements for licensure as a physical therapist or physical therapist assistant; establishing certain requirements for the issuance of a provisional license to practice as a physical therapist or physical therapist assistant; requiring a licensee to successfully pass a jurisprudence examination annually to renew a license; revising provisions governing the supervision of a graduate of a program of professional education for physical therapists or physical therapy assistants who provides physical therapy services; revising provisions governing practice before the Nevada Physical Therapy Board; imposing certain duties, obligations and standards of conduct on a licensee; revising the activities that a physical therapist assistant may perform; requiring every licensee and applicant to notify the Board of certain events; establishing a schedule of administrative fines which the Board may impose under certain circumstances; revising provisions relating to the list of licensees furnished by the Board; revising the schedule of fees which the Board may impose; revising requirements for the reinstatement of certain expired licenses; revising provisions governing complaints and petitions to the Board; revising certain provisions relating to requirements for continuing competence of licensees and for providers of courses and activities for continuing competence; renaming the Advisor Committee on Continuing Education to be the Advisory Committee on Continuing Competence; revising the composition and duties of the Advisory Committee; revising provisions setting forth certain grounds for disciplinary action of a licensee; repealing certain provisions; and providing other matters properly relating thereto.

2. How to obtain the approved or revised text of regulations prepared by the LCB:

The text of the regulations may be obtained through the following methods:

- In writing:

Nevada Physical Therapy Board
3291 N. Buffalo Drive, Suite 100
Las Vegas, Nevada 89129

- Via email:

Aramirez@govmail.state.nv.us

- Online at:

<https://ptboard.nv.gov> or the Nevada Legislature website at
<https://www.leg.state.nv.us/>.

3. Methods used in determining the impact on a small business:

Small Business Impact Statement: The Nevada Physical Therapy Board used informed, reasonable judgment in determining that there will not be a negative impact on small business by the proposed regulation. A small business impact

questionnaire was provided to all licensed physical therapists and physical therapist assistants, the Nevada Chapter of the American Physical Therapy Association (APTA NV), and other Interested Parties. Comments were solicited on three separate occasions (9/20/2021, 10/20/2021, and 7/22/2022)

The Nevada Physical Therapy Board held a workshop on November 12, 2021. No correspondence nor public testimony was received at the Public Workshop regarding the regulation's impact on small businesses.

The Board will continue to accept input on the impact of the proposed permanent regulation on small businesses through the regulatory process.

4. The estimated economic effect of regulation on businesses and the public:

- a. Business: Adverse and beneficial effects
The proposed regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects on small business.
- b. Immediate and long-term effects
The proposed regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects on small business.
- c. Public: Adverse and beneficial effects:
The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects to the public.
- d. Public: Immediate and long-term effects:
The proposed regulation presents no reasonably foreseeable or anticipated immediate or long-term effects to the public.

5. The estimated cost for enforcement of the regulations:

The proposed permanent regulation does not present any significant, foreseeable, or anticipated cost or decrease in costs for enforcement.

6. Overlap or duplication of other federal, state or local governmental agencies:

To our knowledge, the proposed permanent regulation does not overlap or duplicate any existing state or local standards regulating the same activity.

7. Description and citation if the regulation is required by federal law:

The proposed regulation is not required by federal law.

8. Summary of any provisions in the regulation if the regulation is more stringent than a federal regulation that regulates the same activity:

The Board is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. Statement on whether the regulation establishes a new fee or increases an existing fee:

The proposed permanent regulation does not include new fees. The proposed permanent regulation includes the following fee adjustments:

- Fee Reduction: List of primary professional addresses of licensees
- Fee Reduction: Reinstatement of an expired PT license.
- Fee Reduction: Reinstatement of an expired PTA license.
- Fee Increase: Requests to consider approval of a program of continuing competency pursuant to subsection 4 of NRS 640.150.

Persons wishing to comment on the proposed action of the Nevada Physical Therapy Board may appear at the above-scheduled public hearing or may address their comments, data, views, or arguments, in written form:

Nevada Physical Therapy Board
C/O April Ramirez
3291 N. Buffalo Drive, Suite 100
Las Vegas, Nevada 89129
Aramirez@govmail.state.nv.us (email)

Written submissions must be received by Monday, November 21, 2022, at 3 pm (PST).

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed permanent regulation to be adopted will be on file at the Nevada State Library, 100 N. Stewart Street, Carson City, Nevada, 89701, for inspection by members of the public during business hours.

Additional copies of the notice and the regulation to be adopted will be available at:

Nevada Physical Therapy Board office
3291 N. Buffalo Drive, Suite 100
Las Vegas, Nevada 89129
Nevada Physical Therapy Board website: <https://ptboard.nv.gov>,

And, in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of the Notice and the proposed regulation will also be mailed or emailed to members of the public upon request. A reasonable fee may be charged for copying.

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.

Charles D. Harvey
Executive Director
Nevada Physical Therapy Board
November 1, 2022

Members of the public who require special accommodations or assistance at the workshops are required to notify Muriel Morin Mendes, Licensing Coordinator, in writing to the Nevada Physical Therapy Board at ptapplication@govmail.state.nv.us, or by calling (702) 876-5535 at least five (5) working days prior to the date of the public hearing.

Notice of this hearing was posted at the following public locations:

- State Capitol Building, 1st & 2nd Floors, 101 North Carson Street
- Nevada Legislative Building, 401 South Carson Street, Carson City, NV 89701
- Nevada State Library, 100 N. Stewart Street, Carson City, NV 89701
- Nevada State Business Center, 3300 W. Sahara Ave., LV, NV 89102
- Grant Sawyer State Office Building, 555 E. Washington Ave, LV, NV 89101
- Nevada Physical Therapy Board, 3291 N. Buffalo Dr. St 100, LV, NV 89129

Notice of this hearing was posted on the following website(s):

- <https://ptboard.nv.gov>
- <https://notice.nv.gov/>
- <https://www.leg.state.nv.us/App/Notice/A/>

Notice of this hearing was also sent to:

- The Librarian of the main public library in each county in which the agency does not maintain an office
- Nevada State Library and Archives Administrator

**PROPOSED REGULATION OF THE
NEVADA PHYSICAL THERAPY BOARD**

LCB File No. R124-21

October 11, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-8, 13, 16-23, 25, 27-31, 33, 38-50, 60-65 and 67-73, NRS 640.050; §§ 9 and 66, NRS 640.050 and 640.310; §§ 10-12 and 36, NRS 640.050 and 640.080; § 14, NRS 640.050, 640.080 and 640.150; § 15, NRS 640.050, 640.120 and 640.310; § 24, NRS 640.050 and 640.094; § 26, NRS 640.050, 640.155 and 640.160; § 32, NRS 640.050, 640.094 and 640.120; § 34, NRS 640.050 and 640.090; § 35, NRS 640.050, 640.090, 640.110, 640.146 and 640.150; §§ 37 and 51-59, NRS 640.050 and 640.150.

A REGULATION relating to physical therapy; revising the requirements for licensure as a physical therapist or physical therapist assistant; establishing certain requirements for the issuance of a provisional license to practice as a physical therapist or physical therapist assistant; requiring a licensee to successfully pass a jurisprudence examination annually to renew a license; revising provisions governing the supervision of a graduate of a program of professional education for physical therapists or physical therapy assistants who provides physical therapy services; revising provisions governing practice before the Nevada Physical Therapy Board; imposing certain duties, obligations and standards of conduct on a licensee; revising the activities that a physical therapist assistant may perform; requiring every licensee and applicant to notify the Board of certain events; establishing a schedule of administrative fines which the Board may impose under certain circumstances; revising provisions relating to the list of licensees furnished by the Board; revising the schedule of fees which the Board may impose; revising requirements for the reinstatement of certain expired licenses; revising provisions governing complaints and petitions to the Board; revising certain provisions relating to requirements for continuing competence of licensees and for providers of courses and activities for continuing competence; renaming the Advisor Committee on Continuing Education to be the Advisory Committee on Continuing Competence; revising the composition and duties of the Advisory Committee; revising provisions setting forth certain grounds for disciplinary action of a licensee; repealing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Sections 2-8 and 28-31 of this regulation define and revise the definitions of various terms for the purposes of regulations governing physical therapy. (Chapter 640 of NAC)

Sections 9 and 32 of this regulation interpret and revise the Nevada Physical Therapy Board's interpretation of certain terms used in certain provisions of existing law. (Chapter 640 of NRS)

Section 10 of this regulation sets forth the conditions under which the Board may approve certain students to sit for an examination which is required for licensure as a physical therapist or physical therapist assistant pursuant to existing law.

Sections 11, 12 and 40 of this regulation revise the requirements for licensure as a physical therapist or physical therapist assistant of certain persons who are educated in another country.

Section 13 of this regulation sets forth certain provisions governing the issuance of a provisional license to an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran, who holds a corresponding license in another state, authorizing the applicant to practice as a physical therapist or physical therapist assistant in this State.

Section 14 of this regulation requires a licensee to annually pass a jurisprudence examination relating to the laws and regulations relating to the practice of physical therapy in this State as a condition of renewing his or her license.

Section 15 of this regulation establishes certain provisions governing graduates of programs of professional education for physical therapists or physical therapy assistants who provide physical therapy services under the supervision of a physical therapist.

Section 16 of this regulation establishes provisions relating to the hearing of a contested case.

Sections 17-20 of this regulation establish provisions governing practice before the Board.

Section 21 of this regulation imposes certain obligations on a person who is licensed as a physical therapist or physical therapist assistant.

Section 22 of this regulation requires that every patient of physical therapy to have a physical therapist of record and imposes on the physical therapist of record certain responsibilities and duties.

Section 23 of this regulation sets forth certain items which must be included in the documentation of a patient's care.

Section 24 of this regulation sets forth certain activities which are authorized or prohibited to be performed by a physical therapist assistant.

Section 25 of this regulation requires every licensee and applicant to report to the Board certain criminal prosecutions and convictions, administrative actions, disciplinary actions, civil actions and protective orders for domestic violence entered against the licensee or applicant.

Section 26 of this regulation establishes a schedule of administrative fines which the Board will impose against a licensee if, after conducting an inspection or investigation, the Board issues a citation to the licensee.

Section 33 of this regulation eliminates meeting notice provisions which are redundant with provisions of NRS and revises provisions governing the Board's furnishing of a list of licensees to certain entities and persons.

Section 34 of this regulation revises the requirements for an application for a license as a physical therapist or a physical therapist assistant.

Section 35 of this regulation revises the schedule of fees the Board is authorized to charge and collect.

Section 36 of this regulation revises provisions governing the examinations which must be taken by an applicant for a license as a physical therapist or a physical therapist assistant.

Section 37 of this regulation revises the requirements to reinstate a license which has expired for less than 2 years.

Sections 38 and 39 of this regulation revise provisions which require a physical therapist or physical therapist assistant to notify the Board of a change to his or her name or address. Existing regulations provide that the Board will issue a temporary license to practice physical therapy to an applicant who meets certain statutory requirements relating to medically underserved areas of this State. (NAC 640.095) **Section 41** of this regulation authorizes, but does not require, the Board to issue such a license.

Sections 42 and 46 of this regulation revise provisions governing the service of certain documents by the Board and parties to proceedings and requirements for filing certain documents with the Board.

Section 43 of this regulation revises provisions governing petitions for declaratory orders or advisory opinions by the Board.

Sections 44 and 45 of this regulation revise provisions governing the requirements for the filing of a complaint with and the processing of a complaint by the Board.

Section 47 of this regulation requires all parties to a hearing or other proceeding, their counsel and spectators to conduct themselves in a respectful manner.

Sections 48-50 of this regulation revise provisions relating to certain petitions to the Board.

Existing regulations impose certain requirements for continuing education on a licensee. (NAC 640.400, 640.510) **Sections 51 and 59** of this regulation revise those requirements in the context of continuing competence. **Sections 52-55** of this regulation revise certain provisions governing providers of such continuing competence.

Sections 56 and 57 of this regulation rename the Advisory Committee on Continuing Competence and establish the composition and duties of the Committee.

Sections 60-71 of this regulation revise provisions which establish certain duties of and standards of conduct for licensees.

Sections 72 and 73 of this regulation revise provisions which define and set forth certain grounds for imposing disciplinary action against a licensee.

Section 74 of this regulation repeals various regulations relating to continuing education, licensing and hearings.

Section 1. Chapter 640 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this regulation.

Sec. 2. *“Competence” means the application of knowledge, skills and behaviors required to function effectively, safely, ethically and legally within the context of the relationship with, and the environment of, the patient.*

Sec. 3. *“Continuing competence” means the lifelong process of maintaining and documenting competence through:*

1. *Ongoing self-assessment;*
2. *The development and implementation of a plan for personal learning; and*
3. *Subsequent reassessment.*

Sec. 4. *“Continuing competence unit” means the relative value assigned to a course or activity for continuing competence based on the satisfaction of criteria established and approved by the Board or an agency approved by the Board.*

Sec. 5. *“Foreign educated physical therapist” means a graduate of an educational program for physical therapy that is:*

1. *Located outside of the District of Columbia and any state or territory of the United States; and*
2. *Not accredited by the Commission on Accreditation in Physical Therapy Education.*

Sec. 6. *“Foreign educated physical therapist assistant” means a graduate of an educational program to become a physical therapist assistant that is:*

1. *Located outside of the District of Columbia and any state or territory of the United States; and*
2. *Not accredited by the Commission on Accreditation in Physical Therapy Education.*

Sec. 7. *“Primary professional address” means:*

1. *The physical address where a licensee practices physical therapy or carries out any other activities relating to physical therapy for the majority of the working hours of the licensee within a consecutive 30-day period; or*
2. *If a licensee does not actively practice physical therapy, the mailing address designated as the primary professional address by the licensee.*

Sec. 8. *“Skilled intervention” or “treatment intervention” means:*

- 1. To advise, teach or instruct a patient concerning the condition or disability of the patient.*
- 2. To carry out testing or evaluation procedures.*
- 3. To make any notations in documents regarding patient care or clinical treatment with the exception of recording basic data in an exercise log or flow sheet.*
- 4. An activity which requires licensure pursuant to this chapter and chapter 640 of NRS.*
- 5. An activity which requires the exercise of the professional judgment of the physical therapist or physical therapist assistant.*
- 6. The interpretation of referrals, screenings, assessments, evaluations or reassessments.*
- 7. The development or modification of therapeutic exercise programs, treatment plans or discharge plans.*

Sec. 9. *The Board interprets “immediately available within the treatment area,” as used in NRS 640.016, to mean that the person providing supervision maintains within his or her direct line of sight the person he or she is supervising.*

Sec. 10. *The Board may approve a student who is enrolled in a program of professional education for physical therapists or physical therapist assistants to sit for the examination administered by the Federation of State Boards of Physical Therapy or its successor before the student has graduated from his or her educational program if the student has successfully completed the didactic curriculum of the program.*

Sec. 11. *1. The Board may issue a license by endorsement as a physical therapist or physical therapist assistant to a foreign educated physical therapist or foreign educated physical therapist assistant, as applicable, who meets the requirements set forth in subsection 2.*

2. To be eligible for licensure by endorsement pursuant to this section, a foreign educated physical therapist or foreign educated physical therapist assistant must:

(a) At the time of application, hold a corresponding valid and current license or certification as a physical therapist or physical therapist assistant, as applicable, in the District of Columbia or any state or territory of the United States. A person who holds only a temporary license or certification as a physical therapist or physical therapist assistant, as applicable, in the District of Columbia or any state or territory of the United States is not eligible for licensure by endorsement pursuant to this section.

(b) Submit to the Board:

(1) A completed application establishing that the applicant has met the requirements of this section.

(2) Verification of each license or certification as a physical therapist or physical therapist assistant, as applicable, currently or previously held by the applicant in the District of Columbia or any state or territory of the United States.

(3) Proof that the applicant has successfully passed:

(I) The National Physical Therapy Examination administered by the Federation of State Boards of Physical Therapy; and

(II) The jurisprudence examination administered pursuant to subsection 2 of NAC 640.040.

(4) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal

Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories must be paid by the applicant.

(c) Arrange for an original, verified copy of the report of the educational credentials review performed by the Foreign Credentialing Commission on Physical Therapy which evaluates the education of the applicant and verifies that the education is substantially equivalent to the program of professional education for the applicable licensure which has been approved by the Board. The educational credentials review must be performed using the most recent edition of the Coursework Tool for Foreign Educated Physical Therapists developed by the Federation of State Boards of Physical Therapy, and the curriculum completed by the applicant must be evaluated in accordance with the standards of the Federation for use of the Coursework Tool. The report of the educational credentials review must be received by the Board directly from the Foreign Credentialing Commission on Physical Therapy.

3. A person who does not satisfy the requirements for licensure by endorsement pursuant to subsection 2 may apply for licensure by examination pursuant to section 12 of this regulation.

Sec. 12. *1. The Board may issue a license by examination as a physical therapist or physical therapist assistant to a foreign educated physical therapist or foreign educated physical therapist assistant, as applicable, who meets the requirements of this section.*

2. To be eligible for licensure by examination pursuant to this section, a foreign educated physical therapist or foreign educated physical therapist assistant must:

(a) Submit to the Board:

(1) A completed application establishing that the applicant has met the requirements of this section.

(2) Proof that the applicant has successfully passed:

(I) The National Physical Therapy Examination administered by the Federation of State Boards of Physical Therapy; and

(II) The jurisprudence examination administered pursuant to subsection 2 of NAC 640.040.

(3) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories must be paid by the applicant.

(b) Arrange for an original, verified copy of the report of the educational credentials review performed by the Foreign Credentialing Commission on Physical Therapy which evaluates the education of the applicant and verifies that the education is substantially equivalent to the program of professional education for the applicable licensure which has been approved by the Board. The educational credentials review must be performed using the most recent edition of the Coursework Tool for Foreign Educated Physical Therapists developed by the Federation of State Boards of Physical Therapy, and the curriculum completed by the applicant must be evaluated in accordance with the standards of the Federation for use of the Coursework Tool. The report of the educational credentials review

must be received by the Board directly from the Foreign Credentialing Commission on Physical Therapy.

(c) Except as otherwise provided in subsection 3, pass the Test of English as a Foreign Language with a score of at least:

- (1) Twenty-two in writing;*
- (2) Twenty-four in speaking;*
- (3) Twenty-two in reading; and*
- (4) Twenty-one in listening.*

↪ The minimum passing scores required by this paragraph must be acquired in a single administration of the test.

3. The requirements of paragraph (c) of subsection 2 do not apply to an applicant who graduates from:

(a) A program of professional education which is accredited by the Commission on Accreditation in Physical Therapy Education; or

(b) A college, university or school of professional training which is located in:

- (1) Australia;*
- (2) Canada, with the exception of the province of Quebec;*
- (3) Ireland;*
- (4) New Zealand; or*
- (5) The United Kingdom.*

4. If written in a language other than English, each document required to satisfy the requirements of this section must, at the expense of the applicant, be translated into English by a professional translator approved by the Board. A copy of the document in its original

language must be received by the Board directly from the professional translator, accompanied by the translation of that document and a notarized certification executed by the translator, attesting to the accuracy of the translation.

Sec. 13. *1. Upon the receipt of a complete application pursuant to NRS 640.146, the Board may issue a provisional license authorizing an applicant to practice as a physical therapist or physical therapist assistant, as applicable. For the purposes of this subsection, a complete application requires submission to the Board of all items required by paragraphs (a) to (e), inclusive, of subsection 2 of NRS 640.146.*

2. The issuance of a provisional license does not:

(a) Constitute a decision on the underlying application for a license by endorsement as a physical therapist or physical therapist assistant; or

(b) Obligate the Board to issue an unrestricted license by endorsement as a physical therapist or physical therapist assistant.

3. Except as otherwise provided in subsection 4, a provisional license issued pursuant to subsection 1 and NRS 640.146 is valid for 90 days from the date of issuance and may be renewed once upon good cause shown.

4. A provisional license issued pursuant to subsection 1 and NRS 640.146 is void once the Board has made a decision on the underlying application for a license by endorsement as a physical therapist or physical therapist assistant.

Sec. 14. *As a condition of renewing his or her license, every licensee must successfully pass a jurisprudence examination that tests the familiarity of the licensee with the laws and regulations relevant to the practice of physical therapy in this State.*

Sec. 15. *1. A graduate of physical therapy who desires to provide physical therapy services under the supervision of a physical therapist pursuant to NRS 640.120 must submit to the Board for its approval the names of at least two physical therapists who are proposed to provide the supervision.*

2. A graduate of physical therapy who provides physical therapy services under the supervision of a physical therapist pursuant to this section and NRS 640.120 shall not provide such services in more than two locations.

3. To request approval from the Board for a change of supervising physical therapist, the graduate of physical therapy must provide the Board with documentation from the facility at which the graduate provides physical therapy services that the physical therapist who was previously approved by the Board to supervise the graduate has:

(a) Transferred departments;

(b) Changed job duties; or

(c) Terminated employment with the facility.

Sec. 16. *1. Each hearing of a contested case will be conducted in accordance with the provisions of this chapter and chapter 233B of NRS and, if the hearing concerns a disciplinary proceeding, chapter 622A of NRS and NRS 640.155 to 640.164, inclusive.*

2. As used in this section, “contested case” has the meaning ascribed to it in NRS 233B.032.

Sec. 17. *1. The Chair of the Board may:*

(a) Pursuant to subsection 4 of NRS 622A.360, rule on a prehearing motion described in subsection 2 of NRS 622A.360.

(b) Pursuant to subsection 4 of NRS 622A.390, rule on a posthearing motion described in subsection 1 of NRS 622A.390.

2. If the Chair is unavailable to rule on a motion described in paragraph (a) or (b) of subsection 1, the Vice Chair may rule on the motion.

3. If the Chair or Vice Chair, as applicable, believes that a motion described in paragraph (a) or (b) of subsection 1 should be decided by the full Board, the Chair or Vice Chair, as applicable, may decline to rule on the motion and a Board meeting must be scheduled to rule on the motion within the required time frame.

Sec. 18. *1. If the Board grants a petition pursuant to subsection 4 of NAC 640.310, the Board will issue a declaratory order or advisory opinion, as applicable. The Chair or other presiding officer shall assign one member of the Board to write the order or opinion. The assigned member must:*

(a) Review comments by other members of the Board on the issue;

(b) Research the issue; and

(c) Seek the assistance of the Attorney General, if necessary.

2. The assigned member must submit the draft of the declaratory order or advisory opinion to the Board within 30 days after the order or opinion is assigned to the member for approval at the next regularly scheduled meeting of the Board. To be issued as a final declaratory order or advisory opinion of the Board, the draft of the order or opinion must be approved by a majority of the members of the Board who are present at the meeting.

3. The Board will provide written notice to the petitioner after the Board issues the final declaratory order or advisory opinion.

Sec. 19. *A petitioner shall comply with the provisions of a declaratory order or advisory opinion issued by the Board pursuant to section 18 of this regulation.*

Sec. 20. *In addition to the facts described in subsection 5 of NRS 233B.123, the Board may take official notice of regulations, official reports, decisions, orders, standards or records of the Board, of any other regulatory agency of this State or of any court of record.*

Sec. 21. *1. A licensee shall:*

(a) Wear a name tag that identifies the licensee as a physical therapist or a physical therapist assistant, as applicable.

(b) Obtain the informed verbal consent of a patient before administering a treatment intervention of physical therapy, including, without limitation, consent to the nature of treatment to be provided, the details of the treatment to be provided, the possible impact of the treatment and the anticipated results of the treatment.

(c) Record accurate documentation and billing of the services provided.

2. A licensee may use telehealth in accordance with the provisions of NRS 629.515.

Sec. 22. *1. Every patient of physical therapy must have a physical therapist of record. The physical therapist of record for a patient is the physical therapist who performs the initial evaluation of the patient, unless otherwise specified in the record or by the facility where the initial evaluation of the patient is performed.*

2. The physical therapist of record:

(a) Is fully responsible for managing all aspects of the physical therapy of the patient.

(b) Shall communicate the overall plan of care to the patient or the legally authorized representative of the patient.

Sec. 23. *Documentation of the care provided to each patient must be complete and must include, without limitation:*

1. For an initial evaluation:

(a) History, systems review and tests and measures.

(b) Synthesis of data to include identification of the level of impairment, activity limitations and participation restrictions.

(c) Physical therapy diagnosis and prognosis.

(d) Predicted level of improvement.

(e) Goals, treatment interventions, proposed frequency, duration and discharge plans.

2. For daily notes:

(a) Patient reports.

(b) Treatment interventions, responses to treatment interventions and factors that modify frequency or intensity of treatment interventions.

(c) Progression within the plan of care and the plan for the next visit.

3. For reevaluation or reassessment, data from repeated or new examination elements, sufficient to evaluate progress and to modify or redirect treatment interventions.

4. For discharge:

(a) Summary of progression towards goals.

(b) Discharge instructions, as the availability of the patient allows.

Sec. 24. *A physical therapist assistant:*

1. May manage clinicians in a clinical setting provided that the physical therapist assistant does not supervise clinical decision-making or treatment interventions.

2. Shall not perform any procedures or activities of physical therapy on more than three patients at the same time during the time the supervising physical therapist is not on the premises.

Sec. 25. *1. Every licensee and applicant with a pending application must report to the Board within 30 days after the occurrence of:*

(a) Except as otherwise provided in this paragraph, a criminal conviction or pending criminal prosecution initiated in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or a local or federal jurisdiction of a foreign country. A minor traffic violation is not required to be reported to the Board.

(b) Any action taken against a professional license that has been issued to the licensee or applicant by this State or any other state.

(c) Any pending administrative action initiated against the licensee or applicant in this State or any other state.

(d) Any pending civil action filed against the licensee or applicant relating to his or her practice as a physical therapist or physical therapist assistant in this State or any other state or any federal court.

(e) The issuance of an order for protection against domestic violence entered against the licensee or applicant in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States, or any local or federal jurisdiction of a foreign country.

2. The Executive Director of the Board or his or her designee shall review any information reported pursuant to subsection 1 and investigate the information if deemed necessary.

3. *A licensee or applicant shall provide upon request additional information about any event reported pursuant to subsection 1.*

4. *Making a report pursuant to subsection 1 will not automatically result in the Board taking disciplinary action against the licensee or applicant. The failure to report an event described in paragraphs (a) to (e), inclusive, of subsection 1 constitutes grounds for disciplinary action.*

Sec. 26. *If, after conducting an inspection or investigation pursuant to NRS 640.050, the Board issues a citation to a licensee for:*

1. *A first or second violation of a provision listed in this subsection, the Board will impose an administrative fine as follows:*

<i>Violation</i>	<i>First Violation</i>	<i>Second Violation</i>
<i>(a) Subsection 3 of NRS 640.110.....</i>	<i>\$100</i>	<i>\$250</i>
<i>(b) Subsection 1 of NAC 640.055</i>	<i>100</i>	<i>250</i>
<i>(c) Subsection 1 or 2 of NAC 640.061</i>	<i>100</i>	<i>200</i>
<i>(d) Subsection 1 of NAC 640.085</i>	<i>250</i>	<i>500</i>
<i>(e) Subsection 1 of NAC 640.560.....</i>	<i>100</i>	<i>250</i>
<i>(f) Section 23 of this regulation</i>	<i>250</i>	<i>500</i>
<i>(g) Subsection 1 of NAC 640.593</i>	<i>100</i>	<i>250</i>
<i>(h) NAC 640.594.....</i>	<i>250</i>	<i>500</i>

2. *A third or subsequent violation of a provision listed in paragraphs (a) to (h), inclusive, of subsection 1, the Board will impose an administrative fine in an amount to be determined*

by the Board after the licensee appears before the Board pursuant to the provisions of NRS 640.155 and 640.160.

Sec. 27. NAC 640.001 is hereby amended to read as follows:

640.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 640.003 to ~~640.006,~~ **640.005**, inclusive, *and sections 2 to 8, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 28. NAC 640.003 is hereby amended to read as follows:

640.03 **1.** “Approved course ~~or~~ **or activity**” means a course ~~of study or training~~ **or activity** for continuing ~~education~~ **competence** which is:

~~1.~~ **(a)** Offered by *the Board or by* a recognized provider of continuing ~~education;~~ **competence**; and

~~2.~~ **(b)** Approved by the Board *or by an agency approved by the Board* for a specific number of ~~units of~~ continuing ~~education.~~ **competence units.**

2. The term includes, without limitation:

(a) Attendance at a meeting of the Board;

(b) Acting as a clinical instructor; and

(c) Successfully passing a specialist certification examination of the American Physical Therapy Association as governed by the American Board of Physical Therapy Specialties.

Sec. 29. NAC 640.004 is hereby amended to read as follows:

640.04 “Board” means the ~~State Board of~~ **Nevada** Physical Therapy ~~Examiners.~~ **Board.**

Sec. 30. NAC 640.0046 is hereby amended to read as follows:

640.0046 “Licensee” means a person licensed as a physical therapist or physical ~~therapist’s~~ *therapist* assistant in accordance with the provisions of this chapter and chapter 640 of NRS.

Sec. 31. NAC 640.005 is hereby amended to read as follows:

640.05 “Recognized provider of continuing ~~education~~ *competence*” means ~~any~~:

1. *Any person or organization* recognized by the Board ; *or*
2. *Any agency approved by the Board,*

↳ as competent to provide an approved course ~~or~~ *or activity*.

Sec. 32. NAC 640.008 is hereby amended to read as follows:

640.008 1. *For the purpose of NRS 640.094, the Board will interpret the term “supervision” to mean the direction or assistance provided to a physical therapist assistant by a physical therapist of record, as described in section 22 of this regulation, for that day who is available in person or by telecommunication while the treatment intervention is performed.*

2. For the purpose of subsection 2 of NRS 640.120, the Board will interpret ~~“direct supervision”~~ *“supervision of a physical therapist who is present on-site”* to mean the direction or assistance provided to a student ~~of~~ *who is enrolled in a program of professional education for* physical ~~therapy~~ *therapists or physical therapist assistants* by a licensed physical therapist who is present and ~~immediately~~ available on the premises where the clinical training of the student is conducted.

~~2.~~ 3. For the purpose of *paragraph (d) of* subsection 3 of NRS ~~640.275,~~ *640.120*, the Board will interpret ~~“direct supervision”~~ *“supervision”* to mean the direction or assistance provided to a ~~student who is enrolled in~~ *graduate of an educational program for physical therapy or* a program to become a physical ~~therapist’s~~ *therapist* assistant by a ~~supervising~~

physical therapist who is present and ~~[immediately]~~ available on the premises where the ~~[clinical training of the student is conducted]~~.

~~—3. Except as otherwise provided in paragraph (c) of subsection 1 of NAC 640.592, for the purpose of NRS 640.290, the Board will interpret “direct supervision” to mean the direction or assistance provided to a licensed physical therapist’s assistant by a supervising physical therapist who is present and immediately available on the premises where the physical therapy]~~ *treatment intervention* is performed.

Sec. 33. NAC 640.010 is hereby amended to read as follows:

640.010 1. ~~[The Executive Director of the Board shall announce, pursuant to NRS 241.020, the time and place of each scheduled meeting of the Board]~~.

~~—2.]~~ The Board will provide a ~~[copy of its]~~ list of licensees *annually without charge* to : ~~[the]~~

(a) *The* Commissioner of Insurance ~~[without charge. The list of licensees will be produced annually]~~.

~~—3. A copy of the] ; and~~

(b) *The State Library, Archives and Public Records Administrator.*

2. A list of licensees , *including the primary professional address of each licensee, except as otherwise provided in subsection 3*, may be obtained from the Board upon written application . ~~[accompanied by the appropriate fee.]~~

3. *Upon good cause shown and a request from a licensee, the Executive Director of the Board may omit the primary professional address of that licensee from the list provided pursuant to subsection 2.*

Sec. 34. NAC 640.020 is hereby amended to read as follows:

640.020 1. Each completed application for a license as a physical therapist or a physical ~~therapist's~~ *therapist* assistant must:

(a) ~~Include professional references;~~

~~(b)~~ Be accompanied by the appropriate fee; and

~~(c)~~ (b) Be ~~notarized.~~ *verified by oath of the applicant.*

2. Each applicant must:

(a) Attach to the application, in a sealed envelope, ~~his or her~~ *the* official transcript *of the applicant* from a school of physical therapy ~~;~~ or [-

~~(b) Request~~ *request* that the school ~~mail~~ *provide* the transcript directly to the Board.

~~3. Each applicant must request~~

(b) *Request* the Federation of State Boards of Physical Therapy to provide directly to the Board the scores which ~~he or she~~ *the applicant* received on the examination required by NRS 640.080.

(c) *Successfully complete the jurisprudence examination administered pursuant to subsection 2 of NAC 640.040.*

4. Each applicant who currently holds or previously held a license in another state or territory and who is applying for a license in this State must provide to the Board proof of ~~his or her~~ *the* licensure *of the applicant* in each state or territory in which the applicant currently holds or previously held a license. The applicant must request that the licensing board of each state or territory where ~~he or she~~ *the applicant* currently holds or previously held a license ~~mail~~ *provide* directly to the Board proof of ~~his or her~~ *the* licensure *of the applicant* in that state or territory.

Sec. 35. NAC 640.025 is hereby amended to read as follows:

640.025 The following fees are established:

1. For a physical therapist:

- (a) ~~Initial~~ *Except as otherwise provided in paragraph (b), initial* application for a license \$300
- (b) *Initial application for a license pursuant to NRS 640.146* ~~150~~
- (c) Annual renewal of a license 150
- ~~(e)~~ (d) Application for a temporary license 100
- ~~(d)~~ (e) Reinstatement of an expired license ~~[300]~~ 150
- ~~(e)~~ (f) Approval of an applicant to take the examination 25

2. For a physical ~~therapist's~~ *therapist* assistant:

- (a) Initial application for a license \$200
- (b) Annual renewal of a license 100
- (c) Reinstatement of an expired license ~~[200]~~ 100
- (d) Approval of an applicant to take the examination 25

3. General:

- (a) List of ~~business~~ *primary professional* addresses of licensees ~~[\$50]~~ \$25
- (b) List of ~~business~~ *primary professional* addresses of licensees on mailing labels 150
- (c) Change of name on a license 25
- (d) Dishonored check 25
- (e) Duplicate of ~~lost~~ *original parchment* license 25
- ~~[4.]~~ (f) For a request to consider approval of a ~~course of study or training~~ *program of continuing competency* for ~~licensed physical therapists~~ *licensees* pursuant to subsection 4 of NRS 640.150 ~~that is:~~

—(a) Worth 0-5.9 units \$10
<hr/>	
—(b) Worth 6-10.9 units30
<hr/>	
—(c) Worth 11 or more units50
<hr/>	

Sec. 36. NAC 640.040 is hereby amended to read as follows:

640.040 1. The Board will use the examination ~~[prepared by a professional examination service retained by the Board]~~ *provided by the Federation of State Boards of Physical Therapy or its successor* in the examination of an applicant for a license as a physical therapist or a physical ~~[therapist's]~~ *therapist* assistant.

2. In addition to the examination used pursuant to subsection 1, the Board *or an agency designated by the Board* may administer ~~[an]~~ *a jurisprudence* examination that tests the familiarity of an applicant with the laws and regulations relevant to the practice of physical therapy in this State.

3. To be eligible to take the examinations, an applicant must file a completed application with ~~[the Executive Director of the]~~ :

(a) *The Board* ~~[.]~~ ; or

(b) *The Federation of State Boards of Physical Therapy or its successor through an alternate approval process. For the purposes of this paragraph, “alternate approval process” means the process by which the Federation of State Boards of Physical Therapy or its successor determines the eligibility to take an examination of an applicant who is a graduate of an educational program for physical therapy that is accredited by the Commission on Accreditation in Physical Therapy Education or an educational program to become a physical therapist assistant.*

4. The applicant must achieve a passing score on each examination before ~~he or she~~ *the applicant* will be licensed.

5. ~~[[If the applicant fails an examination once, he or she may retake it upon payment of the fee for the examination.]]~~ *The number of times which an applicant may attempt an examination used pursuant to subsection 1 is subject to the limits established by the Federation of State Boards of Physical Therapy or its successor.*

Sec. 37. NAC 640.050 is hereby amended to read as follows:

640.050 1. To reinstate a license which has expired for less than 2 years, an applicant must:

(a) Complete an application for reinstatement provided by the Board;

(b) *Provide proof of completion of continuing competence units in accordance with the requirements of NAC 640.400 for each year or portion thereof that the license is expired;*

(c) Submit any additional information requested by the Board;

~~[(e)]~~ (d) *Pay the reinstatement fee set forth in NAC 640.025;*

(e) Pay the appropriate *annual renewal* fee ~~[(f)]~~ *set forth in NAC 640.025 for each year or portion thereof that the license is expired;* and

~~[(d)]~~ (f) Meet with the Board if it so requests.

2. If a person's license has expired for 2 years or more, the person must reapply as if ~~he or she~~ *the person* were a new applicant.

Sec. 38. NAC 640.055 is hereby amended to read as follows:

640.055 1. If a physical therapist or a physical ~~therapist's~~ *therapist* assistant changes his or her name after his or her license is issued, he or she must submit, within 30 days after the change, proof satisfactory to the Board that his or her name was legally changed. If the change of

name resulted from marriage or a court decree, a copy of the marriage certificate or court decree must be submitted to the Board. The Board will issue an updated license upon payment of the appropriate fee.

2. A physical therapist or physical ~~[therapist's]~~ *therapist* assistant who has lost his or her *original parchment* license or is otherwise not in possession of his or her license may request in writing from the Board a duplicate license. The Board will issue a duplicate license upon payment of the appropriate fee.

Sec. 39. NAC 640.061 is hereby amended to read as follows:

640.061 1. Each licensee shall file, in writing, ~~[his or her]~~ *the* current ~~[residential]~~ *mailing* address and *primary* professional address *of the licensee* with the Board.

2. A licensee shall notify the Board, in writing, of any change in ~~[his or her residential]~~ *the mailing* address or primary professional address *of the licensee* within 30 days after the change. ~~[For the purpose of this subsection, the Board will consider a change in the primary professional address of a licensee to have occurred upon any change in the primary location at which the licensee works, including, without limitation, the cessation of the licensee's primary employment and the securing of new primary employment.]~~

3. If the Board is required by law or the provisions of this chapter to deliver any notice by mail to a licensee, the mailing of the notice shall be deemed valid and complete if it is mailed to the last ~~[residential]~~ *known mailing* address of the licensee which was filed with the Board in accordance with this section.

~~[4. ——— As used in this section, "primary professional address" means the physical address where a licensee practices physical therapy or carries out any other activities relating to physical therapy for the majority of his or her working hours within a consecutive 30-day period.]~~

Sec. 40. NAC 640.070 is hereby amended to read as follows:

640.070 1. ~~[An applicant for licensure who has graduated from a school in another country that is not accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association must:~~

~~—(a) Submit an evaluation from the Foreign Credentialing Commission on Physical Therapy which must:~~

~~——(1) Indicate that the edition of A Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States, adopted by reference pursuant to subsection 2, was used to prepare the evaluation; and~~

~~——(2) State that the education of the applicant is equivalent in content to an accredited educational program for physical therapy in the United States;~~

~~—(b) Submit proof satisfactory to the Board of his or her current or previous licensure to practice as a physical therapist without limitation in the country in which he or she was trained, unless the applicant was not eligible for licensure in that country because he or she was a citizen of the United States at the time of his or her graduation from a program of physical therapy; and~~

~~—(c) Unless the native language of the applicant is English and he or she has graduated from a program of physical therapy that was conducted in the English language, demonstrate proficiency in the English language by submitting proof of:~~

~~——(1) His or her successful completion of the Test of Spoken English administered by the Educational Testing Service; and~~

~~——(2) His or her successful completion of the Test of English as a Foreign Language administered by the Educational Testing Service.~~

~~—2.— The Board hereby adopts by reference A Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States, fourth edition, November 2001, and any subsequent edition published by the Foreign Credentialing Commission on Physical Therapy, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 3. A copy of the publication may be obtained, without charge, from the Foreign Credentialing Commission on Physical Therapy, 509 Wythe Street, Alexandria, Virginia 22314-9998, by telephone at (703) 684-8406 or by facsimile at (703) 684-8715.~~

~~—3.— The Board will review each revision of the publication adopted by reference pursuant to subsection 2 to ensure its suitability for this State. If the Board determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Board does not revise its determination, the Board will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 2.~~

~~—4.]~~ If an applicant for licensure graduated from a school in another country and holds an H-1B Visa, the Board will notify the United States Citizenship and Immigration Services of the Department of Homeland Security if the applicant fails the national licensing examination.

~~{5.}~~ **2.** If ~~{a}~~ *an applicant or* licensee graduated from a school in another country and holds an H-1B Visa, the Board will notify the United States Citizenship and Immigration Services of the Department of Homeland Security if the Board takes disciplinary action against ~~{him or her.}~~ *the applicant or licensee, as applicable.*

Sec. 41. NAC 640.095 is hereby amended to read as follows:

640.095 The Board ~~will~~ **may** issue a temporary license to practice physical therapy to an applicant if it determines that:

1. The applicant will practice physical therapy in a medically underserved area of this State, as defined by the ~~Officer~~ **Nevada Office** of Rural Health ~~of~~ **within** the University of Nevada School of Medicine; and
2. The applicant meets the requirements set forth in NRS ~~640.140.~~ **640.145.**

Sec. 42. NAC 640.130 is hereby amended to read as follows:

640.130 1. ~~If a party is represented by an attorney, any document other than a complaint or a notice of hearing, which is required to be served upon any party, must be served upon his or her attorney. Service on the attorney is service upon the party.~~

~~2. If a party is not represented by an attorney, service by mail must~~ **Every notice, decision, advisory opinion, declaratory order or other document to be served on a person by the Board will be ~~made to~~ served by mail or delivery in person at** the last known address of the ~~party.~~

~~3. An attorney of record wishing to withdraw from a proceeding before the Board shall, in writing, immediately notify the Board, hearing officer or panel, and all parties to the proceeding of his or her withdrawal.]~~ **person on record with the Board. Service thereof by mail shall be deemed complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.**

2. **Every document required to be served by a party other than the Board must be served by mail or delivery in person. Service thereof by mail shall be deemed complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.**

3. *Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon the attorney of that party and such service is, for all purposes, valid service upon the party represented.*

4. *An attorney, licensee or other party appearing before the Board shall, not later than 7 days before a proceeding, mail or personally deliver to the Board all documents or pleadings which relate to the proceeding.*

Sec. 43. NAC 640.150 is hereby amended to read as follows:

640.150 1. *The Board will consider petitions for declaratory orders or advisory opinions as to the applicability of any statutory provision or any regulation or decision of the Board.*

2. A petition for ~~[affirmative relief,]~~ a declaratory order or an advisory opinion must be in writing ~~[contain the petitioner's full name and mailing address and be signed by the petitioner.]~~ *on a form prescribed by the Board.*

Sec. 44. NAC 640.160 is hereby amended to read as follows:

640.160 1. ~~[Any statute, regulation or order referred to in a complaint]~~ *A complaint may be filed by any person, including, without limitation, a licensee, the Executive Director of the Board, the Board or any of the Board's members, staff or investigators and must allege one or more of the grounds for disciplinary action set forth in NRS 640.160.*

2. *Except as otherwise provided in subsection 5:*

(a) *Each complaint must contain a statement of facts showing that a provision of this chapter or chapter 640 of NRS has been violated;*

(b) *Each complaint must be sufficiently detailed to enable the respondent to prepare a defense; and*

(c) *All applicable statutes and regulations or orders of the Board* must be ~~accompanied by a complete citation to that statute, regulation or order.~~

~~2.]~~ *cited in the complaint, together with the date on which the act or omission is alleged to have occurred.*

3. *If more than one cause of action is alleged, each cause of action must be stated and numbered separately.* Two or more ~~persons filing a complaint with the Board~~ *complainants* may join in one complaint if their ~~complaints~~ *respective causes of action* are against the same person and deal substantially with the same violation of ~~chapter 640 of NRS or of this chapter.~~ *law or of a regulation or order of the Board.*

4. *A complaint must be filed with the Board, at the office of the Board, on a form prescribed by the Board and, except as otherwise provided in subsection 5, must be signed and verified by the complainant.*

5. *The Board may accept written anonymous complaints. If the Executive Director or his or her designee determines that an anonymous complaint filed with the Board contains sufficient information that indicates a violation of this chapter or chapter 640 of NRS has likely occurred, the complaint will be investigated pursuant to NAC 640.170.*

Sec. 45. NAC 640.170 is hereby amended to read as follows:

640.170 1. Upon receipt of a complaint filed ~~against a licensee~~ pursuant to ~~NRS 640.161~~ *sub* ~~section 4 or 5 of NAC 640.160, the Executive Director of the Board or his or her designee shall review the complaint to determine whether:~~

- (a) The complaint is not frivolous;*
- (b) Any matter alleged in the complaint is proper for administrative review; and*
- (c) The complaint alleges sufficient information to warrant an investigation.*

2. If the Executive Director or his or her designee determines pursuant to subsection 1 that a complaint should be investigated, the Executive Director or his or her designee shall send a letter to the person named in the complaint requesting a response to the allegations, unless the Executive Director or his or her designee believes sending such a letter will impede or otherwise interfere with the investigation or other good cause for not sending the letter exists. The Executive Director or his or her designee shall also send a letter to the complainant acknowledging receipt of the complaint, unless the Executive Director or his or her designee believes sending such a letter will impede or otherwise interfere with the investigation or other good cause for not sending the letter exists. If the complaint is anonymous, good cause exists for not sending a letter to the complainant.

3. If the complaint is against a physical therapist assistant or other person supervised by a physical therapist, the Executive Director or his or her designee shall notify the supervising physical therapist and request a response to the allegations, unless the Executive Director or his or her designee believes notifying the supervising physical therapist will impede or otherwise interfere with the investigation or other good cause for not notifying the supervising physical therapist exists.

4. A licensee shall respond to a written communication from the Executive Director or his or her designee which is sent pursuant to this section not later than 30 days after receipt of the communication. Failure to respond may result in a finding by the Board that the allegations in the complaint are proven.

5. Upon receipt of a response from the person named in the complaint and the supervising physical therapist, as applicable, the Executive Director of the Board shall designate an investigator employed by the Board to conduct an investigation of the complaint.

Upon completing the investigation, the investigator shall submit a written report of his or her investigation to the Executive Director . ~~[, including]~~ *The investigator shall submit the report to the Executive Director not later than 90 days after the investigator receives the report unless there is good cause for additional time for the investigation. The report must include, without limitation, the findings of the investigator,* any records, documents or other information discovered during the investigation. ~~[~~

~~—2.]~~ *and a statement regarding whether the investigator recommends that the Board commence an administrative hearing on the complaint.*

6. *Except as otherwise provided in subsection 7, after receiving a report pursuant to subsection 5, the Executive Director or his or her designee shall review the report and any accompanying evidence. The Executive Director or his or her designee may return the report to the investigator to request that further investigation be conducted or additional evidence be obtained. The Executive Director or his or her designee shall, after review of the report, make a written recommendation to the Board concerning the disposition of the complaint.*

7. The Executive Director ~~[shall]~~ *or his or her designee may* designate a member of the Board to review the report. The member of the Board may ~~[conduct a]~~ *request* further investigation of the complaint if he or she considers such *additional* investigation necessary. Upon completing a review of the report, the member shall submit a written recommendation to the ~~[Board]~~ *Executive Director* concerning the disposition of the complaint. ~~[The]~~ *In accordance with subsection 1 of NRS 233B.122, the* member may not vote at any hearing concerning the complaint.

~~[3. — H]~~

8. *Except as otherwise provided in subsection 9, if the ~~[Board, after reviewing a complaint, decides to]~~ investigator, the Executive Director or his or her designee and, if applicable, the member of the Board designated pursuant to subsection 7 decide that the matter should proceed ~~[with]~~ to a disciplinary hearing ~~[-it will]~~ or other resolution before the Board, the matter must be forwarded to the legal counsel of the Board for the drafting of appropriate documents pursuant to subsection 2 of NRS 233B.121, NRS 622.330 and chapter 622A of NRS. Pursuant to subsection 1 of NRS 622A.300, the legal counsel of the Board shall send a copy of the complaint to each person ~~[against]~~ whom the complaint ~~[is made. A response to the complaint must be filed within 20 days after receipt of the complaint.]~~ names as a party.*

9. *If a member of the Board is not designated to review the investigator's report pursuant to subsection 7 and the investigator and the Executive Director or his or her designee are not in agreement as to how the matter should proceed, the Executive Director or his or her designee may assign a member of the Board to review the report of the investigator to, in coordination with the investigator and the Executive Director or his or her designee, reach a majority determination as to whether the matter should proceed to a disciplinary hearing or other resolution before the Board.*

10. *If a complaint is dismissed by the Board at any time before the matter is scheduled for a hearing or other proceeding before the Board, the Executive Director or his or her designee shall notify the complainant, the person named in the complaint and, if applicable, the supervising physical therapist of the dismissal, unless the Executive Director or his or her designee believes that sending such notification will impede or otherwise interfere with the investigation or other good cause for not sending the notification exists.*

Sec. 46. NAC 640.190 is hereby amended to read as follows:

640.190 Except for a complaint ~~[.]~~ *filed with the Board pursuant to subsection 4 or 5 of NAC 640.160*, an original and ~~[seven]~~ *three* legible copies of each pleading, motion or other document related to the proceeding must be filed with the *office of the Board* ~~[. The person filing any pleading or motion with the Board shall make a copy of it available to any other person who the Board determines is affected by the proceeding and who desires a copy.]~~ *not later than 7 business days before the proceeding.*

Sec. 47. NAC 640.240 is hereby amended to read as follows:

640.240 ~~[At a hearing before the Board, all]~~ *All* parties ~~[.]~~ *to a hearing or other proceeding*, their counsel and ~~[any spectator]~~ *spectators* shall conduct themselves in a respectful manner.

Sec. 48. NAC 640.310 is hereby amended to read as follows:

640.310 1. ~~[H]~~ *Except as otherwise provided in subsection 2, upon receiving* a petition *from a licensee* for a declaratory order or an advisory opinion, ~~[is received at least 10 days before the next regularly scheduled meeting of the Board,]~~ the Board will place the matter on the agenda for ~~[that]~~ *discussion and possible action at the next available scheduled* meeting ~~[.]~~ *of the Board.*

2. If the petition is ~~[not]~~ received *within 40 days* before ~~[that date,]~~ *the next available scheduled meeting of the Board*, the petition ~~[will]~~ *may* be placed on the agenda for the following meeting ~~[.]~~ *—2.] for discussion and possible action.*

3. *At a meeting at which a petition has been placed on the agenda for discussion, the Board will consider any information relevant to the petition, including, without limitation:*

- (a) Oral or written testimony; and*
- (b) Any other evidence.*

4. *After consideration of the information relevant to the petition, the Board will grant or deny the petition.*

5. If the Board ~~[grants]~~ *denies* the petition, ~~[it will issue its declaratory order or advisory opinion within 120 days. The Board may schedule a hearing on the petition before issuing its decision.]~~

~~3. A petition for a declaratory order or an advisory opinion must be in writing.]~~ *no further action will be taken.*

Sec. 49. NAC 640.330 is hereby amended to read as follows:

640.330 1. *Pursuant to NRS 233B.100, any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation.*

2. A petition for the adoption, *filing*, amendment or repeal of a regulation must be in writing ~~[.]~~ *and must include:*

(a) *The name and address of the petitioner;*

(b) *The reason for petitioning for the adoption, filing, amendment or repeal of the regulation;*

(c) *The proposed language of the regulation to be adopted, filed or amended or the existing language of the regulation to be repealed, as applicable;*

(d) *The statutory authority for the adoption, filing, amendment or repeal of the regulation;*
and

(e) *Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.*

3. *The Board may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.*

4. The Board will notify the petitioner in writing of the decision of the Board regarding the petition within 30 days after the date on which the petition is filed. If the Board approves the petition for the adoption, filing, amendment or repeal of a regulation, the Board will initiate regulation-making proceedings concerning that regulation within 40 days after the date on which the petitioner filed the petition.

Sec. 50. NAC 640.340 is hereby amended to read as follows:

640.340 ~~[1.—Any]~~ A person may petition the Board to appear and be heard on any matter within the jurisdiction of the Board ~~[]~~, *as follows:*

1. The petitioner must submit the petition to the Board in writing. The petition must contain a brief summary of the subject matter and the ~~[reason]~~ *reasons* for bringing the matter before the Board.

2. The petition must be received by the Board at least 40 business days before the meeting at which the petitioner wishes to be heard, but the Executive Director of the Board may waive this time requirement.

3. Upon receipt of the petition, ~~[a]~~ the Executive Director or his or her designee or any member of the Board ~~[, as designated by the presiding officer, shall evaluate the petition]~~ may make an initial evaluation to determine whether ~~[it requires a formal hearing and whether a special meeting]~~ the subject of the petition is within the jurisdiction of the Board . ~~[must be called for such a hearing.~~

~~—3.]~~

4. If the Executive Director or his or her designee or a member of the Board determines that the petition ~~[states a:~~

~~—(a) Ground~~ *submitted pursuant to subsection 1 presents grounds for a disciplinary action involving a fine*, the revocation or suspension of a license or the probation of a licensee, the ~~[Board will inform]~~ *Executive Director shall deny the petition and instruct* the petitioner ~~[of the requirements for filing]~~ *to file* a formal complaint. [-

~~—(b) Matter which is not a ground]~~ *The Executive Director shall notify the petitioner of the requirements for making the complaint.*

5. *If the Executive Director or his or her designee or a member of the Board determines that there is no possibility for a fine*, the revocation or suspension of a license or the probation of a licensee, *and if the item is a subject within the jurisdiction of the Board*, the matter ~~[will]~~ *stated in the petition may* be placed on the agenda ~~[of the next regularly scheduled meeting.]~~ *as an item of new business for discussion and action.*

Sec. 51. NAC 640.400 is hereby amended to read as follows:

640.400 1. ~~[Except as otherwise provided in subsections 3, 4 and 5, every]~~ *Every* physical therapist or physical ~~[therapist's]~~ *therapist* assistant must complete 1.5 *continuing competence* units of an approved course *or activity* within the year immediately preceding his or her application for the renewal of his or her license . ~~[, of which not more than 0.8 units may be completed in nonclinical courses.]~~ *These units must include an approved course or one continuing competence activity concerning diversity, equity, inclusion or social justice.*

2. The Board will not approve ~~[as training for]~~ continuing ~~[education experience]~~ *competence units* acquired in fields that it determines are unrelated to the practice of physical therapy.

3. ~~[A person who is initially licensed as a physical therapist or physical therapist's assistant between February 1 and July 31 is not required to complete the requirements for continuing education for the period of licensing which ends on July 31 of that year.~~

~~4. A physical therapist or physical therapist's assistant who is licensed between August 1 and January 31 must complete the requirements for continuing education before his or her license is renewed. The number of units of continuing education required to be earned must be computed on the basis of .125 units for each month he or she was licensed during that year.~~

~~5. A physical therapist or physical therapist's assistant who graduated from a school in which he or she completed a curriculum of physical therapy approved by the Board and who is licensed by the Board within 12 months immediately preceding the date for the renewal of his or her license is not required to complete the requirements for continuing education for the year in which the initial license is issued.~~

~~6. Continuing education hours]~~ *Except as otherwise provided in this subsection, continuing competence units* earned through completing a specific course may be counted only once toward the ~~[units of]~~ continuing ~~[education]~~ *competence units* required by this section during a 3-year period, even if the licensee completes that course more than once during that 3-year period. *Certain specific activities may be approved to be counted each year toward the continuing competence units required by this section.*

Sec. 52. NAC 640.410 is hereby amended to read as follows:

640.410 1. Any ~~[school accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association which offers instruction in the field of physical therapy will be considered as a recognized provider of continuing education without applying to the Board for approval. All other persons]~~ *person* seeking recognition by the

Board as a provider of continuing ~~[education]~~ *competence* must apply to the Board. The application will be granted if the Board finds that the applicant is competent to provide continuing ~~[education. The Board will notify the applicant in writing of its decision within 90 days after receipt of the application.]~~ *competence*.

2. The Board may deny or withdraw recognition if it finds that a provider of continuing ~~[education]~~ *competence* has:

- (a) Failed to furnish a course of study or training as advertised;
- (b) Engaged in any misleading or deceptive practice; or
- (c) Failed to comply with any provision of this chapter or chapter 640 of NRS.

3. The Board may waive the fees set forth in paragraph (f) of subsection 3 of NAC 640.025 for the following providers of continuing competence:

(a) Any school accredited by the Commission on Accreditation in Physical Therapy Education.

(b) The American Physical Therapy Association and its academies and chapters.

Sec. 53. NAC 640.420 is hereby amended to read as follows:

640.420 All ~~[recognized]~~ providers of continuing ~~[education]~~ *competence recognized by the Board* shall:

- 1. Keep a record of:
 - (a) The attendance of each physical therapist and physical ~~[therapist's]~~ *therapist* assistant;
 - (b) The course ~~[of study or training]~~ in which each physical therapist and physical ~~[therapist's]~~ *therapist* assistant participated; and
 - (c) The ~~[units of]~~ continuing ~~[education]~~ *competence units* granted to the physical therapist and physical ~~[therapist's]~~ *therapist* assistant.

~~{→The records must be maintained for at least 4 years after completion of the course or training.}~~

2. Furnish to each physical therapist or physical ~~{therapist's}~~ *therapist* assistant who completes a course ~~{of study or training}~~ a certificate of completion which contains the following information:

- (a) The name of the physical therapist or physical ~~{therapist's}~~ *therapist* assistant.
- (b) The name of the provider of the course . ~~{of study or training.}~~
- (c) A description of the course . ~~{of study or training.}~~
- (d) The number of ~~{units of}~~ continuing ~~{education}~~ *competence units successfully* completed.
- (e) The date of completion of the course . ~~{of study or training.}~~

Sec. 54. NAC 640.450 is hereby amended to read as follows:

640.450 1. A provider of continuing ~~{education}~~ *competence* who seeks approval *from the Board pursuant to subsection 1 of NAC 640.410* for any course ~~{of study, training or material}~~ must submit an application, including the appropriate fee, to the Board ~~{. The}~~ *or an agency approved by the Board. If submitting to the Board, the* Board will submit the application to the Advisory Committee on Continuing ~~{Education}~~ *Competence created by NAC 640.480* for its evaluation. The Board will review the application and the Committee's evaluation and notify the person of its decision to grant or deny approval of the course ~~{of study, training or material}~~ within 90 days after the *completed* application was submitted to the Board. If it grants approval, the Board will designate the number of ~~{units of}~~ continuing ~~{education}~~ *competence units* for which the course ~~{of study or training}~~ is approved. Approval may be granted for ~~{the current calendar year and the succeeding licensure year which ends July 31,}~~ *a period of 2 years after*

the date of approval by the Board if the material and instruction remain substantially the same.
For the purposes of this subsection, “substantially the same” means the same course content, without the need for an update due to changes in the law or practice, the same course name, the same hour-by-hour timeline and the same instructor or instructors.

2. ~~[An]~~ *A provider of continuing competence seeking approval for a course must submit an application, approved by the Board, for* ~~[approval must include:~~

~~—(a) A copy of the certificate of completion to be issued to each participant who completes the course of study or training;~~

~~—(b) A description of the information to be presented in the course of study or training;~~

~~—(c) Biographical information on the instructor of the course;~~

~~—(d) An outline of the topics to be presented in the course of study or training and the time allocated to each topic;~~

~~—(e) A statement of the objectives of the course of study or training;~~

~~—(f) The number of units the course of study or training is worth; and~~

~~—(g)]~~ *the review of the course.*

3. For any course which is not a live lecture, seminar or class ~~[.]~~ *in which the instructor is present at the same location as the participant*, an examination ~~[to]~~ *must* be administered following the course.

Sec. 55. NAC 640.460 is hereby amended to read as follows:

640.460 1. A person shall not use the term “recognized provider of continuing ~~[education”]~~ *competence*” unless the person has been recognized *as such* by the Board ~~[.]~~ *pursuant to NAC 640.410.*

2. A provider of an approved course *or activity* may include in its advertising, announcements and other promotional materials, the following:

This course *or activity* has been approved by the ~~[State Board of]~~ Nevada Physical Therapy ~~[Examiners]~~ Board for~~[units of]~~ continuing ~~[education.]~~ *competence units.*

Sec. 56. NAC 640.480 is hereby amended to read as follows:

640.480 The Advisory Committee on Continuing ~~[Education]~~ *Competence* is hereby created. The Committee consists of not less than five ~~[and not more than seven]~~ members , *each of whom is* appointed by the Board for a term of 2 years. *The terms of office of appointed members must be staggered.*

Sec. 57. NAC 640.490 is hereby amended to read as follows:

640.490 1. The Advisory Committee on Continuing ~~[Education]~~ *Competence* will be composed of the following members:

(a) A member of the Board.

(b) Not more than ~~[three]~~ *two* members representing the northern district and not more than ~~[three]~~ *two* members representing the southern district . ~~[as follows:~~

~~———— (1) At least one member representing physical therapists who are in private practice.~~

~~———— (2) At least one member representing physical therapists who work in hospitals.~~

~~———— (3) At least one member representing physical therapists who work primarily with children, in a school district or in the area of home health.]~~

2. *The Board will attempt to ensure representation from a variety of areas of practice as volunteers are available.*

3. Each member of the Committee must be *actively* licensed as a physical therapist in this State ~~at the time~~ *for the duration* of his or her appointment.

~~3.~~ 4. The Committee shall:

(a) Select a Chair and Vice Chair ~~;~~ *at the first meeting of the calendar year;*

(b) Recommend to the Board criteria for evaluating ~~any material or course of study or training~~ *courses* for continuing ~~education;~~ *competence;*

(c) Evaluate ~~the~~ *a* course ~~for training and the material~~ based on the criteria approved by the Board, and recommend ~~within 60 days after receipt of an application for approval,~~ to the Board ~~for its final decision the accreditation of a course of study or training or material and~~ the number of ~~units of~~ continuing ~~education~~ *competence units* to be awarded; and

(d) Advise the Board on ~~all~~ matters relating to continuing ~~education;~~ *competence.*

~~4.~~ 5. A quorum of the Committee is ~~four members, at least one of whom must be the Chair or Vice Chair.~~ *a majority of the appointed members.*

Sec. 58. NAC 640.500 is hereby amended to read as follows:

640.500 A list of all currently approved courses ~~of study or training and materials~~ *or activities of continuing competence* is available from the Board upon request or may be obtained on the Internet website ~~maintained by~~ *of* the Board ~~;~~ *at <https://ptboard.nv.gov/>.*

Sec. 59. NAC 640.510 is hereby amended to read as follows:

640.510 1. ~~Except as otherwise provided in subsection 2, a~~ *Each* physical therapist ~~or~~ *and* physical ~~therapist's~~ *therapist* assistant ~~who wishes to renew his or her license and who is required to complete~~ *must certify completion of the* continuing ~~education~~ *competence units*

required pursuant to NAC 640.400 ~~[must submit to the Board, on an original form, a signed, written statement in substantially the following language for each year since]~~ *in* his or her ~~[last]~~ *application for the* renewal ~~[-~~

~~I,, hereby certify to the State Board of Physical Therapy Examiners that I have obtained units of an approved course for continuing education during the period August 1,, through and including July 31,~~

~~Dated this day of,~~

.....
Signature of Physical Therapist or
Physical Therapist's Assistant

~~2. In lieu of submitting a written certification to the Board pursuant to subsection 1, a licensee who chooses to renew] of his or her license . [using the Internet website of the Board may provide a substantially similar certification to the Board on that website.~~

~~3.]~~

2. A licensed physical therapist or physical ~~[therapist's]~~ *therapist* assistant shall retain a certificate of completion issued to him or her pursuant to NAC 640.420 or other documentation, approved by the Board, of his or her completion of ~~[a]~~ *an approved* course ~~[of study or training]~~ *or activity* for continuing ~~[education]~~ *competence* for ~~[4 years]~~ *1 year* after completion of the course or ~~[training.]~~ *activity*. A copy of the certificate or other documentation must be submitted to the Board ~~[upon request]~~ to verify the completion of the *approved* course ~~[of study or training.~~

~~—4.]~~ *or activity upon the renewal of his or her license by the Board.*

3. The Board will conduct random audits of physical therapists and physical ~~[therapist's]~~ *therapist* assistants who have renewed their licenses to ensure compliance with the requirements of this section and NAC 640.400.

Sec. 60. NAC 640.550 is hereby amended to read as follows:

640.550 A licensee shall:

1. Maintain and calibrate his or her equipment which is used in a ~~[program]~~ *treatment intervention* of physical therapy in accordance with the recommendations of the manufacturer of the equipment.

2. Not use his or her professional relationship with a patient to further the licensee's own personal, religious, political or business interest.

3. Not disparage the qualifications of any colleague, except as otherwise provided in subsection 7 ~~[.]~~ *or 10.*

4. ~~[Not diagnose,]~~ *Diagnose*, prescribe for ~~[.]~~ *and* treat ~~[or advise]~~ a patient ~~[on]~~ *for* any problem ~~[outside the licensee's field of]~~ *related to* the practice of physical therapy.

5. ~~[Base his or her practice upon the educational requirements adopted by the Board.]~~

Maintain competence in his or her personal scope of practice.

6. ~~[Keep current with the emerging knowledge in the field of physical therapy.]~~ *Adhere to the Code of Ethics for the Physical Therapist or Standards of Ethical Conduct for the Physical Therapist Assistant of the American Physical Therapy Association, as applicable.*

7. Report to the Board any unlicensed, unauthorized, unqualified, ~~[or]~~ unethical *or unprofessional* practice of physical therapy by another person.

8. Comply with all of the provisions of the statutes and regulations governing the practice of physical therapy as set forth in this chapter and in ~~[chapter]~~ *chapters 629 and 640* of NRS.

9. Cooperate with the Board in an investigation relating to the licensee's compliance with the provisions of the statutes and regulations governing the practice of physical therapy as set forth in this chapter and in ~~[chapter]~~ *chapters 629 and 640* of NRS.

10. Cooperate with the Board in an investigation relating to the compliance of another licensee with the provisions of the statutes and regulations governing the practice of physical therapy as set forth in this chapter and in chapters 629 and 640 of NRS.

11. Maintain standards of supervision as set forth in NAC 640.008, 640.593 and 640.594.

12. Protect patients by complying with applicable guidelines for infection control as promulgated by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, thereby preventing risk of transmission of infectious disease. Except for good cause, a knowing failure to follow such guidelines constitutes grounds for disciplinary action.

Sec. 61. NAC 640.560 is hereby amended to read as follows:

640.560 1. A licensee shall ~~[prominently]~~ display ~~[the original]~~ *his or her* current license ~~[issued to him or her by the Board at the licensee's primary professional address during the hours the place is open for business.]~~ *in all locations where the licensee works, in a place that is easily visible or readily accessible by the public. If the licensee works in the field, a copy of his or her license, either printed or in electronic format, must be readily accessible to present to the public if requested.*

2. ~~[A licensee shall prominently]~~ *The Board interprets "a location which is accessible to the public," as used in subsection 3 of NRS 640.110, to mean a prominent display.* ~~[a copy of~~

~~his or her current license at all other locations where the licensee practices physical therapy when he or she is present at such location.]~~

3. A licensee shall not practice physical therapy under any name other than the name on his or her license.

Sec. 62. NAC 640.570 is hereby amended to read as follows:

640.570 ~~{1.—A licensee shall not use his or her license to:~~

~~—(a) Support any claim, promise, or guarantee concerning the success of the treatment the licensee administers; or~~

~~—(b) Imply that he or she has competence in a profession other than the practice of physical therapy.~~

~~—2.]~~ A licensee shall not misrepresent his or her:

~~{(a)}~~ 1. Professional qualifications;

~~{(b)}~~ 2. Affiliations;

~~{(c)}~~ 3. Licenses; or

~~{(d)}~~ 4. The licenses or professional qualifications of:

~~{—(1)}~~ (a) The institutions and organizations with which ~~{he or she}~~ *the licensee* is associated; or

~~{—(2)}~~ (b) Any person whom the licensee supervises in the course of his or her professional duties.

Sec. 63. NAC 640.580 is hereby amended to read as follows:

640.580 A licensee:

1. Shall treat a patient with professional skill and competence.

2. Shall not practice, condone, facilitate or collaborate in any type of discrimination toward a patient based on the patient's ~~{-}~~

- (a) Race;
- (b) Color;
- (c) Sex;
- (d) Age;
- (e) Religion;
- (f) National origin;
- (g) Mental or physical disability; ~~{or}~~
- (h) Sexual orientation ~~{-}~~;
- (i) *Socioeconomic status*;
- (j) *Pregnancy; or*
- (k) *Status as a parent.*

3. Shall not misrepresent to a patient the efficacy of his or her treatment *intervention* of the patient or the results to be achieved by a course of treatment *intervention* of physical therapy.

4. Shall inform ~~{his or her}~~ a patient of any risk to the patient that may be associated with the proposed treatment *intervention* of physical therapy.

5. ~~{Shall seek the advice and counsel of colleagues and supervisors whenever such consultation is in the best interest of the patient.}~~

~~—6.}~~ Shall not engage in sexual activities with a patient unless there was a preexisting sexual relationship with that person. The Board will presume that there is a violation of this subsection if the sexual relationship and activity begins during the course of treatment *intervention* of the patient or within 6 months after the termination of the professional relationship with the patient.

~~[7. Shall not suggest to a patient who is referred to the licensee by one provider of health care that he or she seek the treatment of another provider of health care without first consulting the referring provider of health care. If there is no referring provider of health care or if the patient does not wish to return to the referring provider of health care, a list containing the names of at least three other providers of health care may be offered to the patient by the licensee.]~~

6. Shall not engage in inappropriate behaviors, including, without limitation, the use of foul language, jokes or gestures of a sexual nature or other disparaging comments.

7. Shall not engage in touching a patient for a sexual purpose or in a way that is not necessary for any treatment intervention.

8. Shall not provide treatment intervention that is unwarranted by the condition of the patient or continue treatment intervention beyond the point of reasonable benefit.

Sec. 64. NAC 640.590 is hereby amended to read as follows:

640.590 1. ~~[A physical therapist shall supervise any program of treatment which is delegated to a physical therapist's assistant.~~

~~—2.]~~ A physical therapist shall:

(a) ~~[Interpret the record of a patient who is referred to the physical therapist by a provider of health care;~~

~~—(b)]~~ Perform ~~[the initial evaluation]~~ *periodic reevaluation* of ~~[a]~~ *each* patient and ~~[identify any problem of the patient;~~

~~—(c)~~ Develop a plan of care for a patient based upon the initial evaluation of the patient, which includes the goal of the treatment of the patient;

~~—(d)~~ Determine the appropriate portion of the program of treatment to be delegated to a] *document each reevaluation.*

(b) For each patient on each date of service, provide all of the treatment intervention that requires the education, skills and knowledge of a physical therapist and determine the use of physical therapist assistants or physical therapy technicians to ensure that the delivery of care is safe, effective and efficient.

(c) Document the discharge of the patient, including, without limitation, the response of the patient to treatment intervention at the time of discharge.

(d) Assure the qualifications of all physical ~~therapist's assistant;~~

~~*(e) Delegate the treatment to be administered by the physical therapist's assistant to a patient;*~~

~~*(f) therapist assistants and physical therapy technicians under the direction and supervision of the physical therapist.*~~

*(e) Instruct ~~the~~ physical ~~therapist's assistant~~ *therapist assistants and physical therapy technicians* regarding:*

*(1) The specific program of treatment **intervention** of a patient;*

(2) Any precaution to be taken to protect a patient;

(3) Any special problem of a patient;

*(4) Any procedure which should not be administered to a patient; **and***

~~*(5) **The proper methods for documenting the treatment that is administered to the patient;***~~

~~**and**~~

~~*(6) Any other information required to treat a patient . **;***~~

~~*(g) Review the program of treatment of a patient in a timely manner;*~~

~~*(h) Document the goal of treatment of a patient;*~~

~~*(i) Revise the plan of care when indicated;*~~

~~—(j) Review the documentation of the treatment that is administered to a patient by a physical therapist's assistant during periodic reviews of the patient and make note of those reviews in the evaluation or reassessment of the patient;~~

~~—(k) Provide for case management and dissemination of any written and oral reports; and~~

~~—(l) Perform the final evaluation upon the discharge of the patient from the care of the physical therapist to terminate a program of treatment unless the treatment is terminated by a patient or a referring provider of health care.~~

~~—3. A physical therapist shall not delegate to a person who is less qualified than a physical therapist any program of treatment which requires the unique skills, knowledge and judgment of a physical therapist.~~

~~—4.]~~ 2. A physical therapist shall not delegate ~~[the following duties to a physical therapist's assistant or a person who is not licensed by the Board:~~

~~—(a) Any activity which requires the unique skills, knowledge and judgment of a physical therapist; and~~

~~—(b) The],~~ *other than to another physical therapist, the* planning of an initial program of treatment *intervention* and any subsequent *planning of a* program of treatment *intervention* based on the results of tests performed on *and evaluations of* a patient.

Sec. 65. NAC 640.593 is hereby amended to read as follows:

640.593 1. A physical ~~[therapist's]~~ *therapist* assistant may *be designated as the clinical instructor of a student who is completing an educational program to become a physical therapist assistant and* participate in the clinical instruction of ~~[a]~~ *that* student ~~[who is enrolled in a curriculum approved by the Board for a physical therapist's assistant]~~ *only* if the physical ~~[therapist's]~~ *therapist* assistant and the student are under the ~~[direct]~~ supervision of a ~~[licensed]~~

physical therapist ~~[.]~~*as required by NRS 640.094 and as described in subsection 1 of NAC 640.008.*

2. ~~[As used in this section, “direct supervision” means the direction or assistance provided to a licensed physical therapist’s assistant and such a student by a licensed physical therapist who is present and immediately available on the premises where the physical therapy is performed.]~~ *A physical therapist assistant who is designated as the clinical instructor of a student pursuant to subsection 1 shall co-sign any and all documentation of that student.*

Sec. 66. NAC 640.594 is hereby amended to read as follows:

640.594 ~~[1.—Except as otherwise provided in NRS 640.310, a physical therapist supervising a person who is not licensed pursuant to the provisions of chapter 640 of NRS must be physically present and immediately available on the premises when any procedures or activities of physical therapy are performed by that person.~~

~~—2.]~~ A physical therapist ~~[may]~~ *shall* not supervise more than ~~[:]~~

~~—(a)]~~ *a combined total of three persons at the same time subject to the following limits:*

1. Two physical ~~[therapist’s]~~ *therapist* assistants . ~~[at the same time.~~

~~—(b)]~~

2. Two physical ~~[therapist’s]~~ *therapist* technicians . ~~[at the same time.~~

~~—(c)]~~

3. Two students ~~[of]~~ *who are enrolled in a program of professional education for* physical ~~[therapy at the same time.~~

~~—(d)]~~ *therapists or physical therapist assistants.*

4. Two graduates of *an educational program for* physical therapy ~~[at the same time.~~

~~—(e) If supervising any combination of graduates of physical therapy, students of physical therapy, physical therapist's assistants and physical therapist's technicians, a combined total of three such persons at the same time.]~~ *or a program to become a physical therapist assistant.*

Sec. 67. NAC 640.595 is hereby amended to read as follows:

640.595 ~~[For the purposes of regulating the use of a physical therapist's technician in a physical therapist's practice, the]~~

- 1. A physical therapist technician shall work under the immediate supervision of a physical therapist at all times.*
- 2. A physical therapist who supervises a physical therapist technician is responsible for:*
 - (a) The conduct, training and actions of the physical therapist technician.*
 - (b) Documenting the competence of all activities performed by the physical therapist technician.*
- 3. A physical therapist may delegate to a physical therapist technician:*
 - (a) Routine tasks related to:*
 - (1) The cleanliness and maintenance of equipment and the physical plant.*
 - (2) The management of the business aspects of the practice, including scheduling appointments and filling out insurance forms.*
 - (b) Such other assignments with respect to patient care as may be specifically made by the physical therapist, including:*
 - (1) Positioning the patient.*
 - (2) Assisting with the undressing and dressing of the patient.*
 - (3) Transporting patients, records, equipment and supplies in accordance with established policies and procedures.*

(4) Except as otherwise provided in subsection 4, assisting the physical therapist or a physical therapist assistant, under the immediate supervision of the physical therapist, in performing a specific service of physical therapy.

4. A physical therapist technician shall not provide any skilled intervention. A physical therapist shall not authorize or allow a physical therapist technician to engage in any skilled intervention.

5. A physical therapist technician must be properly identified by a name tag which includes the name and job title of the physical therapist technician.

*6. The Board will consider any **technician**, aide or other ~~unlicensed~~ person **not licensed pursuant to chapter 640 of NRS and** who performs ~~treatments~~ **services** related to physical therapy which have been directed by a physical therapist ~~[, regardless of the title or designation assigned by his or her employer,]~~ to be a physical ~~therapist's~~ **therapist** technician. *Any such person must be represented as a physical therapist technician, whether known as, without limitation, a technician, rehabilitation aide or rehabilitation technician.**

Sec. 68. NAC 640.600 is hereby amended to read as follows:

640.600 A licensee:

1. Shall terminate ~~his or her~~ treatment **intervention** of a patient and his or her professional relationship with a patient when the treatment **intervention** and relationship are no longer required or no longer serve the needs of the patient.

2. Shall not withdraw ~~his or her~~ treatment **intervention** of a patient precipitously ~~and shall minimize any adverse effects of such withdrawal on the patient.]~~ *on the own accord of the licensee.*

3. Who anticipates the termination or interruption of treatment *intervention* of a patient shall:

(a) Notify the patient promptly of the termination or interruption of the treatment ~~;~~

intervention;

(b) Seek the transfer or referral of the patient to another physical therapist for treatment ~~;~~

intervention;

(c) Seek the continuation of treatment *intervention* in relation to the needs of the patient ~~;~~;

and

(d) *Make reasonable efforts to minimize any adverse effects of such termination or*

interruption on the patient.

Sec. 69. NAC 640.610 is hereby amended to read as follows:

640.610 1. A licensee shall:

(a) Maintain in a secure and confidential manner , *and as required by NRS 629.051 and all other relevant state and federal laws governing the confidentiality and maintenance of patient records*, any record of a patient which shows a medical problem of the patient or the scope of the treatment *intervention* of the patient administered by the licensee . ~~;~~

(b) ~~[Within 72 hours]~~ *Not later than the end of the third business day* after providing treatment *intervention* to a patient ~~;~~ ~~indicate~~ :

(1) *Complete the documentation* in the record of the patient ~~[the treatment that was provided; and]~~ *as required by section 23 of this regulation.*

(2) *Document all material communication provided within 3 business days after the treatment intervention in the record of the patient. For the purpose of this subparagraph,*

“material communication” means all communication with the patient regarding the care of the patient, whether the communication was face-to-face or by telecommunication.

(c) Ensure that the record of each patient is clear, legible, complete and accurate, and that the record includes an original, legible signature or authenticated electronic signature of the licensee ~~and~~ *and the date of the signature.*

(d) If electronic documentation is used for the record of a patient, ensure that each document in paper format is reflected in electronic format in the record of the patient.

2. Except as otherwise provided by law, a licensee may not release a record of a patient which is confidential, or any information contained therein, except ~~and~~ *under one or more of the following circumstances:*

(a) With the written consent of the patient . ~~and~~

(b) If the patient is a minor, with the written consent of the parent or legal guardian of the patient . ~~and~~

(c) Upon written request from the attorney of a patient if the written request is accompanied by a release signed by the patient or the parent or legal guardian of the patient, as applicable . ~~and~~

(d) In response to a subpoena issued by the Board . ~~and~~

(e) Pursuant to an order of a court of competent jurisdiction . ~~and or~~

(f) If there is a clear and immediate danger to the patient, another person or to society. If there is such a danger, a disclosure may be made to an appropriate member of the family of the patient, another provider of health care, or an appropriate agent of the Federal Government, the State, a political subdivision of the State or a law enforcement agency, when acting in his or her official capacity.

(g) Where the licensee makes a report pursuant to NRS 432B.220, having knowledge or reasonable cause to believe that a child has been abused or neglected.

(h) Where the licensee makes a report pursuant to NRS 200.5093, having knowledge or reasonable cause to believe that an older person or vulnerable person has been abused, neglected, exploited, isolated or abandoned.

(i) To the appropriate law enforcement agency, where the licensee knows or has reasonable cause to believe that the patient has been the victim of domestic violence.

3. A licensee shall provide medical records within ~~[5 business days after receipt of a written request received]~~ *the time required* pursuant to subsection 2 ~~[.]~~ *of NRS 629.061. Any fees charged for the production of the records must be in accordance with subsection 4 of NRS 629.061.*

4. A licensee shall inform his or her patient of any regulation or statute which governs the confidentiality of communications between the patient and the physical therapist.

5. A licensee shall not falsify a record of health care of a patient.

Sec. 70. NAC 640.620 is hereby amended to read as follows:

640.620 A licensee shall:

1. ~~[Make arrangements for the payment of fees for the treatment at the beginning of the therapeutic relationship with a patient.]~~ *Ensure that documentation and coding for physical therapy services accurately reflect the nature and extent of the services provided.*

2. ~~[Charge for his or her treatment an amount which represents a reasonable fee for the treatment.]~~

~~—3.]~~ Not engage in any misleading or deceptive billing practice.

~~[4.]~~ 3. Make billing information available to the patient upon the request of the patient.

Sec. 71. NAC 640.630 is hereby amended to read as follows:

640.630 A licensee shall not advertise treatment *intervention* by the use of physical therapy or equipment used in the practice of physical therapy in such a manner that the advertising:

1. ~~{Contains a testimonial or endorsement by another person;~~
- ~~—2.}~~ Implies that the physical therapist has skill which is superior to that of another physical therapist;
- ~~{3.}~~ 2. Holds the physical therapist out as a specialist unless the licensee is certified as a specialist ; ~~{by an organization recognized by the Board;~~
- ~~—4.}~~ 3. Makes any false claim about the efficacy or value of the treatment *intervention* the licensee administers; or
- ~~{5.}~~ 4. Is false, deceptive or misleading in regard to the fee which is charged or the terms of any credit for the treatment *intervention* administered.

Sec. 72. NAC 640.670 is hereby amended to read as follows:

640.670 For the purposes of NRS 640.160:

1. “Gross negligence” means conduct which constitutes an extreme departure from the standard of care required of a licensee under the circumstances and which proximately causes damage to a patient.
2. “Malpractice” means conduct which falls below the standard of care required of a licensee under the circumstances . ~~{and which proximately causes damage to a patient.}~~
3. A licensee is “professionally incompetent” if ~~{he or she:}~~ *the licensee:*
 - (a) Lacks the knowledge, skill or ability to discharge a professional obligation, or discharges a professional obligation while impaired; or

(b) Consistently uses a procedure or treatment *intervention* which constitutes a departure from the prevailing standard of the acceptable practice of physical therapy.

4. “Unearned fee” means any contract or arrangement entered into by a licensee to provide a person with a credit, gratuity, commission, professional discount or wage in consideration for the referral of a patient by that person to the physical therapist.

Sec. 73. NAC 640.685 is hereby amended to read as follows:

640.685 1. In addition to the grounds set forth in subsection 2 of NRS 640.160 ~~and~~ *and subsection 12 of NAC 640.550*, the Board may take disciplinary action against a licensee if it determines that the licensee:

(a) Failed to retain, furnish a copy of or make available the health care records of a patient as required pursuant to NRS 629.051, 629.061 and 629.065;

(b) Failed voluntarily to report to the Board his or her addiction to the use of a controlled substance;

(c) Failed voluntarily to report to the Board within 30 days any judgment or settlement in an amount of \$5,000 or more entered against or agreed to by the licensee on a claim involving malpractice; ~~or~~

(d) *Knowingly filed a frivolous complaint, which the Board may deem to constitute unprofessional conduct; or*

(e) Is an impaired practitioner.

2. As used in this section:

(a) “Dangerous drug” has the meaning ascribed to it in NRS 454.201.

(b) “Impaired practitioner” means a licensee who uses any controlled substance, dangerous drug or intoxicating liquid to an extent or in a manner which is dangerous or injurious to another

person or which impairs the ability of the licensee to conduct the practice authorized by his or her license.

Sec. 74. NAC 640.0045, 640.006, 640.080, 640.090, 640.100, 640.110, 640.120, 640.140, 640.180, 640.200, 640.210, 640.220, 640.230, 640.250, 640.260, 640.270, 640.280, 640.290, 640.300, 640.320, 640.470, 640.585 and 640.690 are hereby repealed.

TEXT OF REPEALED SECTIONS

640.0045 “Hour” defined. (NRS 640.050) “Hour” means not less than 50 minutes nor more than 60 minutes.

640.06 “Unit of continuing education” defined. (NRS 640.050) “Unit of continuing education” means 10 hours of instruction in an approved course.

640.080 Exemption from licensing during clinical training of student of physical therapy. (NRS 640.050, 640.120) For the purposes of qualifying for the exemption from licensing during clinical training provided pursuant to subsection 2 of NRS 640.120, the Board will interpret “student of physical therapy” to mean a student enrolled in a curriculum of physical therapy approved by the Board.

640.090 Exemption from licensing during clinical training of student enrolled in program to become physical therapist’s assistant. (NRS 640.050, 640.275) For the purposes of qualifying for the exemption from licensing during clinical training provided pursuant to

subsection 3 of NRS 640.275, the Board will interpret “student” to mean a student enrolled in a curriculum approved by the Board for a physical therapist’s assistant.

640.100 “Presiding officer” defined. (NRS 640.050) As used in NAC 640.100 to 640.340, inclusive, “presiding officer” means:

1. A member of the Board or a panel who presides at a hearing; or
2. A hearing officer.

640.110 Appearance and participation by member of Board’s staff. (NRS 640.050)

The members of the Board’s staff may appear at any proceeding and participate as a party.

640.120 Entry of appearance. (NRS 640.050) A party who has not previously entered an appearance may do so at the beginning of a hearing, or at any time designated by the presiding officer, by giving his or her name and address and stating his or her position or interest to the presiding officer. The information must be entered in the record of the hearing.

640.140 Error or defect in pleading or proceeding. (NRS 640.050) The presiding officer shall, at every stage of any proceeding, disregard any error or defect in the pleading or proceeding which does not affect the substantial rights of the parties.

640.180 Motions; oral arguments. (NRS 640.050)

1. Unless it is made during a hearing, a motion must be made in writing. Each written motion must state the relief sought and the grounds for the motion.
2. A party opposing a motion may file with the Board a written response to it and serve a copy of the response on the party making the motion. The party who made the motion may file with the Board a written reply to the response and serve a copy of the reply on the party making the response.
3. If the Board requires oral argument, it will set a date and time for hearing the argument.

640.200 Service of documents. (NRS 640.050) Except for a complaint and the notice of a hearing, every document required to be served by or upon the Board or other party must be served personally or by mail. Service by mail shall be deemed complete when the document, properly addressed and stamped, is deposited in the United States mail.

640.210 Hearings: Notice. (NRS 640.050) Except for the notice of hearing on a complaint, the Board will serve notice of a hearing at least 20 days before the day of the hearing. Any hearing which has been continued may be reconvened after a notice of at least 3 days.

640.220 Hearings: Failure to appear. (NRS 640.050)

1. If a party fails to appear at a hearing scheduled by the Board and no continuance has been requested or granted, the Board will hear the testimony of the witnesses who have appeared and proceed to consider the matter and dispose of it on the basis of the evidence before it.

2. If a person fails to appear for a hearing or to request a continuance of a hearing, the person may, within 15 days after the date originally set for the hearing, apply to the Board to reopen the proceedings. If the Board finds sufficient cause, it will set a new time and place for the hearing. Any witness who has previously testified may be required by the Board to appear at the second hearing.

640.230 Hearings: Call to order. (NRS 640.050) The presiding officer shall call the proceeding to order, take the appearances and act upon any pending motions or petitions. The parties may then make opening statements.

640.250 Hearings: Order of evidence. (NRS 640.050)

1. In a hearing before the Board, evidence will be heard in the following order:

(a) For an application or petition:

(1) The applicant or petitioner.

- (2) A member of the Board's staff.
 - (3) A party protesting the application or petitioner.
 - (4) Rebuttal by applicant or petitioner.
- (b) For a complaint:
- (1) The complainant.
 - (2) The respondent.
 - (3) Rebuttal by complainant.
 - (4) Rebuttal by respondent.
2. The presiding officer may:
- (a) Modify the order of presentation for good cause; and
 - (b) Allow the parties to make closing statements.

640.260 Consolidation of proceedings. (NRS 640.050) The presiding officer may consolidate two or more proceedings if it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by the consolidation.

640.270 Stipulations. (NRS 640.050) With the approval of the presiding member of the Board, the parties may stipulate to any fact at issue, either by a written stipulation introduced in evidence as an exhibit or by an oral statement shown upon the record. The presiding officer may require proof of the facts to which the parties stipulated.

640.280 Briefs: Filing; service. (NRS 640.050) The Board may request that briefs be filed within a specified time. A brief must be served upon all parties to the proceeding.

640.290 Informational hearing. (NRS 640.050) The Board may hold an informational hearing to mediate a controversy between two licensees or a licensee and a member of the Board's staff.

640.300 Rehearing. (NRS 640.050)

1. Within 15 days after the Board has made a decision or issued an order, a party aggrieved by the decision may apply for a rehearing by filing a written petition setting forth the grounds for the rehearing. The Board will consider this petition within 30 days after receiving it. If no action is taken by the Board within the 30-day period, the petition shall be deemed denied.

2. The Board, on its own motion, may order a rehearing of its decision if its original decision was based on mistake or fraud.

3. The filing of a petition for a rehearing does not relieve the parties from complying with the original decision, unless the Board expressly so provides.

640.320 Copy of declaratory order or advisory opinion sent to petitioner. (NRS

640.050) A copy of the declaratory order or advisory opinion rendered by the Board will be sent to the petitioner.

640.470 Form of course of study or training. (NRS 640.050, 640.150, 640.280) A

course of study or training for continuing education may consist of lectures, seminars, classes, correspondence courses or completion of an examination for certification that is approved by the American Physical Therapy Association. The content of the course may be studied privately or in groups.

640.585 Personal responsibility for each patient on treatment schedule. (NRS 640.050)

A physical therapist retains personal responsibility for each patient listed on the treatment schedule of the physical therapist for the duration of the period covered by that schedule, notwithstanding the employment of any other physical therapist at the same location.

640.690 Discovery of witnesses and evidence. (NRS 640.050)

1. No less than 10 days before a disciplinary action is scheduled for hearing, any party to the action may serve upon any other party to the action a written demand for:

(a) Copies of all documents reasonably available to the other party which are anticipated to be used in support of that party's position; and

(b) A written list of persons whom the other party reasonably anticipates will testify at the disciplinary hearing, which identifies each person by name and address, and includes a general description of the subject matter of that person's testimony.

2. The party receiving such a demand shall respond to the person making the demand within 5 days after receiving the demand.

3. The party receiving such a demand shall promptly deliver to the party making the demand any new pertinent document to be used at the hearing or the name, address and anticipated testimony of any person not included on the original list.

4. Failure to comply with this section may result in the exclusion of any undisclosed document or witness at the time of the hearing.