

**PROPOSED REGULATION OF THE
STATE BOARD OF PHYSICAL THERAPY EXAMINERS**

LCB File No. R059-06

April 24, 2006

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

AUTHORITY: §§1, 2, 7-10 and 19-24, NRS 640.050; §3, NRS 640.050, 640.090, 640.140, 640.250 and 640.270; §4, NRS 640.050, 640.110, 640.150 and 640.260; §5, NRS 640.050 and 640.100; §6, NRS 640.050, 640.110 and 640.260; §§11-16, NRS 640.050, 640.150 and 640.280; §17, NRS 640.050, 640.110 and 640.260; §18, NRS 640.050 and 640.290.

A REGULATION relating to physical therapy; revising provisions governing the practice of physical therapy; increasing certain fees; amending provisions relating to courses of study or training for continuing education; and providing other matters properly relating thereto.

Section 1. Chapter 640 of NAC is hereby amended by adding thereto a new section to read as follows:

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

Sec. 2. 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, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. 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 assistant must:

- (a) Include professional references;
- (b) Be accompanied by the appropriate fee; and
- (c) Be notarized.

2. Each applicant must ~~attach~~ :

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

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

3. Each applicant must request the Federation of State Boards of Physical Therapy to ~~mail~~ *provide* directly to the Board the scores which he received on the examination required by NRS 640.080.

4. Each applicant ~~licensed~~ *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 licensure in ~~that~~ *each* state or territory ~~in which the applicant currently holds or previously held a license~~. The applicant must request that the licensing board of ~~the~~ *each* state or territory where he ~~is licensed~~ *currently holds or previously held a license* mail directly to the Board proof of his licensure in that state or territory.

~~[5.—If an applicant’s name has been changed since attending school and the change resulted from a court decree, the applicant must attach a copy of that decree to his application.~~

~~—6.—An applicant for a license as a physical therapist’s assistant must submit verification of his employment and supervision by a licensed physical therapist on a form approved by the Board.]~~

Sec. 4. NAC 640.025 is hereby amended to read as follows:

640.025 The following fees are established:

1. For a physical therapist:
 - (a) Initial application for a license\$300
 - (b) Annual renewal of a license150
 - (c) Application for a temporary license100
 - (d) Reinstatement of an expired license300
 - (e) Approval of an applicant to take the examination25
2. For a physical therapist's assistant:
 - (a) Initial application for a license\$200
 - (b) Annual renewal of a license100
 - (c) Reinstatement of an expired license200
 - (d) Approval of an applicant to take the examination25
3. General:
 - (a) List of business addresses of licensees~~[\$25]~~ \$50
 - (b) List of business addresses of licensees on mailing labels~~[100]~~ 150
 - (c) Change of name on a license25
 - (d) Dishonored check25
 - (e) Duplicate of lost license25

4. For a request to consider approval of a course of study or training

for licensed physical therapists pursuant to subsection 4 of NRS 640.150

that is:

- (a) ***Worth 0-5.9 units***\$10
- (b) ***Worth 6-10 units***30
- (c) ***Worth 11 or more units***50

Sec. 5. 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 in the examination of an applicant for a license as a physical therapist or a physical therapist's assistant.

2. *In addition to the examination used pursuant to subsection 1, the Board may administer an 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 ~~[examination.]~~ *examinations*, an applicant must file a completed application with the Executive Secretary of the Board. ~~[at least 30 days before the date of the examination.]~~

~~—3.]~~ 4. The applicant must achieve a passing score on ~~[the]~~ *each* examination before he will be licensed.

~~[4.]~~ 5. If the applicant fails ~~[the]~~ *an* examination once, he may retake it ~~[on the next scheduled date]~~ upon payment of the fee for the examination.

Sec. 6. NAC 640.055 is hereby amended to read as follows:

640.055 1. If a physical therapist or a physical therapist's assistant changes his name after his license is issued, he must submit, within 30 days after the change, proof satisfactory to the Board that his 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 assistant who has lost his license or is otherwise not in possession of his 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. 7. NAC 640.061 is hereby amended to read as follows:

640.061 1. Each licensee shall file, in writing, his current residential address and professional address with the Board.

2. A licensee shall notify the Board, *in writing*, of any change in his residential address or *primary* professional address within 30 days after the change.

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 address of the licensee which was filed with the Board in accordance with this section.

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

Sec. 8. 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 ~~a service for the evaluation of credentials approved by the board which:~~

~~— (1) Uses] 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 ~~such an~~ *the* evaluation; and

(2) ~~[States]~~ *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 current or previous licensure to practice as a physical therapist without limitation in the country in which he was trained ~~[:]~~, *unless the applicant was not eligible for licensure in that country because he was a citizen of the United States at the time of his graduation from a program of physical therapy;* and

(c) Unless the native language of the applicant is English and he 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 successful completion of the Test of Spoken English ~~[for Professionals]~~ administered by ~~[TOEFL/TSE Services;~~

~~—(2) His successful completion of the Test of Written English administered by TOEFL/TSE Services; and~~

~~—(3)] *the Educational Testing Service; and*~~

(2) His successful completion of the Test of English as a Foreign Language administered by ~~[TOEFL/TSE Services.]~~ *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 ~~Immigration and Naturalization Service of the~~ United States *Citizenship and Immigration Services of the* Department of ~~Justice~~ *Homeland Security* if the applicant fails the national licensing examination.

5. If a licensee graduated from a school in another country and holds an H-1B Visa, the Board will notify the ~~Immigration and Naturalization Service of the~~ United States *Citizenship and Immigration Services of the* Department of ~~Justice~~ *Homeland Security* if the Board takes disciplinary action against him.

Sec. 9. NAC 640.080 is hereby amended to read as follows:

640.080 ~~{1.}~~ 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 ~~include:~~

~~—(a) A] mean a~~ student enrolled in a curriculum of physical therapy approved by the Board.

~~{(b) Except as otherwise provided in subsection 2, a person who:~~

~~—(1) Has applied for licensure as a physical therapist;~~

~~—(2) Meets the requirements of subsections 1 and 2 of NRS 640.080;~~

~~— (3) Has registered to take an examination for licensure as a physical therapist within 60 days after his graduation; and~~

~~— (4) Has not previously failed an examination for licensure as a physical therapist.~~

~~— 2. The provisions of paragraph (b) of subsection 1 apply to a person:~~

~~— (a) From the date of his graduation from the course of study approved by the Board until the date on which the examination for licensure as a physical therapist that he is scheduled to take is administered; and~~

~~— (b) If the person takes the examination, from the date of the examination to the date on which the person receives his license or is notified by the Board that he failed to pass the examination.]~~

Sec. 10. NAC 640.090 is hereby amended to read as follows:

640.090 ~~[1.]~~ 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 ~~[include:~~

~~— (a) A] *mean a*~~ student enrolled in a curriculum approved by the Board for a physical therapist’s assistant.

~~[(b) Except as otherwise provided in subsection 2, a person who:~~

~~— (1) Has applied for licensure as a physical therapist’s assistant;~~

~~— (2) Meets the requirements of subsections 1 to 4, inclusive, of NRS 640.230 and the provisions of NRS 640.240;~~

~~— (3) Has registered to take an examination for licensure as a physical therapist’s assistant within 60 days after his graduation; and~~

~~— (4) Has not previously failed an examination for licensure as a physical therapist’s assistant.~~

- ~~—2. The provisions of paragraph (b) of subsection 1 apply to a person:~~
- ~~—(a) From the date of his graduation from the course of study approved by the Board until the date on which the examination for licensure as a physical therapist's assistant that he is scheduled to take is administered; and~~
- ~~—(b) If the person takes the examination, from the date of the examination to the date on which the person receives his license or is notified by the Board that he failed to pass the examination.]~~

Sec. 11. NAC 640.400 is hereby amended to read as follows:

640.400 1. Except as otherwise provided in subsections 3, 4 and 5, every physical therapist or physical therapist's assistant must complete 1.5 units of an approved course within the year immediately preceding his application for the renewal of his license, of which not more than 0.8 units may be completed in nonclinical courses.

2. The Board will not approve as training for continuing education experience 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 ~~H~~ 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 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 was licensed during that year.

5. A physical therapist or physical therapist's assistant who graduated from a school in which he 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 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 earned through completing a specific course may be counted only once toward the units of continuing education required by this section during a 3-year period, even if the licensee completes that course more than once during that 3-year period.

Sec. 12. NAC 640.410 is hereby amended to read as follows:

640.410 1. Any school accredited by ~~[a national organization recognized by the Board]~~ *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 seeking recognition by the Board as a provider of continuing education 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.

2. The Board may deny or withdraw recognition if it finds that a provider of continuing education 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 . ~~[or this chapter.]~~

Sec. 13. NAC 640.450 is hereby amended to read as follows:

640.450 1. A ~~person~~ *provider of continuing education* who seeks approval for any course of study, training or material must submit an application , *including the appropriate fee*, to the Board. The Board will submit the application to the Advisory Committee on Continuing Education 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 application was submitted to the Board. If it grants approval, the Board will designate the number of units of continuing education 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, if the material and instruction remain substantially the same.

2. An application 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; ~~and~~

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

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

(g) For any course which is not a live lecture, seminar or class, an examination to be administered following the course.

Sec. 14. NAC 640.470 is hereby amended to read as follows:

640.470 ~~[1.]~~ 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. ~~[Presentations may be live or by audio or videotape.]~~ The content of the course may be studied privately or in groups.

~~[2.—The Board may award units of continuing education to an instructor of any such course of study or training.]~~

Sec. 15. 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 is available from the Board upon request ~~[.]~~ *or may be obtained on the Internet website maintained by the Board.*

Sec. 16. NAC 640.510 is hereby amended to read as follows:

640.510 1. A physical therapist or physical therapist’s assistant who wishes to renew his license and who is required to complete continuing education 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 his last 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. A licensed physical therapist or physical therapist's assistant shall retain a certificate of completion issued to him pursuant to NAC 640.420 or other documentation, approved by the Board, of his completion of a course of study or training for continuing education for 4 years after completion of the course or training. A copy of the certificate or other documentation must be submitted to the Board upon request to verify his completion of the course of study or training.

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

Sec. 17. NAC 640.560 is hereby amended to read as follows:

640.560 1. A licensee shall prominently display the *current* license issued to him by the Board ~~[, or a copy of that license, at each place where he is employed or practices physical therapy]~~ *at his primary professional address* during the hours the place is open for business.

2. *A licensee shall prominently display a copy of his current license at all other locations where the licensee practices physical therapy when he is present at such location.*

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

Sec. 18. NAC 640.592 is hereby amended to read as follows:

640.592 1. A physical therapist who supervises a physical therapist's assistant who provides treatment to a patient:

(a) Shall contact the patient initially to evaluate the patient and write a plan of care for that patient . ~~{;}~~

(b) Shall ~~{accompany the physical therapist's assistant on the first treatment of the patient;}~~ *formulate and document, on the medical record of the patient, the treatment goals and plan of care for the patient based upon the evaluation. This information must be communicated verbally or in writing by the supervising physical therapist to the physical therapist's assistant before initiation of treatment by the physical therapist's assistant.*

(c) Must be accessible for communication by telephone during the time that the physical therapist's assistant is treating the patient, if the physical therapist's assistant has at least 2,000 hours of experience as a physical therapist's assistant . ~~{;}~~

(d) Shall provide the required treatment and reevaluate the patient not less than every sixth day of treatment or within ~~{14 days after the last treatment and evaluation performed by the physical therapist;}~~ *21 days*, whichever occurs first . ~~{; and}~~

(e) Shall provide ~~{the final treatment to a patient}~~ *an evaluation* before the patient is discharged ~~{;}~~ , *based upon the availability of the patient.*

2. A physical therapist who supervises a physical therapist's assistant pursuant to subsection 1 shall make a record of each reevaluation of the patient conducted by the physical therapist in accordance with paragraph (d) of subsection 1. The record must include, but not be limited to:

- (a) A functional assessment of the patient;
- (b) A review of the daily activities performed by the patient;
- (c) A reassessment of the plan of care, including short-term and long-term goals; and
- (d) A reassessment of the resources used by the physical therapist's assistant.

Sec. 19. 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 not supervise more than:

(a) Two physical therapist's assistants at the same time.

(b) Two physical therapist's technicians at the same time.

(c) Two students of physical therapy at the same time.

(d) *Two graduates of 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.

Sec. 20. NAC 640.595 is hereby amended to read as follows:

640.595 *1.* For the purposes of regulating the use of a physical therapist's technician in a physical therapist's practice, the Board will consider any aide or other unlicensed person who performs treatments related to physical therapy which have been directed by a physical therapist, regardless of the title or designation assigned by his employer, to be a physical therapist's technician.

2. A physical therapist's technician shall not:

(a) Change any treatment program for a patient;

(b) Perform evaluative and assessment procedures;

(c) Alter the plan of care or treatment goals for a patient; or

(d) Perform any activity which requires the unique skills, knowledge or judgment of a physical therapist.

3. A physical therapist's technician shall maintain documented evidence of sufficient in-service training to assure safe performance of the duties he is assigned relating to patient care.

4. A physical therapist's technician may transcribe, record or copy treatment documentation generated by a licensee if the final document is signed by a licensed physical therapist.

5. As used in this section, "physical therapist's technician" does not include a student of physical therapy.

Sec. 21. NAC 640.610 is hereby amended to read as follows:

640.610 1. A licensee shall:

(a) Maintain in a secure and confidential manner any record of a patient which shows a medical problem of the patient or the scope of the treatment of the patient administered by the licensee; ~~and~~

(b) Within 72 hours after providing treatment to a patient, indicate in the record of the patient the treatment that was provided ~~[-]~~; *and*

(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.

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:

(a) With the written consent of the patient;

(b) *If the patient is a minor, with the written consent of the parent or legal guardian of the patient;*

(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;*

(d) In response to a subpoena issued by the Board;

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

~~(d)~~ (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 official capacity.

3. *A licensee shall provide medical records within 5 business days after receipt of a written request received pursuant to subsection 2.*

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

~~[4.]~~ 5. A licensee shall not falsify a record of health care of a patient.

Sec. 22. 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:

(a) Lacks the knowledge, skill or ability to discharge a professional obligation, or discharges a professional obligation while impaired; ~~for~~

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

(c) 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 his ability to conduct the practice authorized by his license. As used in this paragraph, “dangerous drug” has the meaning ascribed to it in NRS 454.201.

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. 23. NAC 640.680 is hereby amended to read as follows:

640.680 *The provisions of* NRS 640.160 ~~does~~ *do* not prohibit two or more physical therapists from entering into a ~~business relationship~~ *group practice* unless one or more of them is a party to a preexisting contract or arrangement that would otherwise be prohibited by NRS 640.160.

Sec. 24. NAC 640.440 is hereby repealed.

TEXT OF REPEALED SECTION

640.440 Submission of information by provider of approved course. Each provider of an approved course shall, within 60 days after completion of the course or training, submit to the Board the following information:

1. The name of each participant.
2. The date, time and location of the presentation.
3. The number of hours awarded for units of continuing education.
4. A brief description of the course, including the objective of the presentation.
5. The general format of the presentation.