

1 *AN ACT relating to physical therapy*

2 **Section 1. KRS 327.025 is amended to read as follows:**

3 Obligation to report concerning practitioner's qualifications to practice [~~Mandatory~~
4 ~~reporting of infractions by PT, PTA, or Employer~~]

5 Any physical therapist, physical therapist [~~therapist's~~] assistant, or employer of physical
6 therapy practitioners having knowledge of facts by actual or direct knowledge shall
7 report to the Board [~~board of physical therapy~~] a physical therapist or physical therapist
8 [~~therapist's~~] assistant who:

- 9 (1) Has been convicted of a felony or misdemeanor as defined by KRS 327.070(2)
10 [~~that involved acts that bear directly on the qualifications or ability of the applicant,~~
11 ~~licensee, or certificate holder to practice physical therapy~~];
- 12 (2) Has obtained or has attempted to obtain a license to practice physical therapy by
13 fraud or misrepresentation [~~Is suspected of fraud or deceit in procuring or~~
14 ~~attempting to procure a license to practice physical therapy or of negligently~~
15 ~~performing actions that justify action against a physical therapist or physical~~
16 ~~therapist's assistant's license as identified in KRS 327.070(2)~~];
- 17 (3) Has violated KRS 327.070(2) [~~Has had a license to practice as a physical therapist~~
18 ~~or a certificate as a physical therapist's assistant denied, limited, suspended,~~
19 ~~probated, or revoked in another jurisdiction on grounds sufficient to cause a~~
20 ~~license or certificate to be denied, limited, suspended, probated, or revoked in this~~
21 ~~Commonwealth; or~~];
- 22 (4) Has had a license or other credential to practice as a physical therapist, physical
23 therapist assistant, or other health care professional denied or disciplined in
24 another jurisdiction [~~Is practicing physical therapy without a current active license,~~
25 ~~certificate, or valid temporary permit issued by the board~~]; or
- 26 (5) Has practiced or has attempted to practice physical therapy without a license
27 issued by the Board.

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29 **Section 2. KRS 327.040 is amended as follows:**

30 Duties and powers of the Board

- 31 (1) It shall be the duty of the [State] Board of Physical Therapy to receive applications

- 1 from persons desiring to become physical therapists and physical therapist
2 assistants to determine whether said applicants meet the qualifications [~~and~~
3 ~~standards~~] required by this chapter for licensure [~~of all physical therapists. The~~
4 ~~board shall also be charged with enforcement of the provisions of this chapter.~~].
- 5 (2) The board shall provide for the examination of physical therapists and physical
6 therapist assistants.
- 7 (3) The board may issue advisory opinions upon request regarding this chapter.
- 8 (4) [(2)]The board is an agency of state government with the power to institute criminal
9 proceedings, or civil proceedings to enjoin, in the name of the Commonwealth of
10 Kentucky against violators of KRS 327.020 [~~this chapter, and to institute civil~~
11 ~~proceedings to enjoin any violation of this chapter. The board shall investigate~~
12 ~~every alleged violation of this chapter coming to its notice and shall take action as~~
13 ~~it may deem appropriate.~~] It shall be the duty of the Attorney General, the
14 Commonwealth's attorneys, and the county attorneys to assist the board in
15 prosecuting all violations of this chapter.
- 16 (5) [(3)]The board shall meet at least once each quarter in compliance with the open
17 meeting requirements of KRS 61.810. A majority of the board members shall
18 constitute a quorum for the transaction of business. The board shall keep an
19 official record of its meetings. [~~at such place in this state as may be selected by~~
20 ~~the board. Four (4) members of the board shall constitute a quorum for the~~
21 ~~transaction of business. All meetings shall be held at the call of the chairman or at~~
22 ~~a call of a quorum of members upon not less than ten (10) days' written notice,~~
23 ~~unless notice shall be waived. The presence of any member at any meeting of the~~
24 ~~board shall constitute a waiver of notice thereof by the member.~~]
- 25 (6) [(4)] The board shall investigate every alleged violation of this chapter coming to its
26 notice and may [~~The board may conduct investigations and schedule and~~] conduct
27 administrative hearings in accordance with KRS Chapter 13B, to enforce the
28 provisions of this chapter or administrative regulations promulgated pursuant to
29 this chapter. The board shall have the authority to administer oaths, receive
30 evidence, interview persons, issue subpoenas, and require the production of
31 books, papers, documents, or other evidence. In case of disobedience to a

1 subpoena, the board may invoke the aid of the Franklin Circuit Court. Any order or
2 subpoena of the court requiring the attendance or testimony of witnesses or the
3 production of documentary evidence may be enforced and shall be valid anywhere
4 in the Commonwealth of Kentucky.

5 ~~[(5) The board shall keep a minute book containing a record of all meetings of the board.]~~

6 (7) ~~[(6)]~~ The board shall maintain a current register of all persons licensed ~~[or certified]~~
7 under this chapter which shall include name, license number, initial license date,
8 home address, work site and telephone numbers. ~~[This register shall show the~~
9 ~~name of every licensee or certificate holder in this state, his current business and~~
10 ~~residence address, and telephone numbers, and the date and number of his~~
11 ~~license or certificate].~~ A licensee ~~[or certificate holder]~~ shall notify the board of a
12 change of name, home address, work site, or telephone number, within thirty (30)
13 days of the change.

14 ~~[(7) The board's records shall be updated annually.~~

15 ~~(8) The board shall publish annually and make available, a current directory of all~~
16 ~~licensed physical therapists and [certified] physical therapist's assistants.]~~

17 (8) ~~[(9)]~~ The board shall adopt a seal which shall be affixed to every license ~~[and~~
18 ~~certificate granted by it].~~

19 (9) ~~[(10)]~~ The board shall ~~[may]~~ promulgate administrative regulations establishing a
20 measure of continued competency as a condition of license renewal.

21 (10) ~~[(11)]~~ The board shall ~~[may]~~ promulgate and enforce reasonable administrative
22 regulations for the effectuation of the purposes of this chapter pursuant to the
23 provisions of KRS Chapter 13A.

24 (11) ~~[(12)]~~ The board shall promulgate ~~[by]~~ administrative ~~[regulation a code of ethical~~
25 ~~standards and]~~ regulations regarding standards of physical therapy practice,
26 including the regulation of physical therapist assistants and supportive personnel.

27 (12) The board shall promulgate administrative regulations governing the physical and
28 mental examination of physical therapists, physical therapist assistants, or
29 applicants, who may be impaired by reason of a mental, physical, or other
30 condition that impedes their ability to practice competently.

31 (13) The board shall have the power to order an immediate temporary suspension of

1 licensure in accordance with KRS 13B.125 if there is a reasonable cause to
2 believe that a physical therapist, or physical therapist assistant may be impaired by
3 reason of a mental, physical, or other condition, or who presents an immediate
4 danger to the health, welfare or safety of the public.

5 ~~[(13) The board shall have the right to regulate physical therapist's assistants and may~~
6 ~~promulgate [reasonable] administrative regulations regarding certification, limitations of~~
7 ~~activities, supervision, and educational qualifications for physical therapist's assistants.~~
8 ~~The board may establish reasonable fees for the certification, renewal, and~~
9 ~~endorsement of physical therapists' assistants. The fees shall not exceed corresponding~~
10 ~~fees for physical therapists.]~~

11 (14) The board shall establish and collect reasonable fees for the licensure, renewal,
12 and endorsement of physical therapists and physical therapist assistants. No part
13 of these fees shall revert to the general fund of the Commonwealth of Kentucky.

14 ~~[(14)] The board shall promulgate administrative regulations governing the physical and~~
15 ~~mental examination of physical therapists, physical therapist's assistants, or applicants,~~
16 ~~who may be impaired by reason of a mental, physical, or other condition that impedes~~
17 ~~their ability to practice competently. For purposes of enforcing this section, the board~~
18 ~~shall have the power to order an immediate temporary suspension in accordance with~~
19 ~~KRS 13B.125 if there is a reasonable cause to believe that a physical therapist, physical~~
20 ~~therapist's assistant, or applicant may be impaired by reason of a mental, physical, or~~
21 ~~other condition that impedes his or her ability to practice competently.]~~

22 (15) The board shall employ necessary administrative personnel to carry out the
23 administrative work of the board and if deemed necessary enter into contracts
24 necessary for the enforcement of this chapter.

25 (16) The board shall report disciplinary action taken against a licensee to a national
26 disciplinary database, as well as appropriate local, state, and federal authorities.

27 (17) The board shall publish at least annually disciplinary actions, board rulings and
28 opinions.

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1 **Section 3. KRS 327.070 to be amended as follows:**

2 Disciplinary actions.

- 3 (1) The board, after due notice and an opportunity for an administrative hearing
4 conducted in accordance with KRS Chapter 13B may take any one (1) or a
5 combination of the following actions against any licensee, ~~[certificate holder,]~~ or
6 applicant:
- 7 (a) Refuse to license ~~[or certify]~~ any applicant;
 - 8 (b) Refuse to renew the license of any licensee ~~[or certificate of any person];~~
 - 9 (c) Permanently revoke, suspend, ~~[or revoke]~~ or place on probation with terms and
10 conditions, the license of any licensee ~~[or certificate of any person];~~
 - 11 (d) Impose restrictions on the scope of practice of any licensee ~~[person];~~
 - 12 (e) Issue an administrative reprimand to any licensee ~~[person];~~
 - 13 (f) Issue a private admonishment to any licensee ~~[person; and] ;~~
 - 14 (g) Impose fines for violations of this chapter not to exceed two thousand five
15 hundred dollars (\$2,500) per violation; and ~~[-]~~
 - 16 (h) Accept a voluntary surrender of a license as disciplinary action.
- 17 (2) The following acts by a licensee, ~~[certificate holder,]~~ or applicant may be considered
18 cause for denial of a license or disciplinary action:
- 19 ~~(a) [Indulgence in excessive use of alcoholic beverages or abusive use of controlled~~
20 ~~substances;~~
 - 21 ~~(b)]~~ Engaging in, permitting, or attempting to engage in or permit the performance of
22 substandard patient care by himself or herself or by persons working under his or
23 her supervision due to ~~[a deliberate or negligent]~~ an act or failure to act,
24 regardless of whether actual injury to the patient is established;
 - 25 (b) Practicing or attempting to practice beyond the scope of physical therapy
26 practice.
 - 27 (c) Having engaged in or attempted to engage in: ~~[a course of lewd or immoral~~
28 ~~conduct with any person.~~
 - 29 1. A sexual relationship, whether consensual or nonconsensual, with an active
30 patient of record of the physical therapist or physical therapist assistant, unless
31 a consensual sexual relationship existed between them before the patient-

- 1 therapist relationship commenced; or
- 2 2. Sexual advances, requesting sexual favors, or other verbal conduct, or
3 physical contact of a sexual nature, with:
- 4 i. an active patient of record of the physical therapist or physical therapist
5 assistant, or
- 6 ii. any active patient of record of a health care facility defined by KRS
7 216B.015(10) where the physical therapist or physical therapist assistant
8 provides physical therapy services.
- 9 3. Intentional viewing of a completely or partially disrobed patient in the course
10 of treatment, when viewing is not related to patient diagnosis or treatment.
- 11 ~~1. While that person is a patient of a health care facility defined by KRS~~
12 ~~216B.015(10) where the physical therapist or physical therapist's assistant~~
13 ~~provides physical therapy services; or~~
- 14 ~~2. While that person is a patient or client of the physical therapist or physical~~
15 ~~therapist's assistant;~~
- 16 ~~(d) Having sexual contact, as defined by KRS 510.010(7), without the consent of~~
17 ~~both parties, with an employee or coworker of the licensee or certificate holder;]~~
- 18 (d) [(e)] Sexually harassing, or having sexual contact, as defined by KRS 510.010(7)
19 without the consent of both parties, an employee or coworker of the licensee [or
20 certificate holder];
- 21 (e) [(f)] Conviction of a felony or misdemeanor in the courts of this state or any other
22 state, territory, or country [which affects his ability to continue to practice
23 competently and safely on the public]. "Conviction," as used in this subsection,
24 shall include a deferred conviction, deferred prosecution, deferred sentence,
25 finding or verdict of guilt, an admission of guilt, an Alford plea, or a plea of nolo
26 contendere;
- 27 (f) [(g)] Obtaining or attempting to obtain a license [or certificate] by fraud or [material]
28 misrepresentation [or making any other false statement to the board];
- 29 (g) [(h)] Engaging in fraud or misrepresentation in the billing or reimbursement of
30 physical therapy [material deception in the delivery of professional services,
31 including reimbursement, or advertising services in a false or misleading

- 1 manner];
- 2 (h) Advertising physical therapy services in a false, misleading, or deceptive manner;
- 3 (i) Violating any provision of KRS Chapter 327, administrative regulations, or a
- 4 written order of the Board; [Evidence of gross negligence or gross incompetence
- 5 in his practice of physical therapy;
- 6 ~~j) Documentation of being declared mentally disabled by a court of competent~~
- 7 ~~jurisdiction and not thereafter having had his rights restored;~~
- 8 ~~(k) Failing or refusing to obey any lawful order or administrative regulation of the~~
- 9 ~~board;]~~
- 10 (j) [(l)] Promoting [for personal gain an] any unnecessary device, treatment,
- 11 procedure, or service, resulting in the financial gain of the practitioner, business,
- 12 or third party [or directing or requiring a patient to purchase a device, treatment,
- 13 procedure, or service from a facility or business in which he has a financial
- 14 interest; and];
- 15 (k) [(m)] Being impaired by reason of illness, misuse of drugs, narcotics, alcohol,
- 16 chemicals, or any other substance, or as a result of any mental, physical, or other
- 17 condition; [a mental, physical, or other condition that impedes his or her ability to
- 18 practice competently.]
- 19 (l) Failure to comply with KRS 327.025;
- 20 (m) Aiding and abetting the unlicensed practice of physical therapy;
- 21 (n) Failure to comply with KRS 422.317 (1);
- 22 (o) Having had a license revoked or suspended, other disciplinary action
- 23 taken, or an application for licensure refused, revoked, or suspended by
- 24 the proper authorities of another state, territory, or country;
- 25 (p) Interfering with an investigation or disciplinary proceeding by failure to
- 26 cooperate, by willful misrepresentation of facts, or by the use of threats or
- 27 harassment against any patient or witness to prevent that patient or witness from
- 28 providing evidence in a disciplinary proceeding or any legal action; and
- 29 (q) Failing to maintain patient confidentiality without documented authorization of

1 the patient or unless otherwise required by law.

2 (r) Engaging, or attempting to engage, in conduct that subverts or undermines the
3 integrity of the examination process.

4 (s) Committing any act in the practice of physical therapy which creates a danger
5 to the public, patients, or an employee or coworker of the licensee.

6 (3) A private admonishment shall not be subject to disclosure to the public under KRS
7 61.878(1)(l). A private admonishment shall not constitute disciplinary action but
8 may be used by the board for statistical purposes or in subsequent disciplinary
9 action against the same licensee, ~~[certificate holder,]~~ or applicant, but shall not
10 otherwise be admissible in any proceeding under KRS 13B.

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12 **Section 4. KRS 327.990 is amended as follows:**

13 Penalties.

14 (1) Each violation of KRS 327.020 shall constitute a Class A misdemeanor and be
15 punished by a fine of not less than fifty dollars (\$50) nor more than five hundred
16 dollars (\$500) ~~[or by imprisonment for not less than ten (10) days nor more than~~
17 thirty (30) days, or both,] for the first offense. Each subsequent violation thereof
18 shall constitute a Class D felony and be punished by a fine of not less than one
19 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) ~~[or by~~
20 ~~imprisonment for not less than thirty (30) days nor more than ninety (90) days or~~
21 ~~both].~~

22 (2) Any person who shall knowingly make a false statement in his application for
23 licensure under this chapter, or in response to any proper inquiry by the board, shall
24 be guilty of a Class A misdemeanor and fined not less than one hundred dollars
25 (\$100) nor ~~[and not]~~ more than one thousand dollars (\$1,000) ~~[or imprisoned for not~~
26 ~~less than thirty (30) days nor more than six (6) months, or both].~~

27 (3) The board may impose a civil money penalty up to \$100 per day against any person
28 or business entity who violates KRS 327.020, after due notice and an opportunity for
29 an administrative hearing conducted in accordance with KRS Chapter 13B.

30 (4) ~~[(3)]~~ The Attorney General, commonwealth attorney, county attorney or, upon
31 majority vote of the board, any member thereof may apply for injunctive relief in any

1 court of competent jurisdiction to enjoin any person or entity from committing an act
2 in violation of this chapter. The injunction proceedings shall be in addition to, and
3 not in lieu of, all penalties and other remedies in this chapter.

4

5 **Section 5. New**

6 **Request to expunge minor violations from permanent record – Administrative**
7 **regulations.**

8 (1) Any licensee who is disciplined under this chapter for a minor violation may
9 request in writing that the board expunge the minor violation from the licensee's
10 permanent record.

11 (a) The request for expungement may be filed no sooner than three (3) years after
12 the date on which the licensee has completed disciplinary sanctions imposed
13 and if the licensee has not been disciplined for any subsequent violation of the
14 same nature within this period of time.

15 (b) No person may have his or her record expunged under this chapter more than
16 once.

17 (2) The board shall promulgate administrative regulations under KRS Chapter 13A
18 to establish violations which are minor violations under this section. A violation
19 shall be deemed a minor violation if it does not demonstrate a serious inability to
20 practice physical therapy; adversely affect the public health, safety or welfare; or
21 result in economic or physical harm to a person, or create a significant threat of
22 such harm.

23 **Section 6. KRS 327.080 to be repealed.**