

ARTICLE 41 285
Physical Therapists

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PHYSICAL THERAPISTS

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~~12-41-221~~. **12-285-220.** Repeal of part.

1 **12-285-101. [Formerly 12-41-101] Short title.** THE SHORT TITLE OF this article shall
2 be known and may be cited as 285 IS the "Physical Therapy Practice Act".

3
4 **12-285-102. [Formerly 12-41-102] Legislative declaration.** (1) The general
5 assembly hereby finds and declares that:

6 (a) The practice of physical therapy by any person who does not possess a valid
7 license issued under this article ~~41 285~~ is inimical to the general public welfare. It is not,
8 however, the intent of this article ~~41 285~~ to restrict the practice of any person duly licensed
9 under other laws of this state from practicing within ~~such~~ THE person's scope of competency
10 and authority under ~~such~~ THOSE laws.

11 (b) Physical therapy practice consists of patient and client management, which
12 includes physical therapy diagnosis and prognosis to optimize physical function, movement,
13 performance, health, quality of life, and well-being across the life-span and also includes
14 contributions to public health services aimed at improving the health of the population; and

15 (c) The professional scope of physical therapy practice evolves in response to
16 innovation, research, collaboration, and change in societal needs.

17 ~~(2) Repealed.~~

18
19 **12-285-103. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS
20 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 285.

21
22 **12-285-104. [Formerly 12-41-103] Definitions.** As used in this article ~~41 285~~, unless
23 the context otherwise requires:

24 (1) "Accredited physical therapy program" means a program of instruction in physical
25 therapy which THAT is accredited as set forth in section ~~12-41-107 (1)(a)(H)~~ **12-285-110**
26 **(1)(a)(II)**. <{*Is the existing citation incorrect? (1)(a)(I) refers to accredited programs.*}>

27 ~~(1.3)~~ (2) "Adverse action" means disciplinary action taken by the board based upon
28 misconduct, unacceptable performance, or a combination of both, and includes any action
29 taken pursuant to the following:

30 (a) Section ~~12-41-116~~ **12-285-122**, except for any action taken pursuant to subsection
31 ~~(3.5)~~ **(4)** of that section;

32 (b) Section ~~12-41-122~~ **12-285-129**;

33 (c) Section ~~12-41-123~~ **12-285-130**;

34 (d) Section ~~12-41-211~~ **12-285-212**, except for any action taken pursuant to subsection
35 **(4)** of that section;

36 (e) Section ~~12-41-217~~ **12-285-218**; and

37 (f) Section ~~12-41-218~~ **12-285-219**.

1 ~~(1-5)~~ (3) "Board" means the physical therapy board created in section ~~12-41-103.3~~
2 **12-285-105.**

3 (2) "Director" means the director of the division of professions and occupations in
4 the department of regulatory agencies.

5 (3) "Executive director" means the executive director of the department of regulatory
6 agencies. <{***Redundant with common provision definitions, 12-20-102 (6) and 12-1-103***
7 ***(2), respectively.***>

8 ~~(4) Repealed.~~

9 (5) (4) "Physical therapist" means a person who is licensed to practice physical
10 therapy. The terms "physiotherapist" and "physical therapy technician" are synonymous with
11 the term "physical therapist".

12 ~~(5-5)~~ (5) "Physical therapist assistant" means a person who is required to be certified
13 under part 2 of this article **285** and who assists a physical therapist in selected components
14 of physical therapy.

15 (6) (a) (I) "Physical therapy" means the examination, physical therapy diagnosis,
16 treatment, or instruction of patients and clients to detect, assess, prevent, correct, alleviate,
17 or limit physical disability, movement dysfunction, bodily malfunction, or pain from injury,
18 disease, and other bodily conditions.

19 (II) For purposes of this article **285**, "physical therapy" includes:

20 (A) The administration, evaluation, and interpretation of tests and measurements of
21 bodily functions and structures;

22 (B) The planning, administration, evaluation, and modification of treatment and
23 instruction;

24 (C) The use of physical agents, measures, activities, and devices for preventive and
25 therapeutic purposes, subject to the requirements of section ~~12-41-113~~ **12-285-116**;

26 (D) The administration of topical and aerosol medications consistent with the scope
27 of physical therapy practice subject to the requirements of section ~~12-41-113~~ **12-285-116**;

28 (E) The provision of consultative, educational, and other advisory services for the
29 purpose of reducing the incidence and severity of physical disability, movement dysfunction,
30 bodily malfunction, and pain; and

31 (F) General wound care, including the assessment and management of skin lesions,
32 surgical incisions, open wounds, and areas of potential skin breakdown in order to maintain
33 or restore the integumentary system.

34 (b) For the purposes of subsection (6)(a)(II) of this section:

35 (I) "Physical agents" includes, but is not limited to, heat, cold, water, air, sound, light,
36 compression, electricity, and electromagnetic energy.

37 (II) (A) "Physical measures, activities, and devices" includes resistive, active, and
38 passive exercise, with or without devices; joint mobilization; mechanical stimulation;
39 biofeedback; dry needling; postural drainage; traction; positioning; massage; splinting;
40 training in locomotion; other functional activities, with or without assistive devices; and
41 correction of posture, body mechanics, and gait.

1 (B) "Biofeedback", as used in this ~~subparagraph (H)~~ SUBSECTION (6)(b)(II), means
2 the use of monitoring instruments by a physical therapist to detect and amplify internal
3 physiological processes for the purpose of neuromuscular rehabilitation.

4 (III) "Tests and measurements" includes, but is not limited to, tests of muscle
5 strength, force, endurance, and tone; reflexes and automatic reactions; movement skill and
6 accuracy; joint motion, mobility, and stability; sensation and perception; peripheral nerve
7 integrity; locomotor skill, stability, and endurance; activities of daily living; cardiac,
8 pulmonary, and vascular functions; fit, function, and comfort of prosthetic, orthotic, and
9 other assistive devices; posture and body mechanics; limb length, circumference, and
10 volume; thoracic excursion and breathing patterns; vital signs; nature and locus of pain and
11 conditions under which pain varies; photosensitivity; and physical home and work
12 environments.

13 (7) "Physical therapy compact commission" means the national administrative body
14 whose membership consists of all states that have enacted the "Interstate Physical Therapy
15 Licensure Compact Act", and as enacted in this state in part 37 of article 60 of title 24.
16

17 **12-285-105. [Formerly 12-41-103.3] Physical therapy board - created.** (1) (a) The
18 state physical therapy board is hereby created as the agency for regulation of the practice of
19 physical therapy in this state and to carry out the purposes of this article ~~4† 285~~. The board
20 consists of: Four physical therapist members; one physical therapist assistant, unless a
21 physical therapist assistant cannot be found, in which case the governor may appoint an
22 additional physical therapist to the board; and two members from the public at large. Each
23 member of the board is to be appointed by the governor for terms of four years. A member
24 shall not serve more than two consecutive terms of four years. The governor shall give due
25 consideration to having a geographic, political, urban, and rural balance among the board
26 members.

27 ~~(b) Each member of the board receives the compensation provided for in section~~
28 ~~24-34-102 (13), C.R.S. <{**Redundant with per diem common provision, 12-20-103.**~~
29 ~~**Recommend repeal.**>~~

30 ~~(c) (b) The board exercises its powers and performs its duties and functions under the~~
31 ~~division of professions and occupations as if the powers, duties, and functions were~~
32 ~~transferred to the division by AS a type 1 transfer, as defined in the "Administrative~~
33 ~~Organization Act of 1968", article 1 of title 24, C.R.S. The division shall provide necessary~~
34 ~~management support to the board under section 24-34-102, C.R.S. ENTITY AS THAT TERM IS~~
35 ~~DEFINED IN SECTION 24-1-105. <{**The type 1 language is being updated to reflect a Statutory**~~
36 ~~**Revision Committee bill currently under consideration. The last sentence is redundant**~~
37 ~~**with the common provision, 12-20-103.**>~~

38 ~~(d) Repealed.~~

39 (2) A person is qualified to be appointed to the board if the person:

40 (a) Is a legal resident of Colorado; and

41 (b) Is currently licensed in good standing, with no restrictions, as a physical therapist

1 and actively engaged in the practice of physical therapy in this state for at least five years
2 preceding his or her appointment, if fulfilling the position of physical therapist on the board.

3 (3) Should a vacancy occur in any board membership before the expiration of the
4 member's term, the governor shall fill ~~such~~ THE vacancy by appointment for the remainder
5 of the term in the same manner as in the case of original appointments. A member of the
6 board shall remain on the board until his or her successor has been appointed. A member may
7 be removed by the governor for misconduct, incompetence, or neglect of duty.

8
9 **12-285-106. Powers and duties of board - reports - publications - rules -**
10 **interstate compact - limitation on authority.** (1) [Formerly 12-41-103.6] (1)(a)] The board
11 shall administer and enforce this article 285 and rules adopted under this article 285.

12 (2) [Formerly 12-41-103.6 (2)] In addition to any other powers and duties given the
13 board by this article ~~41~~ 285, the board has the following powers and duties:

14 (a) To evaluate the qualifications of applicants for licensure, administer examinations,
15 issue and renew licenses and permits authorized under this article 285, and to take
16 disciplinary actions authorized under this article 285 AND SECTION 12-20-404;

17 (b) To adopt all reasonable and necessary rules PURSUANT TO SECTION 12-20-204 for
18 the administration and enforcement of this article 285, including rules regarding: <{Added
19 cross reference to the rule-making common provision, 12-20-204.}>

20 (I) The supervision of unlicensed persons by physical therapists, taking into account
21 the education and training of the unlicensed individuals; and

22 (II) Physical therapy of animals, including, without limitation, educational and
23 clinical requirements for the performance of physical therapy of animals and the procedure
24 for handling complaints to the department of regulatory agencies regarding physical therapy
25 of animals. In adopting ~~such~~ rules, the board shall consult with the state board of veterinary
26 medicine established by section ~~12-64-105~~ 12-315-XXX.

27 (c) ~~(F)~~ To conduct hearings upon charges for discipline of a licensee and cause the
28 prosecution and enjoinder of all persons violating this article 285 IN ACCORDANCE WITH
29 SECTIONS 12-20-403 AND 12-20-406; <{Recommend adding references to disciplinary
30 procedures common provision, 12-20-403, and injunctive relief common provision,
31 12-20-406.}>

32 ~~(H) (A) To administer oaths, take affirmations of witnesses, and issue subpoenas to~~
33 ~~compel the attendance of witnesses and the production of all relevant papers, books, records,~~
34 ~~documentary evidence, and materials in any hearing, investigation, accusation, or other~~
35 ~~matter coming before the board. The board may appoint an administrative law judge pursuant~~
36 ~~to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report~~
37 ~~them to the board.~~

38 ~~(B) Upon failure of a witness to comply with a subpoena or process, the district court~~
39 ~~of the county in which the subpoenaed person or licensee resides or conducts business, upon~~
40 ~~application by the board with notice to the subpoenaed person or licensee, may issue to the~~
41 ~~person or licensee an order requiring that person or licensee to appear before the board; to~~

1 ~~produce the relevant papers, books, records, documentary evidence, or materials if so~~
2 ~~ordered, or to give evidence touching the matter under investigation or in question. The court~~
3 ~~may punish a failure to obey its order as a contempt of court. <{~~*Subsections (2)(c)(II) and*
4 *(2)(C)(III) are redundant with discipline/authority common provision, 12-20-403.*
5 *Recommend repeal.*~~>~~

6 (d) To maintain a register listing the name of every physical therapist, including the
7 contact address, last-known place of residence, and the license number of each licensee;

8 (e) To promote consumer protection and consumer education by such means as the
9 board finds appropriate.

10 (f) To facilitate Colorado's participation in the "Interstate Physical Therapy Licensure
11 Compact Act", part 37 of article 60 of title 24, as follows:

12 (I) Appoint a qualified delegate to serve on the physical therapy compact commission;

13 (II) Participate fully in the physical therapy compact commission data system;

14 (III) Obtain a set of fingerprints from an applicant for initial licensure or certification
15 and forward the fingerprints to the Colorado bureau of investigation for the purpose of
16 obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and
17 payment for the costs, the Colorado bureau of investigation shall conduct a state and national
18 fingerprint-based criminal history record check using records of the Colorado bureau of
19 investigation, the federal bureau of investigation, or other appropriate federal agency. The
20 board is the authorized agency to receive information regarding the result of a national
21 criminal history record check. The applicant whose fingerprints are checked shall pay the
22 actual costs of the state and national fingerprint-based criminal history record check.

23 (IV) Notify the physical therapy compact commission of any adverse action taken by
24 the board; and

25 (V) Approve payment of assessments levied by the physical therapy compact
26 commission to cover the cost of the operations and activities of the commission and its staff.

27 (3) [Formerly 12-41-127] The authority granted the board by this article 285 does not
28 authorize the board to arbitrate or adjudicate fee disputes between licensees or between a
29 licensee and any other party.

30
31 **12-285-107. [Formerly 12-41-104] Use of titles restricted.** A person licensed as a
32 physical therapist may use the title "physical therapist" or the letters "P.T." or any other
33 generally accepted terms, letters, or figures ~~which~~ THAT indicate that the person is a physical
34 therapist. No other person shall be so designated or shall use the terms "physical therapist",
35 "licensed physical therapist", "physiotherapist", or "physical therapy technician", or the
36 letters "P.T." or "L.P.T.".

37
38 **12-285-108. [Formerly 12-41-105] Limitations on authority.** (1) Nothing in this
39 article 285 authorizes a physical therapist to perform any of the following acts:

40 (a) Practice of medicine, surgery, or any other form of healing except as authorized
41 by the provisions of this article 285; or

1 (b) Use of roentgen rays and radioactive materials for therapeutic purposes; the use
2 of electricity for surgical purposes; or the diagnosis of disease.

3 (2) Nothing in this section prevents a physical therapist from making a physical
4 therapy diagnosis within the physical therapist's scope of practice.
5

6 **12-285-109. [Formerly 12-41-106] License required.** Except as otherwise provided
7 by this article 285, any person who practices physical therapy or who represents oneself as
8 being able to practice physical therapy in this state must possess a valid license under this
9 article 285.
10

11 **12-285-110. [Formerly 12-41-107] Licensure by examination.** (1) Every applicant
12 for a license by examination shall:

13 (a) Successfully complete a physical therapy program:

14 (I) That is accredited by a nationally recognized accrediting agency; or

15 (II) That the board has determined to be substantially equivalent. The general
16 assembly intends that this determination be liberally construed to ensure qualified applicants
17 seeking licensure under this article 285 the right to take the qualifying examination. The
18 general assembly does not intend for technical barriers to be used to deny such applicants the
19 right to take the examination.

20 (b) Pass a written examination that is:

21 (I) Approved by the board; and

22 (II) A national examination accredited by a nationally recognized accrediting agency;

23 (c) Submit an application in the form and manner designated by the director; and

24 (d) Pay a fee in an amount determined by the director.

25 (2) The board may refuse to permit an applicant to take the examination if the
26 application is incomplete, if the applicant is not qualified to sit for the examination, or if the
27 applicant has committed any act which THAT would be grounds for disciplinary action under
28 section ~~12-41-115~~ 12-285-120.

29 (3) When the applicant has fulfilled all the requirements of subsection (1) of this
30 section, the board shall issue a license to the applicant; except that the board may deny the
31 license if the applicant has committed an act which THAT would be grounds for disciplinary
32 action under section ~~12-41-115~~ 12-285-120.
33

34 **12-285-111. [Formerly 12-41-107.5] Provisional license - fee.** (1) The board may
35 issue a provisional license to practice as a physical therapist to a person who:

36 (a) Submits an application and pays a fee as determined by the director; and

37 (b) Successfully completes a physical therapy program that meets the educational
38 requirements in section ~~12-41-107(1)(a)~~ 12-285-110 (1)(a).

39 (2) A person who holds a provisional license may only practice under the supervision
40 of a physical therapist actively licensed in this state.

41 (3) A provisional license issued pursuant to this section expires no later than one

1 hundred twenty days after the date it was issued. A provisional license may only be issued
2 one time and is not subject to section ~~12-41-112~~ **12-285-114**.

3
4 ~~**12-41-108. Temporary permit. (Repealed)**~~

5
6 **12-285-112. [Formerly 12-41-109] Licensure by endorsement.** (1) An applicant
7 for licensure by endorsement shall:

8 (a) Possess a valid license in good standing from another state or territory of the
9 United States;

10 (b) Submit an application in the form and manner designated by the director; and

11 (c) Pay a fee in an amount determined by the director.

12 (2) Upon receipt of all documents required by subsection (1) of this section, the
13 director shall review the application and determine if the applicant is qualified to be licensed
14 by endorsement.

15 (3) The board shall issue a license if the applicant fulfills the requirements of
16 subsection (1) of this section and meets any one of the following qualifying standards
17 enumerated in ~~paragraphs (a) to (c) of this subsection~~ (3) SUBSECTIONS (3)(a) TO (3)(c) OF
18 THIS SECTION:

19 (a) The applicant graduated from an accredited program within the past two years and
20 passed an examination substantially equivalent to that specified in section ~~12-41-107(1)(b)~~
21 **12-285-110 (1)(b)**;

22 (b) The applicant has practiced as a licensed physical therapist for at least two of the
23 five years immediately preceding the date of the application;

24 (c) The applicant has:

25 (I) Not practiced as a licensed physical therapist at least two of the last five years
26 immediately preceding the date of the receipt of the application; ~~and~~

27 (II) ~~the applicant~~ Passed an examination in another jurisdiction that is substantially
28 equivalent to the examination specified in section ~~12-41-107(1)(b)~~ **12-285-110 (1)(b)**; and

29 (III) ~~has~~ Demonstrated competency through successful completion of an internship
30 or demonstrated competency as a physical therapist by fulfilling the requirements established
31 by rules of the board.

32 (H) ~~(Deleted by amendment, L. 2010, (HB 10-1175), ch. 46, p. 175, § 6, effective~~
33 ~~July 1, 2011.)~~

34 (4) ~~(Deleted by amendment, L. 2011, (SB 11-169), ch. 172, p. 614, § 11, effective~~
35 ~~July 1, 2011.)~~

36 (5) (4) The board may deny a license if the applicant has committed an act which
37 THAT would be grounds for disciplinary action under section ~~12-41-115~~ **12-285-120**.

38
39 ~~**12-41-110. Temporary license. (Repealed)**~~

40
41 **12-285-113. [Formerly 12-41-111] Licensing of foreign-trained applicants.**

1 (1) Every foreign-trained applicant for licensing shall:

2 (a) Have received education and training in physical therapy substantially equivalent
3 to the education and training required at accredited physical therapy programs in the United
4 States;

5 (b) Possess an active, valid license in good standing or other authorization to practice
6 physical therapy from an appropriate authority in the country where the foreign-trained
7 applicant is practicing or has practiced;

8 (c) Pass a written examination approved by the board in accordance with section
9 ~~12-41-107(1)(b)~~ **12-285-110 (1)(b)**;

10 (d) Submit an application in the form and manner designated by the director; and

11 (e) Pay an application fee in an amount determined by the director.

12 (2) Upon receipt of all documents required by subsection (1) of this section, the
13 director shall review the application and determine if the applicant is qualified to be licensed.

14 (3) When the applicant has fulfilled all requirements of subsection (1) of this section,
15 the board shall issue a license to the applicant; except that the board may deny the application
16 if the applicant has committed an act ~~which~~ THAT would be grounds for disciplinary action
17 under section ~~12-41-115~~ **12-285-120**.

18
19 **12-285-114. [Formerly 12-41-112] Expiration and renewal of licenses.** An
20 applicant for licensure shall pay license, renewal, and reinstatement fees established by the
21 director in the same manner as is authorized in section ~~24-34-105~~, C.R.S. A licensee shall
22 renew a license in accordance with a schedule established by the director pursuant to section
23 ~~24-34-102 (8)~~, C.R.S. The director may establish renewal fees and delinquency fees for
24 reinstatement under section ~~24-34-105~~, C.R.S. If a person fails to renew a license pursuant
25 to the schedule established by the director, the license expires LICENSES ISSUED UNDER THIS
26 ARTICLE 285 ARE SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND
27 DELINQUENCY FEE PROVISIONS OF SECTION 12-20-202 (1) AND (2). A person whose license
28 has expired is subject to the penalties provided in this article 285 and section ~~24-34-102 (8)~~,
29 ~~C.R.S. 12-20-202 (1)~~. <{*Redundant with renewals/reinstatements common provision,*
30 ***12-20-202. Recommend amending as indicated.***>

31
32 **12-285-115. [Formerly 12-41-112.5] Inactive license - rules.** A physical therapist
33 may request that the board inactivate or activate the physical therapist's license. The board
34 shall promulgate rules governing the activation and inactivation of licenses. Notwithstanding
35 any law to the contrary, the board's rules may limit the applicability of statutory requirements
36 for maintaining professional liability insurance and continuing professional competence for
37 a licensee whose license is currently inactive. The board need not reactivate an inactive
38 license if the physical therapist has committed any act that would be grounds for disciplinary
39 action under section ~~12-41-115~~ **12-285-120**. A physical therapist whose license is currently
40 inactive shall not practice physical therapy.
41

1 **12-285-116. [Formerly 12-41-113] Special practice authorities and requirements**
2 **- definition - rules.** (1) **Supervising persons not licensed as a physical therapist.** A
3 physical therapist may supervise up to four individuals at one time who are not physical
4 therapists, including certified nurse aides, to assist in the therapist's clinical practice; except
5 that this limit does not include student physical therapists and student physical therapist
6 assistants supervised by a physical therapist for educational purposes. The board shall
7 promulgate rules governing the required supervision. This subsection (1) does not affect or
8 limit the independent practice or judgment of other professions regulated under this title *12*.
9 For purposes of this subsection (1), a "physical therapist assistant" means a person certified
10 under part 2 of this article *285*.

11 (2) **Administration of medications.** Physical therapists or physical therapist
12 assistants under the direct supervision of a physical therapist may administer topical and
13 aerosol medications when they are consistent with the scope of physical therapy practice and
14 when any such medication is prescribed by a licensed health care practitioner who is
15 authorized to prescribe ~~such~~ THAT medication. A prescription or order shall be required for
16 each such administration.

17 (3) **Wound debridement.** A physical therapist is authorized to perform wound
18 debridement under a physician's order or the order of a physician assistant authorized under
19 section ~~12-36-106 (5)~~ *12-240-107 (6)* when debridement is consistent with the scope of
20 physical therapy practice. The performance of wound debridement does not violate the
21 prohibition against performing surgery pursuant to section ~~12-41-105 (1)(a)~~ *12-285-108*
22 *(1)(a)*.

23 (4) **Physical therapy of animals.** (a) A physical therapist is authorized to perform
24 physical therapy of animals when ~~such~~ THE physical therapy of animals is consistent with the
25 scope of physical therapy practice. In recognition of the special authority granted by this
26 subsection (4), the performance of physical therapy of animals in accordance with this
27 subsection (4) shall not constitute the practice of veterinary medicine, as defined in section
28 ~~12-64-103~~ *12-315-XXX*, nor shall it be deemed a violation of section ~~12-64-104~~
29 *12-315-XXX*.

30 (b) In recognition of the emerging field of physical therapy of animals, before
31 commencing physical therapy of an animal, a physical therapist shall obtain veterinary
32 medical clearance of the animal by a veterinarian licensed under article ~~64~~ *315* of this title
33 *12*.

34 (5) **Dry needling.** (a) A physical therapist is authorized to perform dry needling if
35 the physical therapist:

36 (I) Has the knowledge, skill, ability, and documented competency to perform the act;
37 (II) Has successfully completed a dry needling course of study that meets the
38 supervision, educational, and clinical prerequisites; and

39 (III) Obtains one written informed consent from each patient for dry needling,
40 including information concerning potential benefits and risks of dry needling.

41 (b) The board shall promulgate rules to update the requirements for a physical

1 therapist to perform dry needling in order to ensure adequate protection of the public. Prior
2 to promulgating the initial update of the rules, the board shall seek input from the Colorado
3 medical board created in section ~~12-36-103~~ ~~(1)~~ **12-240-105 (1)** and from the director.

4 (c) The performance of dry needling in accordance with this section is not the
5 performance of acupuncture as defined in section ~~12-29.5-102~~ **12-200-103** and is not a
6 violation of section ~~12-29.5-105~~ **12-200-108**.

7
8 **12-285-117. [Formerly 12-41-114] Scope of article - exclusions.** (1) Nothing
9 contained in this article ~~41 285~~ prohibits:

10 (a) The practice of physical therapy by students enrolled in an accredited physical
11 therapy or physical therapist assistant program and performing under the direct supervision
12 of a physical therapist currently licensed in this state;

13 ~~(b) (Deleted by amendment, L. 2001, p. 1254, § 9, effective July 1, 2001.)~~

14 ~~(c)~~ (b) The practice of physical therapy in this state by any legally qualified physical
15 therapist from another state or country whose employment requires ~~such~~ THE physical
16 therapist to accompany and care for a patient temporarily residing in this state, but ~~such~~ THE
17 physical therapist shall not provide physical therapy services for any other individuals nor
18 shall ~~such~~ THE person represent or hold himself out as a physical therapist licensed to practice
19 in this state;

20 ~~(d)~~ (c) The administration of massage, external baths, or exercise that is not a part of
21 a physical therapy regimen;

22 ~~(e)~~ (d) Any person registered, certified, or licensed in this state under any other law
23 from engaging in the practice for which ~~such~~ THE person is registered, certified, or licensed;

24 ~~(f)~~ (e) The practice of physical therapy in this state by a legally qualified physical
25 therapist from another state or country when providing services in the absence of a physical
26 therapist licensed in this state, so long as the unlicensed physical therapist is acting in
27 accordance with rules established by the board. A person shall not practice without a license
28 under this ~~paragraph~~ ~~(f)~~ SUBSECTION (1)(e) for more than four weeks' duration or more than
29 once in any twelve-month period.

30 ~~(g)~~ (f) The practice of physical therapy in this state by a legally qualified physical
31 therapist from another state or country for the purpose of participating in an educational
32 program of not more than sixteen weeks' duration;

33 ~~(h)~~ (g) The provision of physical therapy services in this state by an individual from
34 another country who is engaged in a physical therapy-related educational program if the
35 program is sponsored by an institution, agency, or individual approved by the board, the
36 program is under the direction and supervision of a physical therapist licensed in this state,
37 and the program does not exceed twelve consecutive months' duration without the specific
38 approval of the board;

39 ~~(i)~~ (h) The practice of any physical therapist licensed in this state or any other state
40 or territory of the United States who is employed by the United States government or any
41 bureau, division, or agency thereof while within the course and scope of the physical

1 therapist's official duties.
2

3 **12-285-118. [Formerly 12-41-114.5] Professional liability insurance required -**
4 **rules.** (1) Except as provided in subsection (2) of this section, a person shall not practice
5 physical therapy unless the person purchases and maintains professional liability insurance
6 of at least one million dollars per claim and at least three million dollars per year for all
7 claims, unless the corporation that employs the physical therapist maintains the insurance
8 required by section ~~12-41-124~~ **12-285-131** if the insurance covers at least one million dollars
9 per claim and at least three million dollars per year.

10 (2) The board may by rule establish lesser financial responsibility standards for a
11 class of physical therapists whose practice does not require the level of public protection
12 established by subsection (1) of this section. The board shall not establish greater financial
13 responsibility standards than those established in subsection (1) of this section.

14 (3) This section does not apply to a physical therapist who is a public employee acting
15 within the course and scope of the public employee's duties and who is granted immunity
16 under the "Colorado Governmental Immunity Act", article 10 of title 2. ~~C.R.S.~~
17

18 **12-285-119. [Formerly 12-41-114.6] Continuing professional competency -**
19 **definition - rules.** (1) (a) A licensed physical therapist shall maintain continuing
20 professional competency to practice.

21 (b) The board shall adopt rules establishing a continuing professional competency
22 program. The rules shall set forth the following elements:

23 (I) A self-assessment of the knowledge and skills of a physical therapist seeking to
24 renew or reinstate a license;

25 (II) Development, execution, and documentation of a learning plan based on the
26 assessment; and

27 (III) Periodic demonstration of knowledge and skills through documentation of
28 professional development activities necessary to ensure at least minimal ability to safely
29 practice the profession; except that a licensed physical therapist need not retake any
30 examination required by section ~~12-41-107~~ **12-285-110** for initial licensure.

31 (c) The board shall establish that a licensed physical therapist satisfies the continuing
32 competency requirements of this section if the physical therapist meets the continuing
33 professional competency requirements of one of the following entities:

34 (I) A state department, including continuing professional competency requirements
35 imposed through a contractual arrangement with a provider;

36 (II) An accrediting body recognized by the board; or

37 (III) An entity approved by the board.

38 (d) (I) After the program is established, a licensed physical therapist shall satisfy the
39 requirements of the program in order to renew or reinstate a license to practice physical
40 therapy.

41 (II) The requirements of this section apply to individual licensed physical therapists,

1 and nothing in this section requires a person who employs or contracts with a physical
2 therapist to comply with the requirements of this section.

3 (e) Professional development activities must be measured by a
4 contact-hour-to-credit-hour ratio.

5 (2) Records of assessments or other documentation developed or submitted in
6 connection with the continuing professional competency program are confidential and not
7 subject to inspection by the public or discovery in connection with a civil action against a
8 licensed physical therapist. A person or the board shall not use the records or documents
9 unless used by the board to determine whether a licensed physical therapist is maintaining
10 continuing professional competency to engage in the profession.

11 (3) As used in this section, "continuing professional competency" means the ongoing
12 ability of a physical therapist to learn, integrate, and apply the knowledge, skill, and
13 judgment to practice as a physical therapist according to generally accepted standards and
14 professional ethical standards.

15
16 **12-285-120. [Formerly 12-41-115] Grounds for disciplinary action - definitions.**

17 (1) The board may take disciplinary action in accordance with section 12-41-116 **SECTIONS**
18 **12-20-403, 12-20-404, AND 12-285-122** against a person who has: <{*Adding references to*
19 *disciplinary procedures and disciplinary actions common provisions, 12-20-403 and*
20 *12-20-404.*>

21 (a) Committed any act ~~which~~ THAT does not meet generally accepted standards of
22 physical therapy practice or failed to perform an act necessary to meet generally accepted
23 standards of physical therapy practice;

24 (b) Engaged in a sexual act with a patient while a patient-physical therapist
25 relationship exists. For the purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b):

26 (I) "Patient-physical therapist relationship" means that period of time beginning with
27 the initial evaluation through the termination of treatment.

28 (II) ~~For the purposes of this paragraph (b);~~ "Sexual act" means sexual contact, sexual
29 intrusion, or sexual penetration as defined in section 18-3-401. ~~C.R.S.~~

30 (c) Failed to refer a patient to the appropriate licensed health care professional when
31 the services required by the patient are beyond the level of competence of the physical
32 therapist or beyond the scope of physical therapy practice;

33 (d) Abandoned a patient by any means, including failure to provide a referral to
34 another physical therapist or to another appropriate health care professional when the referral
35 was necessary to meet generally accepted standards of physical therapy care;

36 (e) Failed to provide adequate or proper supervision when utilizing certified physical
37 therapist assistants, unlicensed persons, or persons with a provisional license in a physical
38 therapy practice;

39 (f) Failed to make essential entries on patient records or falsified or made incorrect
40 entries of an essential nature on patient records;

41 (g) Engaged in any of the following activities and practices: Ordering or performance,

1 without clinical justification, of demonstrably unnecessary laboratory tests or studies; the
2 administration, without clinical justification, of treatment that is demonstrably unnecessary;
3 or ordering or performing, without clinical justification, any service, X ray, or treatment that
4 is contrary to recognized standards of the practice of physical therapy as interpreted by the
5 board;

6 (h) (I) Committed abuse of health insurance as set forth in section 18-13-119 (3);
7 ~~€R.S.~~; or

8 (II) Advertised through newspapers, magazines, circulars, direct mail, directories,
9 radio, television, or otherwise that the licensee will perform any act prohibited by section
10 18-13-119 (3); ~~€R.S.~~;

11 (i) Committed a fraudulent insurance act, as defined in section 10-1-128; ~~€R.S.~~;

12 (j) Offered, given, or received commissions, rebates, or other forms of remuneration
13 for the referral of clients; except that a licensee may pay an independent advertising or
14 marketing agent compensation for advertising or marketing services rendered by an agent on
15 the licensee's behalf, including compensation for referrals of clients identified through ~~such~~
16 THE services on a per-client basis;

17 (k) Falsified information in any application or attempted to obtain or obtained a
18 license by fraud, deception, or misrepresentation;

19 (l) Engaged in the habitual or excessive use or abuse of alcohol, a habit-forming drug,
20 or a controlled substance as defined in section 18-18-102 (5); ~~€R.S.~~;

21 (m) (I) Failed to notify the board, as required by section ~~12-41-118.5~~ **12-30-107 (1)**,
22 of a physical illness; a physical condition; or a behavioral, mental health, or substance use
23 disorder that impacts the licensee's ability to perform physical therapy with reasonable skill
24 and safety to patients; <{**Adding a cross reference to the confidential agreement common**
25 **provision, 12-30-107.**>

26 (II) Failed to act within the limitations created by a physical illness; a physical
27 condition; or a behavioral, mental health, or substance use disorder that renders the licensee
28 unable to perform physical therapy with reasonable skill and safety to the patient; or

29 (III) Failed to comply with the limitations agreed to under a confidential agreement
30 entered pursuant to section ~~12-41-118.5~~ **12-30-107**; <{**Adding a cross reference to the**
31 **confidential agreement common provision, 12-30-107.**>

32 (n) Refused to submit to a physical or mental examination when so ordered by the
33 board pursuant to section ~~12-41-118~~ SECTIONS **12-285-124** AND **12-30-108**; <{**Adding a cross**
34 **reference to the physical or mental examination common provision, 12-30-108.**>

35 (o) Failed to notify the board in writing of the entry of a final judgment by a court of
36 competent jurisdiction against the licensee for malpractice of physical therapy or a settlement
37 by the licensee in response to charges or allegations of malpractice of physical therapy, which
38 notice must be given within ninety days after the entry of judgment or settlement and, in the
39 case of a judgment, must contain the name of the court, the case number, and the names of
40 all parties to the action;

41 (p) Violated or aided or abetted a violation of this article **285**, a rule adopted under

1 this article **285**, or a lawful order of the board;

2 (q) Been convicted of, pled guilty, or pled nolo contendere to any crime related to the
3 licensee's practice of physical therapy or a felony or committed an act specified in section
4 ~~12-41-121~~ **12-285-128**. A certified copy of the judgment of a court of competent jurisdiction
5 of ~~such~~ THE conviction or plea is conclusive evidence of ~~such~~ THE conviction or plea. In
6 considering the disciplinary action, the board is governed by section ~~SECTION~~ **SECTIONS 12-20-202 (5)**
7 **AND 24-5-101, C.R.S.** <{*Adding reference to consideration of criminal convictions*
8 *common provision, 12-20-202 (5).*>

9 (r) Fraudulently obtained, furnished, or sold any physical therapy diploma, certificate,
10 license, renewal of license, or record, or aided or abetted any such act;

11 (s) Advertised, represented, or held himself or herself out, in any manner, as a
12 physical therapist or practiced physical therapy without a license or unless otherwise
13 authorized under this article **285**;

14 (t) Used in connection with the person's name any designation tending to imply that
15 the person is a physical therapist without being licensed under this article **285**;

16 (u) Practiced physical therapy during the time the person's license was inactive,
17 expired, suspended, or revoked;

18 (v) Failed to maintain the insurance required by section ~~12-41-114.5~~ **12-285-118** or
19 a rule promulgated thereunder;

20 (w) Failed to respond in an honest, materially responsive, and timely manner to a
21 complaint issued under this article **285**;

22 (x) Failed to know the contents of this part 1 and any rules promulgated under this
23 part 1; or

24 (y) Failed to either:

25 (I) Confirm that a patient is under the care of a physician or other health care
26 professional for the underlying medical condition when providing general wound care within
27 the scope of the physical therapist's practice; or

28 (II) Refer the patient to a physician or other appropriate health care professional for
29 the treatment of the underlying medical condition when providing general wound care within
30 the scope of the physical therapist's practice.

31 (z) Failed to report an adverse action, the surrender of a license, or other discipline
32 taken in another jurisdiction.

33
34 **12-285-121. [Formerly 12-41-115.5] Protection of medical records - licensee's**
35 **obligations - verification of compliance - rules.** (1) Each licensed physical therapist
36 responsible for patient records shall develop a written plan to ensure the security of patient
37 medical records. The plan must address at least the following:

38 (a) The storage and proper disposal of patient medical records;

39 (b) The disposition of patient medical records in the event the licensee dies, retires,
40 or otherwise ceases to practice or provide physical therapy care to patients; and

41 (c) The method by which patients may access or obtain their medical records

1 promptly if any of the events described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION
2 (1)(b) OF THIS SECTION occurs.

3 (2) Upon initial licensure under this part 1 and upon renewal of a license, the
4 applicant or licensee shall attest to the board that he or she has developed a plan in
5 compliance with this section.

6 (3) A licensee shall inform each patient in writing of the method by which the patient
7 may access or obtain his or her medical records if an event described in ~~paragraph (b) of~~
8 ~~subsection (1) SUBSECTION (1)(b) of this section~~ occurs.

9 (4) The board may adopt rules reasonably necessary to implement this section.
10

11 **12-285-122. [Formerly 12-41-116] Disciplinary actions.** (1) (a) The board, in
12 accordance with article 4 of title 24, C.R.S., SECTION 12-20-403, may issue letters of
13 admonition; deny, refuse to renew, suspend, or revoke any license; place a licensee on
14 probation; TAKE DISCIPLINARY OR OTHER ACTION AS SPECIFIED IN SECTION 12-20-404 or
15 impose public censure or a fine if the board or the board's designee determines after notice
16 and the opportunity for a hearing that the licensee has committed an act specified in section
17 ~~12-41-115~~ **12-285-120.** <{*Redundant with disciplinary authority common provisions,*
18 *12-20-404. Recommend amending as indicated.*}>

19 (b) ~~(Deleted by amendment, L. 2011, (SB 11-169), ch. 172, p. 621, § 21, effective~~
20 ~~July 1, 2011.)~~

21 (e) (b) In the case of a deliberate and willful violation of this article 285 or if the
22 public health, safety, and welfare require emergency action, the board may take disciplinary
23 action on an emergency basis under sections 24-4-104 and 24-4-105. C.R.S.

24 (2) (a) ~~When a complaint or investigation discloses an instance of misconduct that,~~
25 ~~in the opinion of the board, does not warrant formal action but should not be dismissed as~~
26 ~~being without merit, The board may send a letter of admonition to the licensee.~~

27 (b) ~~When the board sends a letter of admonition to a licensee, the board shall notify~~
28 ~~the licensee of the licensee's right to request in writing, within twenty days after receipt of~~
29 ~~the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the~~
30 ~~conduct described in the letter of admonition.~~

31 (c) ~~If the request for adjudication is timely made, the letter of admonition shall be~~
32 ~~deemed vacated and the matter shall be processed by means of formal disciplinary~~
33 ~~proceedings.~~ <{*Redundant with letters of admonition common provision, 12-20-404 (4).*
34 *Recommend repeal.*}>

35 (3) (2) In any disciplinary order that allows a physical therapist to continue to
36 practice, the board may impose upon the licensee such conditions as the board deems
37 appropriate to ensure that the physical therapist is physically, mentally, and professionally
38 qualified to practice physical therapy in accordance with generally accepted professional
39 standards. ~~Such~~ THE conditions may include any or all of the following:

40 (a) Examination of the physical therapist to determine his or her mental or physical
41 condition, as provided in section ~~12-41-118~~ **12-285-124**, or to determine professional

1 qualifications;

2 (b) Any therapy, training, or education that the board believes necessary to correct
3 deficiencies found either in a proceeding in compliance with section 24-34-106 C.R.S., or
4 through an examination under paragraph (a) of this subsection (3) SUBSECTION (3)(a) OF THIS
5 SECTION;

6 (c) A review or supervision of a licensee's practice that the board finds necessary to
7 identify and correct deficiencies therein;

8 (d) Restrictions upon the nature and scope of practice to ensure that the licensee does
9 not practice beyond the limits of the licensee's capabilities.

10 ~~(3.5) (3) When a complaint or investigation discloses an instance of conduct that does~~
11 ~~not warrant formal action by the board and, in the opinion of the board, the complaint should~~
12 ~~be dismissed, but the board has noticed indications of possible errant conduct by the licensee~~
13 ~~that could lead to serious consequences if not corrected; The board may send a confidential~~
14 ~~letter of concern to the A licensee IN ACCORDANCE WITH SECTION 12-20-404 (5).~~
15 ~~<{Redundant with confidential letters of concern common provision, 12-20-404 (5).~~
16 ~~Recommend amending as indicated.}>~~

17 (4) The board may take disciplinary action against a physical therapist for failure to
18 comply with any of the conditions imposed by the board under subsection (3) (2) of this
19 section.

20 (5) A person whose license has expired is subject to the penalties provided in this
21 article 285 and section ~~24-34-102 (8), C.R.S. 12-20-202 (1).~~ <{Updating cross reference to
22 renewal / reinstatement / fees common provision, 12-20-202.}>

23 (6) ~~A person whose license to practice physical therapy is revoked or who surrenders~~
24 ~~his or her license to avoid discipline is not eligible to apply for a license for two years after~~
25 ~~the license is revoked or surrendered. The two-year waiting period SPECIFIED IN SECTION~~
26 ~~12-20-404 (3) applies to a person whose license to practice physical therapy, or to practice~~
27 ~~any other health care occupation, is revoked by any other legally qualified board or regulatory~~
28 ~~entity. <{Adding a cross reference to the waiting period common provision, 12-20-404 (3),~~
29 ~~and keeping the broader applicability specified in this subsection.}>~~

30
31
32 **12-285-123. [Formerly 12-41-117] Disciplinary proceedings - investigations -**
33 **judicial review.** (1) The board may commence a proceeding for the discipline of a licensee
34 ~~IN ACCORDANCE WITH SECTION 12-20-403~~ when the board has reasonable grounds to believe
35 that a licensee has committed an act enumerated in section ~~12-41-115 12-285-120.~~ <{Adding
36 a cross reference to the disciplinary procedures common provision, 12-20-403.}>

37 (2) In any proceeding held under this section, the board may accept as prima facie
38 evidence of grounds for disciplinary action any disciplinary action taken against a licensee
39 from another jurisdiction if the violation that prompted the disciplinary action in that
40 jurisdiction would be grounds for disciplinary action under this article 285.

41 (3) (a) The board may investigate potential grounds for disciplinary action upon its

1 own motion or when the board is informed of dismissal of a person licensed under this article
2 **285** if the dismissal was for a matter constituting a violation of this article **285**.

3 (b) A person who supervises a physical therapist shall report to the board when the
4 physical therapist has been dismissed because of incompetence in physical therapy or failure
5 to comply with this article **285**. A physical therapist who is aware that another physical
6 therapist is violating this article shall report ~~such~~ THE violation to the board.

7 ~~(4) (Deleted by amendment, L. 2004, p. 1844, § 93, effective August 4, 2004.)~~

8 ~~(5) (a) The board or an administrative law judge may administer oaths, take~~
9 ~~affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the~~
10 ~~production of all relevant papers, books, records, documentary evidence, and materials in any~~
11 ~~hearing, investigation, accusation, or other matter coming before the board pursuant to this~~
12 ~~article. The board may appoint an administrative law judge pursuant to part 10 of article 30~~
13 ~~of title 24, C.R.S., to take evidence and to make findings and report them to the board.~~

14 ~~(b) Upon failure of a witness to comply with a subpoena or process, the district court~~
15 ~~of the county in which the subpoenaed person or licensee resides or conducts business, upon~~
16 ~~application by the board with notice to the subpoenaed person or licensee, may issue to the~~
17 ~~person or licensee an order requiring that person or licensee to appear before the board; to~~
18 ~~produce the relevant papers, books, records, documentary evidence, or materials if so~~
19 ~~ordered; or to give evidence touching the matter under investigation or in question. Failure~~
20 ~~to obey the order of the court may be punished by the court as a contempt of court.~~
21 ~~<{***Redundant with disciplinary procedures common provision, 12-20-403. Recommend***~~
22 ~~***repealing.***>~~

23 ~~(6) (4) The board may keep any investigation authorized under this article **285** closed~~
24 ~~until the results of ~~such~~ THE investigation are known and either the complaint is dismissed~~
25 ~~or notice of hearing and charges are served upon the licensee.~~

26 ~~(7) (a) The board, the director's staff, a witness or consultant to the board, a witness~~
27 ~~testifying in a proceeding authorized under this article, and a person who lodges a complaint~~
28 ~~under this article is immune from liability in a civil action brought against him or her for acts~~
29 ~~occurring while acting in his or her capacity as board member, staff, consultant, witness, or~~
30 ~~complainant, respectively, if such individual was acting in good faith within the scope of his~~
31 ~~or her respective capacity, made a reasonable effort to obtain the facts of the matter as to~~
32 ~~which he or she acted, and acted in the reasonable belief that the action taken by him or her~~
33 ~~was warranted by the facts.~~

34 ~~(b) Any person participating in good faith in the making of a complaint or report or~~
35 ~~participating in any investigative or administrative proceeding pursuant to this section shall~~
36 ~~be immune from any liability, civil or criminal, that otherwise might result by reason of such~~
37 ~~participation. <{***Redundant with immunity common provision, 12-20-402; recommend***~~
38 ~~***repeal.***>~~

39 ~~(8) (5) The board, through the department, of regulatory agencies, may employ~~
40 ~~administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., on~~
41 ~~a full-time or part-time basis, to conduct hearings under this article or on any matter within~~

1 the board's jurisdiction upon such conditions and terms as the board may determine 285 IN
2 ACCORDANCE WITH SECTION 12-20-403 (3). <{*Partially redundant with disciplinary*
3 *procedures/ALJ common provision, 12-20-403. Recommend amending as indicated.*}>

4 (9) (6) Final action of the board may be judicially reviewed by the court of appeals
5 by appropriate proceedings under section 24-4-106 (11), C.R.S., PURSUANT TO SECTION
6 12-20-408, and judicial proceedings for the enforcement of an order of the board may be
7 instituted in accordance with section 24-4-106. C.R.S. <{*Partially redundant with judicial*
8 *review common provision, 12-20-408. Recommend amending as indicated.*}>

9 (10) When a complaint or an investigation discloses an instance of misconduct that,
10 in the opinion of the board, warrants formal action, the complaint shall not be resolved by
11 a deferred settlement, action, judgment, or prosecution. <{*Redundant with no deferment*
12 *common provision, 12-20-404 (2). Recommend repealing.*}>

13 (11) (a) If it appears to the board, based upon credible evidence as presented in a
14 written complaint by any person, that a licensee is acting in a manner that is an imminent
15 threat to the health and safety of the public, or a person is acting or has acted without the
16 required license, the board may issue an order to cease and desist such activity. The order
17 must set forth the statutes and rules alleged to have been violated, the facts alleged to have
18 constituted the violation, and the requirement that all unlawful acts or unlicensed practices
19 immediately cease.

20 (b) Within ten days after service of the order to cease and desist pursuant to paragraph
21 (a) of this subsection (11), the respondent may request a hearing on the question of whether
22 acts or practices in violation of this article have occurred. Such hearing shall be conducted
23 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

24 (12) (a) If it appears to the board, based upon credible evidence as presented in a
25 written complaint by any person, that a person has violated this article, then, in addition to
26 any specific powers granted pursuant to this article, the board may issue to such person an
27 order to show cause as to why the board should not issue a final order directing such person
28 to cease and desist from the unlawful act or unlicensed practice.

29 (b) The board shall promptly notify a person against whom an order to show cause
30 has been issued under paragraph (a) of this subsection (12) of the issuance of the order, along
31 with a copy of the order, the factual and legal basis for the order, and the date set by the
32 board for a hearing on the order. The board may serve the notice by personal service, by
33 first-class United States mail, postage prepaid, or as may be practicable upon any person
34 against whom such order is issued. Personal service or mailing of an order or document
35 pursuant to this subsection (12) constitutes notice thereof to the person.

36 (c) (I) The board shall commence a hearing on an order to show cause no sooner than
37 ten and no later than forty-five calendar days after the date of transmission or service of the
38 notification by the board as provided in paragraph (b) of this subsection (12). The hearing
39 may be continued by agreement of all parties based upon the complexity of the matter,
40 number of parties to the matter, and legal issues presented in the matter, but in no event is
41 the hearing to commence later than sixty calendar days after the date of transmission or

1 service of the notification:

2 (H) ~~If a person against whom an order to show cause has been issued pursuant to~~
3 ~~paragraph (a) of this subsection (12) does not appear at the hearing, the board may present~~
4 ~~evidence that notification was properly sent or served upon such person pursuant to~~
5 ~~paragraph (b) of this subsection (12) and such other evidence related to the matter as the~~
6 ~~board deems appropriate. The board shall issue the order within ten days after the board's~~
7 ~~determination related to reasonable attempts to notify the respondent, and the order becomes~~
8 ~~final as to that person by operation of law. The board shall conduct the hearing in accordance~~
9 ~~with sections 24-4-104 and 24-4-105, C.R.S.~~

10 (HH) ~~If the board reasonably finds that the person against whom the order to show~~
11 ~~cause was issued is acting or has acted without the required license, or has or is about to~~
12 ~~engage in acts or practices constituting violations of this article, a final cease-and-desist order~~
13 ~~may be issued, directing such person to cease and desist from further unlawful acts or~~
14 ~~unlicensed practices.~~

15 (IV) ~~The board shall provide notice, in the manner set forth in paragraph (b) of this~~
16 ~~subsection (12), of the final cease-and-desist order within ten calendar days after the hearing~~
17 ~~conducted pursuant to this paragraph (c) to each person against whom the final order has~~
18 ~~been issued. The final order issued pursuant to subparagraph (HH) of this paragraph (c) is~~
19 ~~effective when issued and is a final order for purposes of judicial review.~~

20 (13) ~~If it appears to the board, based upon credible evidence presented to the board,~~
21 ~~that a person has engaged in or is about to engage in any unlicensed act or practice, any act~~
22 ~~or practice constituting a violation of this article, any rule promulgated pursuant to this~~
23 ~~article, any order issued pursuant to this article, or any act or practice constituting grounds~~
24 ~~for administrative sanction pursuant to this article, the board may enter into a stipulation with~~
25 ~~such person.~~

26 (14) ~~If a person fails to comply with a final cease-and-desist order or a stipulation,~~
27 ~~the board may request the attorney general or the district attorney for the judicial district in~~
28 ~~which the alleged violation exists to bring suit for a temporary restraining order and for~~
29 ~~injunctive relief to prevent any further or continued violation of the final order. Upon~~
30 ~~receiving the request, the attorney general or district attorney shall bring the suit as requested.~~

31 (15) ~~A person aggrieved by the final cease-and-desist order may seek judicial review~~
32 ~~of the board's determination or of the board's final order as provided in subsection (9) of this~~
33 ~~section.~~

34 (7) **THE BOARD MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES**
35 **AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405.** <{ ***Subsections***
36 ***(11) to (15) redundant with cease-and-desist common provision, 12-20-405. Recommend***
37 ***repealing and replacing with reference to common provision.*** }>

38
39 **12-285-124. [Formerly 12-41-118] Mental and physical examination of licensees.**

40 (1) **IN ACCORDANCE WITH SECTION 12-30-108,** if the board has reasonable cause to believe
41 that a licensee is unable to practice with reasonable skill and safety, the board may require

1 the licensee to take a mental or physical examination by a health care provider designated by
2 the board. If the licensee refuses to undergo such a mental or physical examination, unless
3 due to circumstances beyond the licensee's control, the board may suspend such THE
4 licensee's license until the results of the examination are known and the board has made a
5 determination of the licensee's fitness to practice. The board shall proceed with an order for
6 examination and determination in a timely manner.

7 ~~(2) An order issued to a licensee under subsection (1) of this section to undergo a~~
8 ~~mental or physical examination must contain the basis of the board's reasonable cause to~~
9 ~~believe that the licensee is unable to practice with reasonable skill and safety. For the~~
10 ~~purposes of a disciplinary proceeding authorized by this article, the licensee is deemed to~~
11 ~~have waived all objections to the admissibility of the examining health care provider's~~
12 ~~testimony or examination reports on the ground that they are privileged communications.~~

13 (3) (2) The licensee may submit to the board testimony or examination reports from
14 a health care provider chosen by such THE licensee pertaining to the condition that the board
15 has alleged may preclude the licensee from practicing with reasonable skill and safety. These
16 may be considered by the board in conjunction with, but not in lieu of, testimony and
17 examination reports of the health care provider designated by the board.

18 (4) A person shall not use the results of any mental or physical examination ordered
19 by the board as evidence in any proceeding other than one before the board. The examination
20 results are not public records and are not available to the public. <{*The highlighted*
21 *language is not covered by the mental and physical examination common provision,*
22 *12-30-108; recommend amendment as indicated.*}>

23
24 **12-285-125. [Formerly 12-41-118.5] Confidential agreements.** (1) If a physical
25 therapist suffers from a physical illness; a physical condition; or a behavioral or mental health
26 disorder rendering the licensee unable to practice physical therapy or practice as a physical
27 therapist with reasonable skill and patient safety, the physical therapist shall notify the board
28 of the physical illness; the physical condition; or the behavioral or mental health disorder in
29 a manner and within a period of time determined by the board. The board may require the
30 licensee to submit to an examination or to evaluate the extent of the physical illness; the
31 physical condition; or the behavioral or mental health disorder and its impact on the licensee's
32 ability to practice with reasonable skill and safety to patients.

33 (2) (a) Upon determining that a physical therapist with a physical illness; a physical
34 condition; or a behavioral or mental health disorder is able to render limited physical therapy
35 with reasonable skill and patient safety, the board may enter into a confidential agreement
36 with the physical therapist in which the physical therapist agrees to limit his or her practice
37 based on the restrictions imposed by the physical illness; the physical condition; or the
38 behavioral or mental health disorder, as determined by the board.

39 (b) The agreement must specify that the licensee is subject to periodic reevaluations
40 or monitoring as determined appropriate by the board.

41 (c) The parties may modify or dissolve the agreement as necessary based on the

1 results of a reevaluation or of monitoring.

2 (d) By entering into an agreement with the board under this subsection (2) to limit his
3 or her practice, the licensee is not engaging in unprofessional conduct. The agreement is an
4 administrative action and does not constitute a restriction or discipline by the board.
5 However, if the licensee fails to comply with the terms of an agreement entered into pursuant
6 to this subsection (2), the failure constitutes grounds for disciplinary action under section
7 12-41-115 (1)(m) and the licensee is subject to discipline in accordance with section
8 12-41-116.

9 (3) This section does not apply to a licensee subject to discipline under section
10 12-41-115 (1)(t).

11 SECTION 12-30-107 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE
12 APPLIES TO THIS ARTICLE 285. <{Redundant with confidential agreement common
13 provision, 12-30-107. Recommend amendment as indicated.}>

14
15 **12-285-126. [Formerly 12-41-119] Professional review committees - immunity.**

16 (1) A professional review committee may be established pursuant to this section to
17 investigate the quality of care being given by a person licensed under this article 285. It shall
18 include in its membership at least three persons licensed under this article 285, but such THE
19 committee may be authorized to act only by:

20 (a) The board;

21 (b) A society or an association of physical therapists whose membership includes not
22 less than one-third of the persons licensed pursuant to this article 285 and residing in this
23 state if the licensee whose services are the subject of review is a member of such THE society
24 or association; or

25 (c) A hospital licensed pursuant to part 1 of article 3 of title 25 ~~C.R.S.~~, or certified
26 pursuant to section 25-1.5-103 (1)(a)(II); ~~C.R.S.~~; except that the professional review
27 committee shall include in its membership at least a two-thirds majority of persons licensed
28 under this article 285. Such THE review committee may function under the quality
29 management provisions of section 25-3-109. ~~C.R.S.~~

30 (2) Any professional review committee established pursuant to subsection (1) of this
31 section shall report to the board any adverse findings that would constitute a possible
32 violation of this article.

33 (3) ~~The board,~~ IN ADDITION TO THE PERSONS SPECIFIED IN SECTION 12-20-402, a
34 member of a professional review committee authorized by the board, a member of the board's
35 or committee's staff, AND a person acting as a witness or consultant to the board or committee
36 a witness testifying in a proceeding authorized under this article, and a person who lodges
37 a complaint pursuant to this article is immune from liability in any civil action brought
38 against him or her for acts occurring while acting in his or her capacity as board or committee
39 member, staff, consultant, or witness if the individual was acting in good faith within the
40 scope of his or her respective capacity, made a reasonable effort to obtain the facts of the
41 matter as to which he or she acted, and acted in the reasonable belief that the action taken by

1 him or her was warranted by the facts. Any person participating in good faith in lodging a
 2 complaint or participating in any investigative or administrative proceeding pursuant to this
 3 article is immune from any civil or criminal liability that may result from such participation
 4 ARE GRANTED THE SAME IMMUNITY, AND ARE SUBJECT TO THE SAME CONDITIONS FOR
 5 IMMUNITY, AS SPECIFIED IN SECTION 12-20-402. <{*Somewhat redundant with immunity*
 6 *common provision, section 12-20-402. Recommend amending as indicated.*}>

7
 8 **12-285-127. [Formerly 12-41-120] Reports by insurance companies.** (1) (a) Each
 9 insurance company licensed to do business in this state and engaged in the writing of
 10 malpractice insurance for physical therapists shall send to the board information about any
 11 malpractice claim that involves a physical therapist and is settled or in which judgment is
 12 rendered against the insured.

13 (b) In addition, the insurance company shall submit supplementary reports containing
 14 the disposition of the claim to the board within ninety days after settlement or judgment.

15 (2) Regardless of the disposition of any claim, the insurance company shall provide
 16 such information as the board finds reasonably necessary to conduct its own investigation
 17 and hearing.

18
 19 **12-285-128. [Formerly 12-41-121] Unauthorized practice - penalties.**

20 (1) ~~Repealed.~~

21 (2) Any person who practices or offers or attempts to practice physical therapy
 22 without an active license issued under this article commits a class 2 misdemeanor and shall
 23 be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and for the
 24 second or any subsequent offense, the person commits a class 6 felony and shall be punished
 25 as provided in section 18-1.3-401, C.R.S. 285 IS SUBJECT TO THE PENALTIES PURSUANT TO
 26 SECTION 12-20-407 (1)(a). <{*Redundant with unauthorized practice common provision,*
 27 *12-20-407. Recommend amendment as indicated.*}>

28 (3) and (4) ~~(Deleted by amendment, L. 2006, p. 91, § 41, effective August 7, 2006.)~~

29
 30 **12-285-129. [Formerly 12-41-122] Violation - fines.** (1) Notwithstanding section
 31 ~~12-41-121~~ 12-285-128, the board may assess a fine for a violation of this article 285 or any
 32 rule adopted under this article 285.

33 (2) ~~Such~~ THE fine shall not be greater than one thousand dollars. ~~and shall be~~
 34 ~~transmitted to the state treasurer, who shall credit the same to the general fund.~~ <{*Redundant*
 35 *with disposition of fines common provision, 12-20-404 (6). Recommend repeal.*}>

36 (3) All fines shall be imposed in accordance with the provisions of section 24-4-105
 37 C.R.S., but shall not be considered a substitute or waiver of the criminal penalties.

38
 39 **12-285-130. [Formerly 12-41-123] Injunctive proceedings.** The board may in the
 40 name of the people of Colorado, through the attorney general of Colorado, apply for an
 41 injunction to a court PURSUANT TO SECTION 12-20-406, BUT ONLY to enjoin a person from

1 committing an act declared to be a misdemeanor by this article 285. If it is established that
 2 the defendant has been or is committing an act declared to be a misdemeanor by this article,
 3 the court shall enter a decree perpetually enjoining the defendant from further committing
 4 the act. If a person violates an injunction issued under this section, the court may try and
 5 punish the offender for contempt of court. An injunction proceeding is in addition to, and not
 6 in lieu of, all penalties and other remedies provided in this article. <{ Some redundancy with
 7 injunctive relief common provision, 12-20-406, which currently exempts this article.
 8 Recommend either amendment as indicated (along with deleting 12-20-406 (1)(b)(XI)) or
 9 leaving the entire section alone.>

10
 11 **12-285-131. [Formerly 12-41-124] Professional service corporations, limited**
 12 **liability companies, and registered limited liability partnerships for the practice of**
 13 **physical therapy - definitions.** (1) Physical therapists may form professional service
 14 corporations for the practice of physical therapy under the "Colorado Business Corporation
 15 Act", articles 101 to 117 of title 7, C.R.S., if such THE corporations are organized and
 16 operated in accordance with this section. The articles of incorporation of such THE
 17 corporations must contain provisions complying with the following requirements:

18 (a) The name of the corporation shall contain the words "professional company" or
 19 "professional corporation" or abbreviations thereof.

20 (b) The corporation must be organized solely for the purposes of conducting the
 21 practice of physical therapy only through persons licensed by the board to practice physical
 22 therapy.

23 (c) The corporation may exercise the powers and privileges conferred upon
 24 corporations by the laws of Colorado only in furtherance of and subject to its corporate
 25 purpose.

26 (d) (I) Except as provided in ~~subparagraph (II) of this paragraph (d)~~ SUBSECTION
 27 (1)(d)(II) OF THIS SECTION, all shareholders of the corporation must be persons licensed by
 28 the board to practice physical therapy and who at all times own their shares in their own
 29 right. With the exception of illness, accident, or time spent in the armed services, on
 30 vacations, or on leaves of absence not to exceed one year, the individuals must be actively
 31 engaged in the practice of physical therapy in the offices of the corporation.

32 (II) If a person licensed to practice physical therapy who was a shareholder of the
 33 corporation dies, an unlicensed heir to the deceased shareholder may become a shareholder
 34 of the corporation for up to two years. Unless the heir is the only shareholder of the
 35 corporation, the heir who becomes a shareholder is a nonvoting shareholder. If the heir of the
 36 deceased shareholder ceases to be a shareholder, the owner who received the stocks from the
 37 shareholder shall dispose of the shares in accordance with the provisions required by
 38 ~~paragraph (e) of this subsection (1)~~ SUBSECTION (1)(e) OF THIS SECTION. An heir who is not
 39 licensed under this article 285 shall not exercise any authority over professional or clinical
 40 matters.

41 (e) Provisions shall be made requiring any shareholder who ceases to be or for any

1 reason is ineligible to be a shareholder to dispose of all such shares forthwith, either to the
2 corporation or to any person having the qualifications described in ~~paragraph (d) of this~~
3 ~~subsection (1) SUBSECTION (1)(d) OF THIS SECTION.~~

4 (f) The president shall be a shareholder and a director, and, to the extent possible, all
5 other directors and officers shall be persons having the qualifications described in ~~paragraph~~
6 ~~(d) of this subsection (1) SUBSECTION (1)(d) OF THIS SECTION.~~ Lay directors and officers shall
7 not exercise any authority whatsoever over professional matters.

8 (g) The articles of incorporation must provide, and all shareholders of the corporation
9 shall agree, that all shareholders of the corporation are jointly and severally liable for all acts,
10 errors, and omissions of the employees of the corporation or that all shareholders of the
11 corporation are jointly and severally liable for all acts, errors, and omissions of the employees
12 of the corporation except when the shareholders maintain professional liability insurance that
13 meets the standards of section ~~12-14-114.5~~ **12-285-118** or when the corporation maintains
14 professional liability insurance that meets the following minimum standards: <{ ***This cross***
15 ***reference is to a non-existent section; as article "14" should evidently be article "41", the***
16 ***cross reference has been corrected.***>

17 (I) The insurer shall insure the corporation against liability imposed upon the
18 corporation by law for damages resulting from any claim made against the corporation
19 arising out of the performance of professional services for others by those officers and
20 employees of the corporation who are licensed by the board to practice physical therapy.

21 (II) The policies must insure the corporation against liability imposed upon it by law
22 for damages arising out of the acts, errors, and omissions of all nonprofessional employees.

23 (III) The insurance policy must provide for an amount for each claim of at least one
24 hundred thousand dollars multiplied by the number of persons licensed to practice physical
25 therapy employed by the corporation. The policy must provide for an aggregate top limit of
26 liability per year for all claims of three hundred thousand dollars also multiplied by the
27 number of persons licensed to practice physical therapy employed by the corporation, but no
28 firm is required to carry insurance in excess of three hundred thousand dollars for each claim
29 with an aggregate top limit of liability for all claims during the year of nine hundred thousand
30 dollars.

31 (IV) The policy may provide that it does not apply to:

32 (A) A dishonest, fraudulent, criminal, or malicious act or omission of the insured
33 corporation or any stockholder or employee thereof;

34 (B) The conduct of any business enterprise, not including the practice of physical
35 therapy, in which the insured corporation under this section is not permitted to engage but
36 that nevertheless may be owned by the insured corporation, in which the insured corporation
37 may be a partner, or that may be controlled, operated, or managed by the insured corporation
38 in its own or in a fiduciary capacity, including the ownership, maintenance, or use of any
39 property in connection therewith, when not resulting from breach of professional duty, bodily
40 injury to, or sickness, disease, or death of any person, or to injury to or destruction of any
41 tangible property, including the loss of use thereof; and

1 (V) The policy may contain reasonable provisions with respect to policy periods,
2 territory, claims, conditions, and other usual matters.

3 (2) The corporation shall do nothing that, if done by a person licensed to practice
4 physical therapy and employed by the corporation, would constitute any ground for
5 disciplinary action, as set forth in section ~~12-41-115~~ **12-285-120**. Any violation by the
6 corporation of this section is grounds for the board to terminate or suspend its right to
7 practice physical therapy.

8 (3) Nothing in this section diminishes or changes the obligation of each person
9 licensed to practice physical therapy employed by the corporation to practice in accordance
10 with the standards of professional conduct under this article **285** and rules adopted under this
11 article **285**. Physical therapists who by act or omission cause the corporation to act or fail to
12 act in a way that violates the standards of professional conduct, including any provision of
13 this section, are personally responsible for the violation and subject to discipline for the
14 violation.

15 (4) A professional service corporation may adopt a pension, CASH OR DEFERRED profit
16 sharing, ~~(whether cash or deferred)~~ health and accident insurance, or welfare plan for all or
17 part of its employees, including lay employees, if ~~such~~ THE plan does not require or result in
18 the sharing of specific or identifiable fees with lay employees and if any payments made to
19 lay employees or into any ~~such~~ plan on behalf of lay employees are based upon their
20 compensation or length of service, or both, rather than the amount of fees or income
21 received.

22 (5) (a) Except as provided in this section, corporations shall not practice physical
23 therapy.

24 (b) The corporate practice of physical therapy does not include physical therapists
25 employed by a certified or licensed hospital, licensed skilled nursing facility, certified home
26 health agency, licensed hospice, certified comprehensive outpatient rehabilitation facility,
27 certified rehabilitation agency, authorized health maintenance organization, accredited
28 educational entity, organization providing care for the elderly under section 25.5-5-412,
29 ~~C.R.S.~~, or other entity wholly owned and operated by a governmental unit or agency if:

30 (I) The relationship created by the employment does not affect the ability of the
31 physical therapist to exercise his or her independent judgment in the practice of the
32 profession;

33 (II) The physical therapist's independent judgment in the practice of the profession
34 is in fact unaffected by the relationship;

35 (III) The policies of the entity employing the physical therapist contain a procedure
36 by which complaints by a physical therapist alleging a violation of this ~~paragraph (b)~~
37 SUBSECTION (5)(b) may be heard and resolved;

38 (IV) The physical therapist is not required to exclusively refer any patient to a
39 particular provider or supplier; except that nothing in this ~~subparagraph (IV)~~ SUBSECTION
40 (5)(b)(IV) shall invalidate the policy provisions of a contract between a physical therapist and
41 his or her intermediary or the managed care provisions of a health coverage plan; and

1 (V) The physical therapist is not required to take any other action he or she
2 determines not to be in the patient's best interest.

3 (c) The provisions of ~~paragraph (b) of this subsection (5)~~ SUBSECTION (5)(b) OF THIS
4 SECTION shall apply to professional service corporations, limited liability companies, and
5 registered limited liability partnerships formed for the practice of physical therapy in
6 accordance with this section regardless of the date of formation of the entity.

7 (d) A physical therapist employed by an entity described in ~~paragraph (b) of this~~
8 ~~subsection (5)~~ SUBSECTION (5)(b) OF THIS SECTION shall be an employee of the entity for
9 purposes of liability for all acts, errors, and omissions of the employee.

10 (6) As used in this section, unless the context otherwise requires:

11 (a) "Articles of incorporation" includes operating agreements of limited liability
12 companies and partnership agreements of registered limited liability partnerships.

13 ~~(a.5) "Carrier" has the same meaning as set forth in section 10-16-102 (8), C.R.S.~~
14 ~~<{"Carrier" is not used in this section; recommend repeal.}>~~

15 (b) "Corporation" includes a limited liability company organized under the "Colorado
16 Limited Liability Company Act", article 80 of title 7, ~~C.R.S.~~, and a limited liability
17 partnership registered under section 7-60-144 or 7-64-1002. ~~C.R.S.~~

18 (c) "Director" and "officer" of a corporation includes a member and a manager of a
19 limited liability company and a partner in a registered limited liability partnership.

20 (d) "Employees" includes employees, members, and managers of a limited liability
21 company and employees and partners of a registered limited liability partnership.

22 ~~(d.3) "Health benefit plan" has the same meaning as set forth in section 10-16-102~~
23 ~~(32), C.R.S. <{"Health benefit plan" is not used in this section; recommend repeal.}>~~

24 ~~(d.5) (e) "President" includes all managers, if any, of a limited liability company and~~
25 ~~all partners in a registered limited liability partnership.~~

26 ~~(e) (f) "Share" includes a member's rights in a limited liability company and a~~
27 ~~partner's rights in a registered limited liability partnership.~~

28 ~~(f) (g) "Shareholder" includes a member of a limited liability company and a partner~~
29 ~~in a registered limited liability partnership.~~

30
31 ~~**12-41-125. Powers and duties of director - reports - publications - rules.**~~
32 ~~**(Repealed)**~~

33 ~~**12-41-126. Advisory committee. (Repealed)**~~

34
35 ~~**12-41-127. Limitation on authority.** The authority granted the board by this article~~
36 ~~**285** does not authorize the board to arbitrate or adjudicate fee disputes between licensees or~~
37 ~~between a licensee and any other party. <{*Moved to 12-285-106 (3).*}>~~

38
39
40 ~~**12-41-128. Fees and expenses.** All fees collected under this article shall be~~
41 ~~determined, collected, and appropriated in the same manner as set forth in section 24-34-105,~~

1 **C.R.S.** <{Redundant with fees common provision, 12-20-105; recommend repeal.}>

2
3 **12-41-129. Physical therapists - registered prior to July 1, 1991. (Repealed)**

4
5 **12-285-132. [Formerly 12-41-130] Repeal of part. (1) Repealed.**

6 (2)(a) This part 1 and the licensing functions of the board as set forth in this part 1
7 are repealed, effective September 1, 2024.

8 (b) Before the repeal, the licensing functions of the board are scheduled for review
9 in accordance with section 24-34-104.

10
11 PART 2

12 PHYSICAL THERAPIST ASSISTANTS

13
14 **12-285-201. Additional board authority - rules. (1) [Formerly 12-41-201 (1)]** In
15 addition to all other powers and duties given to the board by law, the board may:

16 (a) Certify physical therapist assistants to practice;

17 (b) Evaluate the qualifications of applicants for certification, issue and renew the
18 certifications authorized under this part 2, and take the disciplinary actions authorized under
19 this part 2 **AND SECTION 12-20-404**; <{Recommend adding references to disciplinary
20 actions common provision, 12-20-404.}>

21 (c) Conduct hearings upon charges for discipline of a certified physical therapist
22 assistant **PURSUANT TO SECTION 12-20-403** and cause the prosecution and enjoinder of all
23 persons violating this part 2 **PURSUANT TO 12-20-406**; <{Recommend adding references to
24 disciplinary procedures common provision, 12-20-403, and injunctive relief common
25 provision, 12-20-403.}>

26 (d) **Administer oaths, take affirmations of witnesses, and issue subpoenas to compel**
27 **the attendance of witnesses and the production of all relevant papers, books, records,**
28 **documentary evidence, and materials in any hearing, investigation, accusation, or other**
29 **matter coming before the board;**

30 (e) **Appoint an administrative law judge pursuant to part 10 of article 30 of title 24,**
31 **C.R.S., to take evidence and to make findings and report them to the board; and**
32 <{Redundant with disciplinary procedures common provision, 12-20-403; recommend
33 repeal.}>

34 (f) Establish fines under section ~~12-41-122~~ **12-285-129.**

35 (2) **[Formerly 12-41-201 (3)]** The board may promulgate rules necessary **PURSUANT**
36 **TO SECTION 12-20-204** to implement, administer, and enforce this part 2. <{Added a cross
37 reference to the rule-making common provision, 12-20-204.}>

38 (3) **[Formerly 12-41-219]** The authority granted to the board by this part 2 does not
39 authorize the board to arbitrate or adjudicate fee disputes between physical therapist
40 assistants or between a physical therapist assistant and another party.

1 **12-285-202. [Formerly 12-41-202] Use of titles restricted.** A person certified as a
2 physical therapist assistant may use the title "physical therapist assistant" or the letters
3 "P.T.A." or any other generally accepted terms, letters, or figures that indicate that the person
4 is a physical therapist assistant. No other person shall use the terms "physical therapist
5 assistant", "certified physical therapist assistant", or any letters or words that indicate that the
6 person is a physical therapist assistant.

7
8 **12-285-203. [Formerly 12-41-203] Limitations on authority.** (1) Nothing in this
9 part 2 authorizes a physical therapist assistant to perform any of the following acts:

10 (a) Practice of medicine, surgery, or any other form of healing except as authorized
11 by this part 2; or

12 (b) Use of roentgen rays and radioactive materials for therapeutic purposes, use of
13 electricity for surgical purposes, or diagnosis of disease.

14 (2) A physical therapist assistant shall not practice physical therapy unless the
15 assistant works under the supervision of a licensed physical therapist.

16
17 **12-285-204. [Formerly 12-41-204] Certification required.** Effective June 1, 2012,
18 except as otherwise provided by this part 2, a person who practices as a physical therapist
19 assistant or who represents oneself as being able to practice as a physical therapist assistant
20 in this state must possess a valid certification issued by the board under this part 2 and rules
21 adopted under this part 2.

22
23 **12-285-205. [Formerly 12-41-205] Certification by examination.** (1) Every
24 applicant for a certification by examination shall:

25 (a) (I) Have successfully completed a physical therapist assistant program accredited
26 by the Commission on Accreditation in Physical Therapy Education or any comparable
27 organization as determined by the board; or

28 (II) Qualify to take the physical therapy examination established under section
29 ~~12-41-107~~ **12-285-110**;

30 (b) Pass a written examination that is:

31 (I) Approved by the board; and

32 (II) A national examination accredited by a nationally recognized accrediting agency;

33 (c) Submit an application in the form and manner designated by the director; and

34 (d) Pay a fee in an amount determined by the director.

35 (2) The board may refuse to permit an applicant to take the examination if the
36 application is incomplete or indicates that the applicant is not qualified to sit for the
37 examination, or if the applicant has committed any act that would be grounds for disciplinary
38 action under section ~~12-41-210~~ **12-285-211**.

39 (3) When the applicant has fulfilled all the requirements of subsection (1) of this
40 section, the board shall issue a certification to the applicant; except that the board may deny
41 certification if the applicant has committed an act that would be grounds for disciplinary

1 action under section ~~12-41-210~~ **12-285-211**.

2 ~~(4) Repealed.~~

3
4 **12-285-206. [Formerly 12-41-206] Certification by endorsement.** (1) An applicant
5 for certification by endorsement shall:

6 (a) Possess a valid license, certification, or registration in good standing from another
7 state or territory of the United States;

8 (b) Submit an application in the form and manner designated by the director; and

9 (c) Pay a fee in an amount determined by the director.

10 (2) Upon receipt of all documents required by subsection (1) of this section, the
11 director shall review the application and make a determination of the applicant's qualification
12 to be certified by endorsement.

13 (3) The board shall issue a certification if the applicant fulfills the requirements of
14 subsection (1) of this section and meets any one of the following qualifying standards:

15 (a) The applicant graduated from an accredited program within the past two years and
16 passed an examination substantially equivalent to the examination specified in section
17 ~~12-41-205 (1)(b)~~ **12-285-205 (1)(b)**;

18 (b) The applicant has practiced as a licensed, certified, or registered physical therapist
19 assistant for at least two of the five years immediately preceding the date of the application;
20 or

21 (c) The applicant has passed an examination in another jurisdiction that is
22 substantially equivalent to the examination specified in section ~~12-41-205 (1)(b)~~ **12-285-205**
23 **(1)(b)**, and has demonstrated competency through successful completion of an internship or
24 demonstrated competency as a physical therapist assistant by fulfilling the requirements
25 established by rules of the board.

26 (4) The board may deny certification if the applicant has committed an act that would
27 be grounds for disciplinary action under section ~~12-41-210~~ **12-285-211**.

28
29 **12-285-207. [Formerly 12-41-207] Certification of foreign-trained applicants.**

30 (1) Every foreign-trained applicant for certification shall:

31 (a) Have received education and training as a physical therapist assistant that is
32 substantially equivalent to the education and training required by accredited physical
33 therapist assistant programs in the United States;

34 (b) Possess an active, valid license, certification, or registration in good standing or
35 other authorization to practice as a physical therapist assistant from an appropriate authority
36 in the country where the foreign-trained applicant is practicing or has practiced;

37 (c) Pass a written examination approved by the board in accordance with section
38 ~~12-41-205 (1)(b)~~ **12-285-205 (1)(b)**;

39 (d) Submit an application in the form and manner designated by the director; and

40 (e) Pay an application fee in an amount determined by the director.

41 (2) Upon receipt of all documents and the fee required by subsection (1) of this

1 section, the director shall review the application and determine if the applicant is qualified
2 to be certified.

3 (3) When the applicant has fulfilled all the requirements of subsection (1) of this
4 section, the board shall issue a certification to the applicant; except that the board may deny
5 the application if the applicant has committed an act that would be grounds for disciplinary
6 action under section ~~12-41-210~~ **12-285-211**.

7
8 **12-285-208. [Formerly 12-41-208] Expiration and renewal of certification.** An
9 applicant for certification shall pay certification, renewal, and reinstatement fees established
10 by the director in the same manner as is authorized in section ~~24-34-105~~, C.R.S. A certified
11 physical therapist assistant shall renew a certification in accordance with a schedule
12 established by the director pursuant to section ~~24-34-102 (8)~~, C.R.S. The director may
13 establish renewal fees and delinquency fees for reinstatement under section ~~24-34-105~~,
14 C.R.S. If a person fails to renew a certification pursuant to the schedule established by the
15 director, the certification expires. CERTIFICATIONS ISSUED UNDER THIS ARTICLE 285 ARE
16 SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS
17 OF SECTION 12-20-202 (1) AND (2). A person whose certification has expired is subject to the
18 penalties provided in this part 2 and section ~~24-34-102 (8)~~, C.R.S. **12-20-202 (1).**
19 <{***Redundant with renewals/reinstatements common provision, 12-20-202. Recommend***
20 ***amending as indicated.***>
21

22 **12-285-209. [Formerly 12-41-208.5] Continuing professional competency - rules**
23 **- definition.** (1) (a) A certified physical therapist assistant shall maintain continuing
24 professional competency to practice.

25 (b) The board shall adopt rules establishing a continuing professional competency
26 program. The rules shall set forth the following elements:

27 (I) A self-assessment of the knowledge and skills of a physical therapist assistant
28 seeking to renew or reinstate a certification;

29 (II) Development, execution, and documentation of a learning plan based on the
30 assessment; and

31 (III) Periodic demonstration of knowledge and skills through documentation of
32 professional development activities necessary to ensure at least minimal ability to safely
33 practice the profession; except that a physical therapist assistant need not retake any
34 examination required by section ~~12-41-205~~ **12-285-205** for initial certification.

35 (c) The board shall establish that a certified physical therapist assistant satisfies the
36 continuing competency requirements of this section if the certified physical therapist assistant
37 meets the continuing professional competency requirements of one of the following entities:

38 (I) An accrediting body recognized by the board; or

39 (II) An entity approved by the board.

40 (d) (I) After the program is established, a physical therapist assistant shall satisfy the
41 requirements of the program in order to renew or reinstate a certification to practice as a

1 certified physical therapist assistant.

2 (II) The requirements of this section apply to individual certified physical therapist
3 assistants, and nothing in this section requires a person who employs or contracts with a
4 certified physical therapist assistant to comply with the requirements of this section.

5 (e) Professional development activities must be measured by a
6 contact-hour-to-credit-hour ratio.

7 (2) Records of assessments or other documentation developed or submitted in
8 connection with the continuing professional competency program are confidential and not
9 subject to inspection by the public or discovery in connection with a civil action against a
10 certified physical therapist assistant. A person or the board shall not use the records or
11 documents unless used by the board to determine whether a certified physical therapist
12 assistant is maintaining continuing professional competency to engage in the profession.

13 (3) As used in this section, "continuing professional competency" means the ongoing
14 ability of a certified physical therapist assistant to learn, integrate, and apply the knowledge,
15 skill, and judgment to practice as a certified physical therapist assistant according to
16 generally accepted standards and professional ethical standards.

17
18 **12-285-210. [Formerly 12-41-209] Scope of part 2 - exclusions.** (1) This part 2 does
19 not prohibit:

20 (a) Practice as a physical therapist assistant in this state by a legally qualified physical
21 therapist assistant from another state or country whose employment requires the physical
22 therapist assistant to accompany and care for a patient temporarily residing in this state, but
23 the physical therapist assistant shall not provide physical therapy services for another
24 individual, nor shall the person represent or hold himself or herself out as a physical therapist
25 assistant certified to practice in this state;

26 (b) The administration of massage, external baths, or exercise that is not a part of a
27 physical therapy regimen;

28 (c) A person registered, certified, or licensed in this state under any other law from
29 engaging in the practice for which the person is registered, certified, or licensed;

30 (d) Practice as a physical therapist assistant in this state by a legally qualified physical
31 therapist assistant from another state or country for the purpose of participating in an
32 educational program of not more than sixteen weeks' duration;

33 (e) The practice of a physical therapist assistant licensed, certified, or registered in
34 this or any other state or territory of the United States who is employed by the United States
35 government or a bureau, division, or agency thereof while within the course and scope of the
36 physical therapist assistant's duties; or

37 (f) The performance of noninvasive debridement, such as autolytic and enzymatic
38 debridement treatment.

39
40 **12-285-211. [Formerly 12-41-210] Grounds for disciplinary action.** (1) The board
41 may take disciplinary action in accordance with section ~~12-41-211~~ SECTIONS 12-20-403,

1 **12-20-404, AND 12-285-212** against a person who has: <{*Adding references to disciplinary*
2 *procedures and disciplinary actions common provisions, 12-20-403 and 12-20-404.*}>

3 (a) Committed an act that does not meet generally accepted standards of physical
4 therapist assistant practice or failed to perform an act necessary to meet generally accepted
5 standards of physical therapist assistant practice;

6 (b) Engaged in sexual contact, sexual intrusion, or sexual penetration as defined in
7 section 18-3-401 ~~€R.S.~~, with a patient during the period of time beginning with the initial
8 evaluation through the termination of treatment;

9 (c) Abandoned a patient by any means;

10 (d) Failed to make essential entries on patient records or falsified or made incorrect
11 entries of an essential nature on patient records;

12 (e) (I) Committed abuse of health insurance as set forth in section 18-13-119; ~~€R.S.~~;
13 or

14 (II) Advertised through newspapers, magazines, circulars, direct mail, directories,
15 radio, television, or otherwise that the certified physical therapist assistant will perform an
16 act prohibited by section 18-13-119; ~~€R.S.~~;

17 (f) Committed a fraudulent insurance act, as defined in section 10-1-128; ~~€R.S.~~;

18 (g) Falsified information in any application or attempted to obtain or obtained a
19 certification by fraud, deception, or misrepresentation;

20 (h) Engaged in the habitual or excessive use or abuse of alcohol, a habit-forming
21 drug, or a controlled substance as defined in section 18-18-102 (5); ~~€R.S.~~;

22 (i) (I) **Failed to notify the board, as required by section ~~12-41-214~~ 12-30-107**, of a
23 physical illness; a physical condition; or a behavioral, mental health, or substance use
24 disorder that impacts the certified physical therapist assistant's ability to perform physical
25 therapy with reasonable skill and safety to patients; <{*Adding a cross reference to the*
26 *confidential agreement common provision, 12-30-107.*}>

27 (II) Failed to act within the limitations created by a physical illness; a physical
28 condition; or a behavioral, mental health, or substance use disorder that renders the certified
29 physical therapist assistant unable to perform physical therapy with reasonable skill and
30 safety to the patient; or

31 (III) Failed to comply with the limitations agreed to under a confidential agreement
32 entered into under ~~section 12-41-214~~ SECTIONS **12-285-215** AND **12-30-107**; <{*Adding a*
33 *cross reference to the confidential agreement common provision, 12-30-107.*}>

34 (j) Refused to submit to a physical or mental examination when so ordered by the
35 board under ~~section 12-41-213~~ SECTIONS **12-285-214** AND **12-30-108**; <{*Adding a cross*
36 *reference to the physical or mental examination common provision, 12-30-108.*}>

37 (k) Failed to notify the board in writing of the entry of a final judgment by a court of
38 competent jurisdiction against the certified physical therapist assistant for malpractice or a
39 settlement by the certified physical therapist assistant in response to charges or allegations
40 of malpractice, which notice must be given within ninety days after the entry of judgment or
41 settlement and, in the case of a judgment, must contain the name of the court, the case

1 number, and the names of all parties to the action;

2 (l) Violated or aided or abetted a violation of this part 2, a rule adopted under this part
3 2, or a lawful order of the board;

4 (m) Been convicted of, pled guilty, or pled nolo contendere to a crime related to the
5 certified physical therapist assistant's practice or a felony or committed an act specified in
6 section ~~12-41-216~~ **12-285-217**. A certified copy of the judgment of a court of competent
7 jurisdiction of the conviction or plea is conclusive evidence of the conviction or plea. In
8 considering the disciplinary action, the board is governed by ~~section~~ SECTIONS **12-20-202 (5)**
9 AND 24-5-101. ~~C.R.S.~~

10 (n) Fraudulently obtained, furnished, or sold a physical therapist assistant diploma,
11 certificate, renewal of certificate, or record, or aided or abetted any such act;

12 (o) Represented, or held himself or herself out as, in any manner, a physical therapist
13 assistant or practiced as a physical therapist assistant without a certification, unless otherwise
14 authorized under this part 2;

15 (p) Used in connection with the person's name a designation implying that the person
16 is a physical therapist assistant without being certified under this part 2;

17 (q) Practiced as a physical therapist assistant during the time the person's certification
18 was expired, suspended, or revoked; or

19 (r) Failed to respond in an honest, materially responsive, and timely manner to a
20 complaint issued under this part 2.

21
22 **12-285-212. [Formerly 12-41-211] Disciplinary actions.** (1) (a) The board, in
23 accordance with article 4 of title 24, C.R.S. SECTION 12-20-403, may issue letters of
24 admonition; deny, refuse to renew, suspend, or revoke a certification; place a certified
25 physical therapist assistant on probation; TAKE DISCIPLINARY OR OTHER ACTION AS SPECIFIED
26 IN SECTION 12-20-404 or impose public censure or a fine, if the board or the board's designee
27 determines after notice and the opportunity for a hearing that the certified physical therapist
28 assistant has committed an act specified in section ~~12-41-210~~ **12-285-211**. <{*Redundant*
29 *with disciplinary proceedings and disciplinary authority common provisions, 12-20-403*
30 *and 12-20-404. Recommend amending as indicated.*}>

31 (b) In the case of a deliberate and willful violation of this part 2 or if the public
32 health, safety, and welfare require emergency action, the board may take disciplinary action
33 on an emergency basis under sections 24-4-104 and 24-4-105. ~~C.R.S.~~

34 (2) (a) ~~When a complaint or investigation discloses an instance of misconduct that,~~
35 ~~in the opinion of the board, does not warrant formal action but should not be dismissed as~~
36 ~~being without merit, The board may send a letter of admonition to the A certified physical~~
37 ~~therapist assistant IN ACCORDANCE WITH SECTION 12-20-404 (4).~~

38 (b) ~~When the board sends a letter of admonition to a certified physical therapist~~
39 ~~assistant, the board shall notify the certified physical therapist assistant of his or her right to~~
40 ~~request in writing, within twenty days after receipt of the letter, that formal disciplinary~~
41 ~~proceedings be initiated to adjudicate the propriety of the conduct described in the letter of~~

1 admonition.

2 (c) If the request for adjudication is timely made, the letter of admonition is vacated
3 and the matter must be processed by means of formal disciplinary proceedings. <{*Redundant*
4 *with letters of admonition common provision, 12-20-404 (4). Recommend amending as*
5 *indicated.*}>

6 (3) In a disciplinary order that allows a certified physical therapist assistant to
7 continue to practice, the board may impose upon the certified physical therapist assistant
8 conditions that the board deems appropriate to ensure that the certified physical therapist
9 assistant is physically, mentally, and professionally qualified to practice in accordance with
10 generally accepted professional standards. The conditions may include the following:

11 (a) Examination of the certified physical therapist assistant to determine his or her
12 mental or physical condition, as provided in section ~~12-41-213~~ *12-285-214*, or to determine
13 professional qualifications;

14 (b) Any therapy, training, or education that the board believes necessary to correct
15 deficiencies found either in a proceeding in compliance with section 24-34-106 C.R.S., or
16 through an examination under paragraph (a) of this subsection (3) SUBSECTION (3)(a) OF THIS
17 SECTION;

18 (c) A review or supervision of a certified physical therapist assistant's practice that
19 the board finds necessary to identify and correct deficiencies therein; or

20 (d) Restrictions upon the nature and scope of practice to ensure that the certified
21 physical therapist assistant does not practice beyond the limits of the certified physical
22 therapist assistant's capabilities.

23 (4) ~~When a complaint or investigation discloses an instance of conduct that does not~~
24 ~~warrant formal action by the board and, in the opinion of the board, the complaint should be~~
25 ~~dismissed, but the board has noticed indications of possible errant conduct by the certified~~
26 ~~physical therapist assistant that could lead to serious consequences if not corrected; The~~
27 ~~board may send a confidential letter of concern to the~~ A certified physical therapist assistant
28 ~~IN ACCORDANCE WITH SECTION 12-20-404 (5).~~ <{*Redundant with confidential letters of*
29 *concern common provision, 12-20-404 (5). Recommend amending as indicated.*}>

30 (5) The board may take disciplinary action against a certified physical therapist
31 assistant for failure to comply with any of the conditions imposed by the board under
32 subsection (3) of this section.

33 (6) A person whose certification has expired is subject to the penalties provided in
34 this part 2 and section ~~24-34-102 (8), C.R.S.~~ *12-20-202 (1)*. <{*Updating cross reference to*
35 *the renewal / reinstatement / fees common provision, 12-20-202.*}>

36 (7) A physical therapist assistant whose certification is revoked or who surrenders his
37 or her certification to avoid discipline is not eligible to apply for a certification for two years
38 after the certification is revoked or surrendered. The two-year waiting period SPECIFIED IN
39 SECTION 12-20-404 (3) applies to a person whose certification as a physical therapist assistant
40 is revoked by any other legally qualified board or regulatory entity. <{*Adding a cross*
41 *reference to the waiting period common provision, 12-20-404 (3), and keeping the broader*

1 applicability specified in this subsection.}>
2

3 **12-285-213. [Formerly 12-41-212] Disciplinary proceedings - investigations -**
4 **judicial review.** (1) The board may commence a proceeding for the discipline of a physical
5 therapist assistant **IN ACCORDANCE WITH SECTION 12-20-403** when the board has reasonable
6 grounds to believe that a physical therapist assistant has committed an act enumerated in
7 section ~~12-41-210~~ **12-285-211.** <{Adding a cross reference to the disciplinary proceedings
8 common provision, 12-20-403.}>

9 (2) In a proceeding held under this section, the board may accept as prima facie
10 evidence of grounds for disciplinary action any disciplinary action taken against a physical
11 therapist assistant from another jurisdiction if the violation that prompted the disciplinary
12 action in that jurisdiction would be grounds for disciplinary action under this part 2.

13 (3) (a) The board may investigate potential grounds for disciplinary action upon its
14 own motion or when the board is informed of dismissal of a person certified under this part
15 2 if the dismissal was for a matter constituting a violation of this part 2.

16 (b) A person who supervises a physical therapist assistant shall report to the board
17 when the physical therapist assistant has been dismissed because of incompetence or failure
18 to comply with this part 2. A certified physical therapist assistant who is aware that another
19 person is violating this part 2 shall report the violation to the board.

20 ~~(4) (a) The board or an administrative law judge may administer oaths, take~~
21 ~~affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the~~
22 ~~production of all relevant papers, books, records, documentary evidence, and materials in any~~
23 ~~hearing, investigation, accusation, or other matter coming before the board under this part~~
24 ~~2. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title~~
25 ~~24, C.R.S., to take evidence and to make findings and report them to the board.~~

26 ~~(b) Upon failure of a witness to comply with a subpoena or process, the district court~~
27 ~~of the county in which the subpoenaed person or certified physical therapist assistant resides~~
28 ~~or conducts business, upon application by the board with notice to the subpoenaed person or~~
29 ~~certified physical therapist assistant, may issue an order requiring that person or certified~~
30 ~~physical therapist assistant to appear before the board; to produce the relevant papers, books,~~
31 ~~records, documentary evidence, or materials if so ordered; or to give evidence touching the~~
32 ~~matter under investigation or in question. Failure to obey the order of the court may be~~
33 ~~punished by the court as a contempt of court.~~ <{Redundant with disciplinary procedures
34 common provision, 12-20-403. Recommend repealing.}>

35 ~~(5) (4) The board may keep any investigation authorized under this part 2 closed until~~
36 ~~the results of the investigation are known and either the complaint is dismissed or notice of~~
37 ~~hearing and charges are served upon the certified physical therapist assistant.~~

38 ~~(6) (a) The board, the director's staff, a witness or consultant to the board, a witness~~
39 ~~testifying in a proceeding authorized under this part 2, or a person who lodges a complaint~~
40 ~~under this part 2 is immune from liability in a civil action brought against him or her for acts~~
41 ~~occurring while acting in his or her capacity as a board member, staff member, consultant,~~

1 witness, or complainant if the individual was acting in good faith within the scope of his or
2 her respective capacity, made a reasonable effort to obtain the facts of the matter as to which
3 he or she acted, and acted with the reasonable belief that the action taken was warranted by
4 the facts.

5 (b) A person making a complaint or report in good faith or participating in any
6 investigative or administrative proceeding pursuant to this section is immune from any
7 liability, civil or criminal, that otherwise might result by reason of the participation.
8 <{Redundant with immunity common provision, 12-20-402; recommend repeal.}>

9 (7) (5) The board, through the department, of regulatory agencies, may employ
10 administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., on
11 a full-time or part-time basis, to conduct hearings under this part 2 IN ACCORDANCE WITH
12 SECTION 12-20-403. or on any matter within the board's jurisdiction upon the conditions and
13 terms as the board may determine. <{Redundant with disciplinary procedures/ALJ common
14 provision, 12-20-403. Recommend amending as indicated.}>

15 (8) (6) Final action of the board may be judicially reviewed by the court of appeals
16 by appropriate proceedings under section 24-4-106 (11), C.R.S. PURSUANT TO SECTION
17 12-20-406, and judicial proceedings for the enforcement of an order of the board may be
18 instituted in accordance with section 24-4-106. C.R.S. <{Redundant with judicial review
19 common provision, 12-20-408. Recommend amending as indicated.}>

20 (9) When a complaint or an investigation discloses an instance of misconduct that,
21 in the opinion of the board, warrants formal action, the board shall not resolve the complaint
22 by a deferred settlement, action, judgment, or prosecution. <{Redundant with no deferment
23 common provision, 12-20-404 (2). Recommend repealing.}>

24 (10) (a) If it appears to the board, based upon credible evidence as presented in a
25 written complaint, that a certified physical therapist assistant is acting in a manner that is an
26 imminent threat to the health and safety of the public, or a person is acting or has acted
27 without the required certification, the board may issue an order to cease and desist the
28 activity. The order must set forth the statutes and rules alleged to have been violated, the
29 facts alleged to have constituted the violation, and the requirement that all unlawful acts or
30 uncertified practices immediately cease.

31 (b) Within ten days after service of the order to cease and desist under paragraph (a)
32 of this subsection (10), the respondent may request a hearing on the question of whether acts
33 or practices in violation of this part 2 have occurred. The hearing shall be conducted pursuant
34 to sections 24-4-104 and 24-4-105, C.R.S.

35 (11) (a) If it appears to the board, based upon credible evidence as presented in a
36 written complaint, that a person has violated this part 2, then, in addition to any specific
37 powers granted under this part 2, the board may issue to the person an order to show cause
38 as to why the board should not issue a final order directing the person to cease and desist
39 from the unlawful act or uncertified practice.

40 (b) The board shall promptly notify a person against whom an order to show cause
41 has been issued under paragraph (a) of this subsection (11) of the issuance of the order, along

1 with a copy of the order, the factual and legal basis for the order, and the date set by the
2 board for a hearing on the order. The board may serve the notice by personal service, by
3 first-class United States mail, postage prepaid, or as may be practicable upon the person
4 against whom the order is issued. Personal service or mailing of an order or document
5 pursuant to this subsection (11) constitutes notice thereof to the person.

6 (c) (I) The board shall commence a hearing on an order to show cause no sooner than
7 ten and no later than forty-five calendar days after the date of transmission or service of the
8 notification by the board as provided in paragraph (b) of this subsection (11). The hearing
9 may be continued by agreement of all parties based upon the complexity of the matter,
10 number of parties to the matter, and legal issues presented in the matter, but in no event is
11 the hearing to commence later than sixty calendar days after the date of transmission or
12 service of the notification.

13 (H) If a person against whom an order to show cause has been issued pursuant to
14 paragraph (a) of this subsection (11) does not appear at the hearing, the board may present
15 evidence that notification was properly sent or served upon the person under paragraph (b)
16 of this subsection (11) and such other evidence related to the matter as the board deems
17 appropriate. The board shall issue the order within ten days after the board's determination
18 related to reasonable attempts to notify the respondent, and the order becomes final as to that
19 person by operation of law. The board shall conduct the hearing in accordance with sections
20 24-4-104 and 24-4-105, C.R.S.

21 (HH) If the board reasonably finds that the person against whom the order to show
22 cause was issued is acting or has acted without the required certification, or has or is about
23 to engage in acts or practices constituting violations of this part 2, the board may issue a final
24 cease-and-desist order, directing the person to cease and desist from further unlawful acts or
25 uncertified practices.

26 (IV) The board shall provide notice, in the manner set forth in paragraph (b) of this
27 subsection (11), of the final cease-and-desist order within ten calendar days after the hearing
28 conducted pursuant to this paragraph (c) to each person against whom the final order has
29 been issued. The final order issued under subparagraph (HH) of this paragraph (c) is effective
30 when issued and is a final order for purposes of judicial review.

31 (12) If it appears to the board, based upon credible evidence presented to the board,
32 that a person has engaged in or is about to engage in any uncertified act or practice, any act
33 or practice constituting a violation of this part 2, a rule promulgated under this part 2, an
34 order issued under this part 2, or an act or practice constituting grounds for administrative
35 sanction under this part 2, the board may enter into a stipulation with the person.

36 (13) If a person fails to comply with a final cease-and-desist order or a stipulation,
37 the board may request the attorney general or the district attorney for the judicial district in
38 which the alleged violation exists to bring suit for a temporary restraining order and for
39 injunctive relief to prevent any further or continued violation of the final order. Upon
40 receiving the request, the attorney general or district attorney shall bring the suit as requested.

41 (7) THE BOARD MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES

1 AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405. <{*Subsections*
2 *(10) to (15) redundant with cease-and-desist common provision, 12-20-405. Recommend*
3 *repealing and replacing with reference to common provision.*}>
4

5 **12-285-214. [Formerly 12-41-213] Mental and physical examination of certified**
6 **physical therapist assistants.** (1) IN ACCORDANCE WITH SECTION 12-30-108, if the board
7 has reasonable cause to believe that a certified physical therapist assistant is unable to
8 practice with reasonable skill and safety, the board may require the certified physical
9 therapist assistant to take a mental or physical examination by a health care provider
10 designated by the board. If the certified physical therapist assistant refuses to undergo the
11 mental or physical examination, unless due to circumstances beyond the certified physical
12 therapist assistant's control, the board may suspend the certified physical therapist assistant's
13 certification until the results of the examination are known and the board has made a
14 determination of the certified physical therapist assistant's fitness to practice. The board shall
15 proceed with an order for examination and determination in a timely manner.

16 (2) An order issued to a certified physical therapist assistant under subsection (1) of
17 this section to undergo a mental or physical examination must contain the basis of the board's
18 reasonable cause to believe that the certified physical therapist assistant is unable to practice
19 with reasonable skill and safety. For the purposes of a disciplinary proceeding authorized by
20 this part 2, the certified physical therapist assistant is deemed to have waived all objections
21 to the admissibility of the examining health care provider's testimony or examination reports
22 on the ground that they are privileged communications.

23 (3) (2) The certified physical therapist assistant may submit to the board testimony
24 or examination reports from a health care provider chosen by the certified physical therapist
25 assistant pertaining to the condition that the board has alleged may preclude the certified
26 physical therapist assistant from practicing with reasonable skill and safety. The board may
27 consider such testimony or examination reports in conjunction with, but not in lieu of,
28 testimony and examination reports of the health care provider designated by the board.

29 (4) A person shall not use the results of any mental or physical examination ordered
30 by the board as evidence in any proceeding other than one before the board. The examination
31 results are not public records and are not available to the public. <{*The highlighted*
32 *language is not covered by the mental and physical examination common provision,*
33 *12-30-108; recommend amendment as indicated.*}>
34

35 **12-285-215. [Formerly 12-41-214] Confidential agreements.** (1) If a certified
36 physical therapist assistant suffers from a physical illness; a physical condition; or a
37 behavioral or mental health disorder rendering the certified physical therapist assistant unable
38 to practice with reasonable skill and patient safety, the certified physical therapist assistant
39 shall notify the board of the physical illness; the physical condition; or the behavioral or
40 mental health disorder in a manner and within a period of time determined by the board. The
41 board may require the certified physical therapist assistant to submit to an examination, or

1 the board may evaluate the extent of the physical illness; the physical condition; or the
2 behavioral or mental health disorder and its impact on the certified physical therapist
3 assistant's ability to practice with reasonable skill and safety to patients.

4 (2) (a) Upon determining that a certified physical therapist assistant with a physical
5 illness; a physical condition; or a behavioral or mental health disorder is able to render
6 limited physical therapy with reasonable skill and patient safety, the board may enter into a
7 confidential agreement with the certified physical therapist assistant in which the certified
8 physical therapist assistant agrees to limit his or her practice based on the restrictions
9 imposed by the physical illness; the physical condition; or the behavioral or mental health
10 disorder, as determined by the board.

11 (b) The agreement must specify that the certified physical therapist assistant is subject
12 to periodic reevaluations or monitoring as determined appropriate by the board.

13 (c) The parties may modify or dissolve the agreement as necessary based on the
14 results of a reevaluation or of monitoring.

15 (d) By entering into an agreement with the board under this subsection (2) to limit his
16 or her practice, the certified physical therapist assistant is not engaging in unprofessional
17 conduct. The agreement is an administrative action and does not constitute a restriction or
18 discipline by the board. However, if the certified physical therapist assistant fails to comply
19 with the terms of an agreement entered into pursuant to this subsection (2), the failure
20 constitutes grounds for disciplinary action under section 12-41-210 (1)(i) and the certified
21 physical therapist assistant is subject to discipline in accordance with section 12-41-211.

22 (3) This section does not apply to a physical therapist assistant subject to discipline
23 under section 12-41-210 (1)(h).

24 SECTION 12-30-107 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE
25 APPLIES TO THIS ARTICLE 285. <{*Redundant with confidential agreement common*
26 *provision, 12-30-107. Recommend amendment as indicated.*}>

27
28 **12-285-216. [Formerly 12-41-215] Reports by insurance companies.** (1) (a) Each
29 insurance company licensed to do business in this state and engaged in the writing of
30 malpractice insurance for physical therapist assistants shall send to the board information
31 about any malpractice claim that involves a physical therapist assistant and is settled or in
32 which judgment is rendered against the insured.

33 (b) In addition, the insurance company shall submit supplementary reports containing
34 the disposition of the claim to the board within ninety days after settlement or judgment.

35 (2) Regardless of the disposition of any claim, the insurance company shall provide
36 such information as the board finds reasonably necessary to conduct its own investigation
37 and hearing.

38
39 **12-285-217. [Formerly 12-41-216] Unauthorized practice - penalties.** Any person
40 who violates section ~~12-41-202~~ *12-285-202* or ~~12-41-203~~ *12-285-203* without an active
41 certification issued under this part 2 ~~commits a class 2 misdemeanor and shall be punished~~

1 as provided in section 18-1.3-501, C.R.S. IS SUBJECT TO PENALTIES PURSUANT TO SECTION
2 12-20-407 (1)(d). <{ *Redundant with unauthorized practice common provision, 12-20-407.*
3 *Recommend amendment as indicated.* }>
4

5 **12-285-218. [Formerly 12-41-217] Violation - fines.** (1) Notwithstanding section
6 ~~12-41-216~~ **12-285-217**, the board may assess a fine for a violation of this part 2 or a rule
7 adopted under this part 2.

8 (2) The fine shall not be greater than one thousand dollars. ~~and shall be transmitted~~
9 ~~to the state treasurer, who shall credit the same to the general fund.~~ <{ *Redundant with*
10 *disposition of fines common provision, 12-20-404 (6). Recommend repeal.* }>

11 (3) All fines must be imposed in accordance with section 24-4-105 C.R.S.; but are
12 not a substitute or waiver of a criminal penalty.
13

14 **12-285-219. [Formerly 12-41-218] Injunctive proceedings.** The board may in the
15 name of the people of the state of Colorado, through the attorney general of Colorado, apply
16 for an injunction to a court PURSUANT TO SECTION 12-20-406, BUT ONLY to enjoin a person
17 from committing an act declared to be a misdemeanor by this part 2. If it is established that
18 the defendant has been or is committing an act declared to be a misdemeanor by this part 2,
19 the court shall enter a decree perpetually enjoining the defendant from further committing
20 the act. If a person violates an injunction issued under this section, the court may try and
21 punish the offender for contempt of court. An injunction proceeding is in addition to, and not
22 in lieu of, all penalties and other remedies provided in this part 2. <{ *Some redundancy with*
23 *injunctive relief common provision, 12-20-406, which currently exempts this article.*
24 *Recommend either amendment as indicated (along with deleting 12-20-406 (1)(b)XI) or*
25 *leaving the entire section alone.* }>
26

27 **12-41-219. Limitation on authority.** The authority granted to the board by this part
28 ~~2~~ does not authorize the board to arbitrate or adjudicate fee disputes between physical
29 therapist assistants or between a physical therapist assistant and another party. <{ *Moved to*
30 *12-285-201 (3).* }>
31

32 **12-41-220. Fees and expenses.** All fees collected under this part 2 shall be
33 determined, collected, and appropriated in the same manner as set forth in section 24-34-105,
34 C.R.S. <{ *Redundant with fees common provision, 12-20-105; recommend repeal.* }>
35

36 **12-285-220. [Formerly 12-41-221] Repeal of part.** This part 2 is repealed, effective
37 September 1, 2024. Before its repeal, the functions of the physical therapy board in
38 regulating physical therapist assistants under this part 2 are scheduled for review in

1 accordance with section 24-34-104.