

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
2600 EXAMINING BOARD OF PHYSICAL THERAPISTS
Statutory Authority: 24 Delaware Code, Section 2612 (24 Del.C. §2612)
24 DE Admin. Code 2600

PROPOSED

PUBLIC NOTICE

Pursuant to 24 **Del.C.** §2604(a)(1), the Examining Board of Physical Therapists and Athletic Trainers has proposed revisions to its rules and regulations.

A public hearing will be held on September 27, 2011 at 5:15 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Examining Board of Physical Therapists and Athletic Trainers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board proposes the re-organization of the rules and regulations for greater clarity for both licensees and members of the public. Rules 1.2.3 and 1.2.8 are modified with respect to the requirements for supervision. Rule 12.1.23 is added to state that a licensee is required to report to the Division of Professional Regulation any licensee who is in violation of the Board's laws or rules. Rule 13.0, pertaining to continuing education, is amended to add requirements for ethics hours and completion of a CPR course. In addition, Rule 13.2.2 specifies that course approval is good for three years, unless the course is modified. Rule 13.4.4 is added to make explicit that the Board has the authority to conduct continuing education audits and sanction licensees not in compliance with continuing education requirements. Finally, the revisions correct typos and grammatical errors.

The Board will consider promulgating the proposed rules and regulations at its regularly scheduled meeting following the public hearing.

2600 Examining Board of Physical Therapists

4.0 Definitions

4.1 Consultation (~~24 Del.C. §2612~~)

- 4.1.1 ~~Consultation in direct access. A licensed health practitioner who has been granted prescriptive authority must be consulted if a patient is still receiving physical therapy after 30 calendar days have lapsed from the date of the initial assessment. This consultation must be documented and could take place at any time during the initial thirty day period. The consultation can be made by telephone, fax, in writing, or in person. There is nothing in these rules and regulations or in the Physical Therapy Law that limits the number of consultations the Physical Therapist can make on the patient's behalf. The consult should be with the patient's personal licensed health practitioner. If the patient does not have a personal licensed health practitioner, the Physical Therapist is to offer the patient at least three licensed health practitioner from which to choose. The referral to a licensed health practitioner after the initial thirty day period must not be in conflict with 24 Del.C. §2616(a)(8) which deals with referral for profit. If no licensed health practitioner consult has been made in this initial thirty day period, treatment must be terminated and no treatment may be resumed without a licensed health practitioner consult.~~
- 4.1.2 ~~Consultation with written prescription from a licensed health practitioner. A prescription accompanying a patient must not be substantially modified without documented consultation with the referring practitioner. The consultation can be made by telephone, fax, in writing, or in person.~~

4.2 Direct Supervision (~~24 Del.C. §2611(a)~~)

- 4.2.1 ~~Direct supervision in connection with a Physical Therapist or Athletic Trainer practicing under a temporary license means:~~
 - 4.2.1.1 ~~a licensed Physical Therapist or Athletic Trainer supervisor shall be on the premises when the individual with a temporary license is practicing and~~
 - 4.2.1.2 ~~evaluations and progress notes written by the individual with a temporary license shall be co-signed by the licensed Physical Therapist supervisor.~~
- 4.2.2 ~~Direct supervision in relation to a Physical Therapist Assistant with less than one (1) year experience means a Physical Therapist shall be on the premises at all times and see each patient.~~

- 1.2.3 Direct supervision in relation to a Physical Therapist Assistant with one (1) year or more experience means that the supervising Physical Therapist must see the patient at least once every sixth treatment day, and the Physical Therapist Assistant must receive on site, face to face supervision at least once every twelfth treatment day. The supervising Physical Therapist must have at least one (1) year clinical experience. The Physical Therapist must be available and accessible by telecommunications to the Physical Therapist Assistant during all working hours of the Physical Therapist Assistant.
- 1.2.4 The Physical Therapist is responsible for the actions of the Physical Therapist Assistant or the Athletic Trainer when under his/ her supervision. All supervision must be documented.
- 1.2.5 Direct supervision in connection with an Athletic Trainer treating an injury not defined as an 'athletic injury', which must be a musculoskeletal disorder if seen for physical therapy when the athletic trainer has one (1) year or more of continuous experience means that an Athletic Trainer must receive on-site, face to face supervision at least once every fifth treatment day or once every three weeks, whichever occurs first. The supervising Physical Therapist must have at least one (1) year clinical experience. The Physical Therapist must be accessible by telecommunications to the Athletic Trainer during all work hours of the Athletic Trainer.

Direct supervision in connection with an Athletic Trainer treating an injury not defined as an 'athletic injury' which must be a musculoskeletal disorder if seen for physical therapy, when the Athletic Trainer has less than one (1) year of continuous experience means a Physical Therapist shall be on the premises at all times and see each patient.
- 1.2.6 Direct supervision in connection with an Athletic Trainer with a temporary license treating an 'athletic injury' is that the licensed Athletic Trainer supervisor shall be on the premises when the individual with a temporary license is practicing and all evaluations and progress notes shall be co-signed by the Athletic Trainer supervisor.
- 1.2.7 Direct supervision in relation to an Athletic Trainer with one (1) year or more experience means that an Athletic Trainer must receive on-site, face to face supervision at least once every fifth treatment day or once every three weeks, whichever occurs first. The Supervising Athletic Trainer must have at least one (1) year experience. The Supervising Athletic Trainer must be available and accessible by telecommunications to the Athletic Trainer during all working hours.
- 1.2.8 At no time may a Physical Therapist supervise more than 2 Physical Therapist Assistants, 2 Athletic Trainers or 1 Physical Therapist Assistant and 1 Athletic Trainer. A Physical Therapist may only supervise 1 Physical Therapist Assistant off site.
- 1.2.9 Direct supervision in connection with support personnel means a licensed Physical Therapist, Physical Therapist Assistant or Athletic Trainer shall be personally present and immediately available within the treatment area to give aid, direction, and instruction when procedures are performed. On site or on premises (24 ~~Del.C.~~ §2602(5)), means that the supervising professional is located on the same physical property where the supervision is occurring.
- 1.3 Support personnel (24 ~~Del.C.~~ §2615) means a person(s) who performs certain routine, designated physical therapy tasks, or athletic training tasks, under the direct supervision of a licensed Physical Therapist or Physical Therapist Assistant or Athletic Trainer. There shall be documented evidence of sufficient in-service training to assure safe performance of the duties assigned to the support personnel.
- 1.4 Unprofessional Conduct (24 ~~Del.C.~~ §2616(7)). Unprofessional conduct shall include departure from or the failure to conform to the minimal standards of acceptable and prevailing physical therapy practice or athletic training practice, in which proceeding actual injury to a patient need not be established 24 ~~Del.C.~~ §2616(7). Such unprofessional conduct shall include, but not be limited to, the following:
 - 1.4.1 Assuming duties within the practice of physical therapy or athletic training without adequate preparation or supervision or when competency has not been maintained.
 - 1.4.2 The Physical Therapist or Athletic Trainer who knowingly allows a Physical Therapist Assistant or Athletic Trainer to perform prohibited activities is guilty of unprofessional conduct.
 - 1.4.3 The Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who knowingly performs prohibited activities is guilty of unprofessional conduct.
 - 1.4.4 The Physical Therapist, Athletic Trainer, or Physical Therapist Assistant who knowingly allows support personnel to perform prohibited activities is guilty of unprofessional conduct.
 - 1.4.5 Performing new physical therapy or athletic training techniques or procedures without proper education and practice or without proper supervision.
 - 1.4.6 Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.
 - 1.4.7 Inaccurately recording, falsifying, or altering a patient or facility record.

- 1.4.8 ~~Committing any act of verbal, physical, mental or sexual abuse of patients.~~
- 1.4.9 ~~Assigning untrained persons to perform functions which are detrimental to patient safety, for which they are not adequately trained or supervised, or which are not authorized under these rules and regulations.~~
- 1.4.10 ~~Failing to supervise individuals to whom physical therapy or athletic training tasks have been delegated.~~
- 1.4.11 ~~Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, color, creed and status.~~
- 1.4.12 ~~Violating the confidentiality of information concerning the patient.~~
- 1.4.13 ~~Failing to take appropriate action in safeguarding the patient from incompetent health care practice.~~
- 1.4.14 ~~Practicing physical therapy as a Physical Therapist or Physical Therapist Assistant or athletic training as an Athletic Trainer when unfit to perform procedures or unable to make decisions because of physical, psychological, or mental impairment.~~
- 1.4.15 ~~Practicing as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer when physical or mental ability to practice is impaired by alcohol or drugs.~~
- 1.4.16 ~~Diverting drugs, supplies or property of a patient or a facility.~~
- 1.4.17 ~~Allowing another person to use his/her license.~~
- 1.4.18 ~~Resorting to fraud, misrepresentation, or deceit in taking the licensing examination or obtaining a license as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer.~~
- 1.4.19 ~~Impersonating any applicant or acting as proxy for the applicant in a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer licensing examination.~~
- 1.4.20 ~~A Physical Therapist, who initiated a physical therapy plan of care without a referral, continuing to treat a patient for longer than thirty days without a licensed health practitioner consult. An Athletic Trainer continuing to treat a patient, who initiated treatment for a minor strain, sprain, or contusion for longer than thirty days without a licensed health practitioner consult; preventative taping, padding, bandaging, icing and conditioning excluded.~~
- 1.4.21 ~~Substantially modifying a treatment prescription without consulting the referring licensed health practitioner.~~
- 1.4.22 ~~Failing to comply with the mandatory continuing education requirements of 24 Del.C. §2607(a) and Section 7 of these rules and regulations.~~

~~4 DE Reg. 1114 (1/1/01)~~

~~5 DE Reg. 2101 (5/1/02)~~

~~8 DE Reg. 1587 (5/1/05)~~

~~12 DE Reg. 503 (10/01/08)~~

2.0 Board

2.1 Specific duties of the officers:

2.1.1 The Chairperson:

2.1.1.1 ~~Shall call meetings of the Board at least twice a year.~~

2.1.1.2 ~~Shall represent the Board in all official functions and act as Board spokesperson.~~

2.1.2 The Vice-Chairperson:

2.1.2.1 ~~Shall substitute for the Chairperson during the officer's absence.~~

2.1.3 The Secretary:

2.1.3.1 ~~Shall preside when the Chairperson and Vice-Chairperson are absent.~~

3.0 Physical Therapist Assistants (24 Del.C. §2602(3))

~~The Physical Therapist Assistant may treat patients only under the direction of a Physical Therapist as defined in Sections 1.2.2 and 1.2.3. The Physical Therapist Assistant may perform physical therapy procedures and related tasks that have been selected and delegated by the supervising Physical Therapist. The Physical Therapist Assistant may administer treatment with therapeutic exercise, massage, mechanical devices, and therapeutic agents that use the properties of air, water, electricity, sound or light. The Physical Therapist Assistant may make minor modifications to treatment plans within the predetermined plan of care, assist the Physical Therapist with evaluations, and document treatment progress. The ability of the Physical Therapist Assistant to perform the selected and delegated tasks shall be assessed by the supervising Physical Therapist. The Physical Therapist Assistant shall not perform interpretation of referrals, physical therapy evaluation and reevaluation, major modification of the treatment plan, final discharge of the patient, or~~

therapeutic techniques beyond the skill and knowledge of the Physical Therapist Assistant or without proper supervision.

4.0 Athletic Trainers (24 Del.C. §2602)

4.1 Athletic injuries:

4.1.1 Athletic trainers may treat athletic injuries. Athletic injuries shall be considered musculoskeletal injuries to athletes that occur while currently participating in, or currently training for, scholastic, professional, or sanctioned amateur athletics, where such injury limits the athlete's ability to participate or train for their sport. Athletic Trainers may also treat musculoskeletal injuries received by athletes that occur while currently participating in recreational activities, where such recreational activities are recognized by the Amateur Athletic Union (see website for list of activities within the AAU). All Athletic injuries must be documented by the Athletic Trainer as interfering with participation in or training for such athletic activities. Nothing prohibits the Athletic Trainer from treating minor sprains, strains, and contusions to athletes currently participating in professional, scholastic, recreational, or sanctioned amateur athletic activities.

4.2 Non-athletic injuries:

4.2.1 Athletic Trainers may treat musculoskeletal injuries as part of a physical therapy plan of care only under the direction and supervision of a Physical Therapist as defined in sections 1.2.5 and 1.2.6. The Athletic Trainer may perform physical therapy and athletic training procedures and related tasks that have been selected and delegated by the supervising physical therapist. The Athletic Trainer may administer treatment with therapeutic exercises and modalities such as heat, cold, light air water, sound, electricity, massage and non-thrust mobilization. The Athletic Trainer may document treatment progress. The ability of the Athletic Trainer to perform selected and delegated tasks shall be assessed by the supervising Physical Therapist. The Athletic Trainer shall not perform interpretation of referrals, physical therapy evaluation and reevaluation, modification of the treatment plan, final discharge of the patient, or therapeutic techniques beyond the skill and knowledge of the athletic trainer without proper supervision. The supervising Physical Therapist must be contacted for approval to make any modification of the treatment plan within the physical therapy plan of care.

4.3 Exceptions:

4.3.1 Nothing in this regulation shall limit an Athletic Trainer's ability to provide preventative care procedures of conditioning, taping, protective bandaging, padding and icing. Nothing in this regulation shall limit an Athletic Trainer's ability to provide emergency treatment to injuries, or to provide immediate care to athletes who are currently participating in scholastic, professional, or sanctioned amateur athletics, within the scope of their training, so long as the immediate care does not last longer than 5 days.

8 DE Reg. 1591 (5/1/05)

5.0 Support Personnel (24 Del.C. §2615)

5.1 Treatments which may be performed by support personnel under direct supervision are:

- 5.1.1 ambulation
- 5.1.2 functional activities
- 5.1.3 transfers
- 5.1.4 routine follow-up of specific exercises
- 5.1.5 hot or cold packs
- 5.1.6 whirlpool/Hubbard tank
- 5.1.7 contrast bath
- 5.1.8 infrared
- 5.1.9 paraffin bath
- 5.1.10 ultra-sound

5.2 Exceptions – A support person may perform:

- 5.2.1 patient related activities that do not involve treatment, including transporting patients, undressing and dressing patients, and applying assistive and supportive devices without direct supervision, and
- 5.2.2 set-up and preparation of patients requiring treatment using modalities.

5.3 Prohibited Activities – support personnel may not perform:

- 5.3.1 evaluation, or
- 5.3.2 treatments other than those listed in Section 5.1.

4 DE Reg. 1114 (1/1/01)

6.0 Qualifications of Applicant (~~24 Del.C. §2606~~)

- 6.1 Applications, copies of the rules and regulations, and copies of the Practice Act are available from the Division of Professional Regulation.
 - 6.2 Applicants for Physical Therapist or Physical Therapist Assistant licensure shall not be admitted to the examination without the submission of the following documents:
 - 6.2.1 Professional Qualifications – proof of graduation (official transcript) from an educational program for the Physical Therapist or Physical Therapist Assistant which is accredited by the appropriate accrediting agency as set forth in the Practice Act.
 - 6.2.2 A fee in check or money order payable to the State of Delaware.
 - 6.2.3 A completed application form.
 - 6.3 The Board may use the Physical Therapist and Physical Therapist Assistant examination endorsed by the Federation of State Boards of Physical Therapy and the APTA, respectively.
 - 6.4 All applicants for licensure as a Physical Therapist or Physical Therapist Assistant must successfully pass the examination described in Section 6.3 in order to become eligible for licensure. The Board will adopt the criterion referenced passing point recommended by the Federation of State Boards of Physical Therapy.
 - 6.5 Applicants for licensure as an Athletic Trainer must submit to the Board the following:
 - 6.5.1 Professional Qualifications – proof of graduation (official transcript) from an educational program described in ~~24 Del.C. §2606(a)(1)~~, whether an accredited program or National Athletic Trainers Association Board of Certification (NATA-BOC) internship.
 - 6.5.2 Official letter of Athletic Trainer certification from NATABOC.
 - 6.5.3 A check or money order made payable to the State of Delaware.
 - 6.5.4 The completed application form.
 - 6.6 Licenses shall expire biennially on every odd numbered year. The following items shall be submitted upon application for renewal:
 - 6.6.1 completed renewal application form,
 - 6.6.2 applicable fee, and
 - 6.6.3 for individuals seeking renewal, attestation of continuing education courses required by Rule 7.0.
- 10-DE-Reg-741 (10/01/06)**

7.0 Mandatory Continuing Education Units (CEU's) (~~24 Del.C. §2607 (a)~~)

- 7.1 Three CEU's are required for every biennial license renewal for Physical Therapists, Physical Therapist Assistants, and Athletic Trainers. Beginning in 2006, the required CEU's shall be completed no later than January 31 of every odd numbered year and every 2 years after such date. In the transition period, CEU's earned between December 1, 2006 and January 31, 2007 may be used for credit for the licensing period ending January 31, 2007 or for the licensing period ending January 31, 2009, but not both.
 - 7.1.1 One CEU will be given for every 10 hours of an approved continuing education course. (1 contact hour = .1 CEU).
 - 7.1.2 CEU's shall not be carried over from one biennial period to the next.
 - 7.1.3 CEU requirements shall be prorated for new licensees. If the license is granted during the six month period shown below, the following will be required for renewal:
 - 7.1.3.1 If an applicant is granted a license during the first six months of a license period, between the dates of February 1 of an odd numbered year and July 31 of that year, the new licensee must complete 2.5 CEUs.
 - 7.1.3.2 If an applicant is granted a license during the second six months of a license period, between the dates of August 1 of an odd numbered year and January 31 of an even numbered year, the licensee must complete 2.0 CEUs.
 - 7.1.3.3 If an applicant is granted a license during the third period of six months during a license period, between the dates of February 1 of an even numbered year and July 31 of an even numbered year, the licensee must complete 1.5 CEUs.
 - 7.1.3.4 If an applicant is granted a license during the last period of six months during a license period, between the dates of August 1 of an even numbered year and January 31 of an odd numbered year, the licensee must complete .5 CEUs.

- 7.2 Each course must include topics relevant to the field of health care as it pertains to Physical Therapy or Athletic Training. Approval of CEU's shall be within the discretion of the State Examining Board of Physical Therapists.
- 7.2.1 Continuing education units that have been previously approved during the current licensing period by another agency such as a national governing body or a fellow state licensing board shall be acceptable to the Examining Board for the State of Delaware as appropriate CEU's.
- 7.2.2 Any sponsors or licensees wishing to receive prior written approval of CEU courses from the Examining Board must complete a CEU Application Form.
- 7.2.3 The Board has the power to waive any part of the entire CEU requirement. Exemptions to the CEU requirement may be granted due to prolonged illness or other incapacity. Application for exemption shall be made in writing to the Board by the applicant for renewal and must be received by the Board no later than January 31st of the end of the respective CEU term.
- 7.2.4 CEU's may be earned through Board approved courses in colleges and universities, extension courses, independent study courses, workshops, seminars, conferences, lectures, videotapes, professional presentations and publications, and in services oriented toward the enhancement of their respective professional's practice. CEU programs shall be conducted under responsible sponsorship, capable direction and qualified instruction. The program may include staff development activities of agencies and cross-disciplinary offerings.
- 7.2.5 The following are examples of acceptable continuing education which the Board may approve. The Board will determine the appropriate number of contact hours for these categories of continuing education, subject to any limitation shown below.
- 7.2.5.1 professional meetings including national, state, chapter, and state board meetings
- 7.2.5.2 seminars/workshops
- 7.2.5.3 staff/faculty in-services
- 7.2.5.4 first time presentation of professionally oriented course/lecture (0.3 CEU/hour per presentation)
- 7.2.5.5 approved self studies including:
videotapes, if:
there is a sponsoring agency
there is a facilitator or program official present
the program official is not the only attendee
correspondence course, if a sponsoring agency provides a certificate of completion
- 7.2.6 The following are also examples of acceptable continuing education in the amount of CEU's shown.
- 7.2.6.1 university/college courses:
1.0 CEU for semester
0.8 CEU for trimester
0.7 CEU for quarter
- 7.2.6.2 passing of licensing examination (1.5 CEU's)
- 7.2.6.3 original publication in peer reviewed publication (0.3 CEU)
- 7.2.6.4 original publication in non-peer reviewed publication (0.1 CEU)
- 7.2.6.5 holding of an office (0.3 CEU), to include:
—executive officer's position for the national or state professional associations (President, Vice President, Secretary, Treasurer)
—member, Examining Board of Physical Therapists
- 7.2.6.6 acting as the direct clinical instructor providing supervision to a Physical Therapist, Physical Therapist Assistant or Athletic Trainer student officially enrolled in an accredited institution during an internship (40 contact hours = 0.1 CEU)
- 7.2.6.7 acting as the direct clinical instructor providing supervision to an Athletic Training student officially enrolled in an accredited Athletic Training Education Program (40 contact hours = 0.1 CEU).
- 7.3 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Rule 7.0.
- 7.3.1 Attestation may be completed electronically if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.
- 7.3.2 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule 7.4.
- 7.4 Random audits will be performed by the Board to ensure compliance with the CEU requirements.

- 7.4.1 ~~The Board will notify licensees within sixty (60) days after January 31 that they have been selected for audit.~~
- 7.4.2 ~~Licensees selected for random audit shall be required to submit verification within ten (10) days of receipt of notification of selection for audit.~~
- 7.4.3 ~~Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CEU requirements in Section 7.2, which may include, but is not limited to, the following information:~~
 - 7.4.3.1 ~~Proof of attendance. While course brochures may be used to verify contact hours, they are not considered to be acceptable proof for use of verification of course attendance;~~
 - 7.4.3.2 ~~Date of CEU course;~~
 - 7.4.3.3 ~~Instructor of CEU course;~~
 - 7.4.3.4 ~~Sponsor of CEU course;~~
 - 7.4.3.5 ~~Title of CEU course; and~~
 - 7.4.3.6 ~~Number of hours of CEU course.~~

8-DE Reg. 1591 (5/1/05)

10-DE Reg. 741 (10/01/06)

8.0 Admission to Practice, Licensure by Reciprocity (24 Del.C. §2610)

~~Definition—The granting of a license to an applicant who meets all the requirements set forth in this section and 24 Del.C. §2610.~~

- 8.1 ~~The reciprocity applicant shall submit the documentation listed in rules 6.2 or 6.5.~~
- 8.2 ~~An applicant shall be deemed to have satisfied this section upon evidence satisfactory to the Board that he/she has complied with the standards set forth below:~~
 - 8.2.1 ~~The Physical Therapist or Physical Therapist Assistant applicant has passed the examination in the state, territory, or the District of Columbia in which he/she was originally licensed/registered. The passing score shall be 1.5 standard deviation below the national norm for those Physical Therapists and Physical Therapist Assistants having taken the examination prior to 1990.~~
 - 8.2.2 ~~All Physical Therapist/Physical Therapy Assistant reciprocity applicants shall supply his/her examination scores to the Board. The applicant may obtain his/her scores from the regulatory body of the state, territory, or the District of Columbia in which he/she was originally licensed/registered or from the FSBPT Score Transfer Service. From Physical Therapist applicants who were licensed/registered by a state, territory, or the District of Columbia only prior to 1963, the Board shall accept the following:~~
 - 8.2.2.1 ~~Professional Examination Service American Physical Therapy Association (PES-APTA) examination scores with a passing grade of 1.5 standard deviation below the national norm on all sections, or~~
 - 8.2.2.2 ~~other examining mechanisms which in the judgment of the Board were substantially equal to the mechanisms of the State of Delaware at the time of examination.~~
 - 8.2.3 ~~For the Athletic Trainer candidate, the passing score shall be that which was established at time of examination. All sections of the examination shall be passed. The reciprocity applicant shall have their National Athletic Trainer Association Board of Certification (NATABOC) [verification of certification] forwarded directly to the Board office.~~

8-DE Reg. 1591 (5/1/05)

9.0 Temporary Licensure (24 Del.C. §2611)

- 9.1 ~~The Board may issue a temporary license to all applicants who have submitted to the Board the documents listed in Rule 6.2 and Rule 6.5, respectively, and who have been determined to be eligible to take the examination. The Board shall accept a letter signed by the Physical Therapist or Physical Therapist Assistant applicant's school official stating that the applicant has completed all requirements for graduation; provided, however, that the applicant shall submit to the Board an official transcript as soon as it becomes available. The Board will determine the Physical Therapist or Physical Therapist Assistant applicant's eligibility to take the examination. In the case of Athletic Trainer applicants for temporary license, a letter from NATA stating the applicant's eligibility to take the NATA examination will be required. Physical Therapist and Physical Therapist Assistant applicants may practice only under the direct supervision of a licensed Physical Therapist. Athletic Trainer applicants may practice only under the direct supervision of a licensed Athletic Trainer or Physical Therapist as that supervision is defined in regulation 1.2 above. A temporary license shall expire upon notice to~~

the applicant of his/her failure to pass the license examination and may not be renewed. In all other cases, a temporary license may be renewed only once.

- 9.2 Applicants requesting reciprocity as a Physical Therapist, Physical Therapist Assistant, and Athletic Trainer. The Board may issue a temporary license to an applicant upon the applicant's submission of letters of good standing from all jurisdictions in which the applicant is or has ever been licensed. The temporary licensee may practice only under the direct supervision of an applicable licensed professional.
- 9.3 Applicants engaged in a special project, teaching assignment, or medical emergency as described in 24 ~~Del.C.~~ §2611(b) must submit letters of good standing from all jurisdictions in which the applicant is or has ever been licensed.

5-DE Reg. 2101 (5/1/02)

8-DE Reg. 1591 (5/1/05)

10.0 Foreign Trained Applicant for Licensure (24 ~~Del.C.~~ §2606 (b))

- 10.1 Applicants for licensure who are graduates of a Physical Therapist, Physical Therapist Assistant school or Athletic Trainer program located in a foreign country shall complete all of the following requirements before being admitted to the examination:
 - 10.1.1 The applicant shall submit proof satisfactory to the Board of graduation from an education program appropriate to their profession in a foreign country. Each foreign applicant must demonstrate that they have met the minimum education requirements as presented by the Federation of State Boards in the Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States. The applicant shall arrange and pay for a credential evaluation of such foreign school's program to be completed by an agency approved by the Board.
 - 10.1.2 The applicant shall complete the requirements of rules 6.2 or 6.5.
 - 10.1.3 The applicant shall pass the examination described in rules 6.3 and 6.4.

10-DE Reg. 741 (10/01/06)

11.0 Reactivation and Reinstatement (24 ~~Del.C.~~ §2607)

- 11.1 Any person who has been registered in the State and is not actively engaged in the practice of physical therapy or athletic training in the State may, upon request, be placed on the inactive register for the remainder of the biennial licensure period. Subsequent requests for extensions of inactive status should be submitted biennially. The Board may reactivate an inactive license if the Physical Therapist, Physical Therapist Assistant or Athletic Trainer:
 - 11.1.1 Files a written request for reactivation;
 - 11.1.2 has been actively engaged in the practice for the past five years. If the licensee has not met this condition, the following requirements shall be completed:
 - 11.1.2.1 The Physical Therapist or Physical Therapist Assistant working in a clinical setting shall work under the direct supervision of a Physical Therapist in Delaware for a minimum of six months.
 - 11.1.2.2 The Athletic Trainer shall work under the direct supervision of an Athletic Trainer in Delaware for a minimum of six months.
 - 11.1.2.3 At the end of the period, the supervising Physical Therapist/Athletic Trainer shall certify to the applicant's clinical competence on forms supplied by the Board;
 - 11.1.3 Submits proof of completion of 1.5 CEU's during the previous 12 months.
- 11.2 Provided reinstatement is requested within 5 years of the expiration date, the Board may reinstate the license of a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who allowed their license to lapse without requesting placement on the inactive register if the Physical Therapist, Physical Therapist Assistant, or Athletic Trainer:
 - 11.2.1 completes a form supplied by the Board
 - 11.2.2 provides proof of completion of 3.0 CEU's during the previous 24 months
- 11.3 If the license has been expired over five years, the Physical Therapist/Physical Therapist Assistant/Athletic Trainer must file a new application and provide proof of completion of 3.0 CEU's.

5-DE Reg. 2101 (5/1/02)

6-DE Reg. 189 (8/1/02)

8-DE Reg. 1591 (5/1/05)

10-DE Reg. 741 (10/01/06)

12.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 12.1 ~~If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.~~
- 12.2 ~~The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.~~
- 12.3 ~~In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).~~
- 12.4 ~~A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.~~
- 12.5 ~~Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 12.8 of this section.~~
- 12.6 ~~The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:-~~
 - 12.6.1 ~~Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.~~
 - 12.6.2 ~~Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.~~
 - 12.6.3 ~~Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.~~
 - 12.6.4 ~~Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.~~
 - 12.6.5 ~~Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.~~
 - 12.6.6 ~~Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.~~

- 12.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 12.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 12.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 12.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 12.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 12.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

13.0 Crimes substantially related to the practice of physical therapy and athletic training:

- 13.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of physical therapy and athletic training in the State of Delaware without regard to the place of conviction:
- 13.1.1 Offensive touching. 11 ~~Del.C.~~ §601.
- 13.1.2 Aggravated menacing. 11 ~~Del.C.~~ §602 (b).
- 13.1.3 Abuse of a pregnant female in the second degree. 11 ~~Del.C.~~ §605.
- 13.1.4 Abuse of a pregnant female in the first degree. 11 ~~Del.C.~~ §606.
- 13.1.5 Assault in the second degree. 11 ~~Del.C.~~ §612.
- 13.1.6 Assault in the first degree. 11 ~~Del.C.~~ §613.
- 13.1.7 Assault by abuse or neglect. 11 ~~Del.C.~~ §615.
- 13.1.8 Unlawfully administering drugs. 11 ~~Del.C.~~ §625.
- 13.1.9 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 ~~Del.C.~~ §626.
- 13.1.10 Criminally negligent homicide. 11 ~~Del.C.~~ §631.
- 13.1.11 Manslaughter. 11 ~~Del.C.~~ §632.
- 13.1.12 Murder by abuse or neglect in the second degree. 11 ~~Del.C.~~ §633.
- 13.1.13 Murder by abuse or neglect in the first degree. 11 ~~Del.C.~~ §634.
- 13.1.14 Murder in the second degree; class A felony. 11 ~~Del.C.~~ §635.
- 13.1.15 Murder in the first degree. 11 ~~Del.C.~~ §636.
- 13.1.16 Promoting suicide. 11 ~~Del.C.~~ §645.
- 13.1.17 Abortion. 11 ~~Del.C.~~ §651.
- 13.1.18 Issuing abortifacient articles. 11 ~~Del.C.~~ §653.
- 13.1.19 Incest. 11 ~~Del.C.~~ §766.
- 13.1.20 Unlawful sexual contact in the third degree. 11 ~~Del.C.~~ §767.
- 13.1.21 Unlawful sexual contact in the second degree. 11 ~~Del.C.~~ §768.
- 13.1.22 Unlawful sexual contact in the first degree. 11 ~~Del.C.~~ §769.
- 13.1.23 Rape in the fourth degree. 11 ~~Del.C.~~ §770.
- 13.1.24 Rape in the third degree. 11 ~~Del.C.~~ §771.
- 13.1.25 Rape in the second degree. 11 ~~Del.C.~~ §772.
- 13.1.26 Rape in the first degree. 11 ~~Del.C.~~ §773.
- 13.1.27 Sexual extortion. 11 ~~Del.C.~~ §776.
- 13.1.28 Bestiality. 11 ~~Del.C.~~ §777.

13.1.29 Continuous sexual abuse of a child. 11 ~~Del.C.~~ §778.
 13.1.30 Dangerous crime against a child. 11 ~~Del.C.~~ §779.
 13.1.31 Female genital mutilation. 11 ~~Del.C.~~ §780.
 13.1.32 Unlawful imprisonment in the first degree. 11 ~~Del.C.~~ §782.
 13.1.33 Kidnapping in the second degree. 11 ~~Del.C.~~ §783.
 13.1.34 Kidnapping in the first degree. 11 ~~Del.C.~~ §783A.
 13.1.35 Arson in the first degree. 11 ~~Del.C.~~ §803.
 13.1.36 Burglary in the third degree. 11 ~~Del.C.~~ §824.
 13.1.37 Burglary in the second degree. 11 ~~Del.C.~~ §825.
 13.1.38 Burglary in the first degree. 11 ~~Del.C.~~ §826.
 13.1.39 Robbery in the second degree. 11 ~~Del.C.~~ §831.
 13.1.40 Robbery in the first degree. 11 ~~Del.C.~~ §832.
 13.1.41 Carjacking in the second degree. 11 ~~Del.C.~~ §835.
 13.1.42 Carjacking in the first degree. 11 ~~Del.C.~~ §836.
 13.1.43 Theft; felony. 11 ~~Del.C.~~ §841.
 13.1.44 Extortion. 11 ~~Del.C.~~ §846.
 13.1.45 Identity theft. 11 ~~Del.C.~~ §854.
 13.1.46 Forgery. 11 ~~Del.C.~~ §861.
 13.1.47 Falsifying business records. 11 ~~Del.C.~~ §871.
 13.1.48 Tampering with public records in the second degree. 11 ~~Del.C.~~ §873.
 13.1.49 Tampering with public records in the first degree. 11 ~~Del.C.~~ §876.
 13.1.50 Offering a false instrument for filing. 11 ~~Del.C.~~ §877.
 13.1.51 Issuing a false certificate. 11 ~~Del.C.~~ §878.
 13.1.52 Reencoder and scanning devices. 11 ~~Del.C.~~ §903A.
 13.1.53 Criminal impersonation of a police officer. 11 ~~Del.C.~~ §907B.
 13.1.54 Insurance fraud. 11 ~~Del.C.~~ §913.
 13.1.55 Health care fraud. 11 ~~Del.C.~~ §913A.
 13.1.56 Dealing in children. 11 ~~Del.C.~~ §1100.
 13.1.57 Sexual exploitation of a child. 11 ~~Del.C.~~ §1108.
 13.1.58 Unlawfully dealing in child pornography. 11 ~~Del.C.~~ §1109.
 13.1.59 Possession of child pornography. 11 ~~Del.C.~~ §1111.
 13.1.60 Sexual solicitation of a child. 11 ~~Del.C.~~ §1112A.
 13.1.61 Bribery. 11 ~~Del.C.~~ §1201.
 13.1.62 Receiving a bribe; felony. 11 ~~Del.C.~~ §1203.
 13.1.63 Perjury in the second degree. 11 ~~Del.C.~~ §1222.
 13.1.64 Perjury in the first degree. 11 ~~Del.C.~~ §1223.
 13.1.65 Escape after conviction. 11 ~~Del.C.~~ §1253.
 13.1.66 Assault in a detention facility. 11 ~~Del.C.~~ §1254.
 13.1.67 Promoting prison contraband; felony. 11 ~~Del.C.~~ §1256.
 13.1.68 Bribing a witness. 11 ~~Del.C.~~ §1261.
 13.1.69 Bribe receiving by a witness. 11 ~~Del.C.~~ §1262.
 13.1.70 Tampering with a witness. 11 ~~Del.C.~~ §1263.
 13.1.71 Interfering with child witness; class F. 11 ~~Del.C.~~ §1263A.
 13.1.72 Bribing a juror. 11 ~~Del.C.~~ §1264.
 13.1.73 Bribe receiving by a juror. 11 ~~Del.C.~~ §1265.
 13.1.74 Tampering with physical evidence. 11 ~~Del.C.~~ §1269.
 13.1.75 Riot. 11 ~~Del.C.~~ §1302.
 13.1.76 Hate crimes; felony. 11 ~~Del.C.~~ §1304.
 13.1.77 Aggravated harassment. 11 ~~Del.C.~~ §1312.
 13.1.78 Stalking; felony. 11 ~~Del.C.~~ §1312A.
 13.1.79 Abusing a corpse. 11 ~~Del.C.~~ §1332.

- 13.1.80 Violation of privacy; felony. 11 ~~Del.C.~~ §1335.
- 13.1.81 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 ~~Del.C.~~ §1338.
- 13.1.82 Adulteration. 11 ~~Del.C.~~ §1339.
- 13.1.83 Promoting prostitution in the second degree. 11 ~~Del.C.~~ §1352.
- 13.1.84 Promoting prostitution in the first degree. 11 ~~Del.C.~~ §1353.
- 13.1.85 Obscenity. 11 ~~Del.C.~~ §1361.
- 13.1.86 Carrying a concealed deadly weapon; Class E (if previous conviction within 5 years). 11 ~~Del.C.~~ §1442.
- 13.1.87 Possessing a destructive weapon. 11 ~~Del.C.~~ §1444.
- 13.1.88 Unlawfully dealing with a dangerous weapon; felony. 11 ~~Del.C.~~ §1445.
- 13.1.89 Possession of a deadly weapon during commission of a felony. 11 ~~Del.C.~~ §1447.
- 13.1.90 Possession of a firearm during commission of a felony. 11 ~~Del.C.~~ §1447A.
- 13.1.91 Possession and purchase of deadly weapons by persons prohibited. 11 ~~Del.C.~~ §1448.
- 13.1.92 Engaging in a firearms transaction on behalf of another. 11 ~~Del.C.~~ §1455.
- 13.1.93 Organized Crime and Racketeering. 11 ~~Del.C.~~ §1504.
- 13.1.94 Victim or Witness Intimidation. 11 ~~Del.C.~~ §§3532 & 3533.
- 13.1.95 Abuse, neglect, mistreatment or financial exploitation of residents or patients; felony or under subsection (c). 16 ~~Del.C.~~ §1136(a), (b) and (c).
- 13.1.96 Prohibited acts A under the Uniform Controlled Substances Act. 16 ~~Del.C.~~ §4751(a), (b) and (c).
- 13.1.97 Prohibited acts B under the Uniform Controlled Substances Act. 16 ~~Del.C.~~ §4752(a) and (b).
- 13.1.98 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4 methylenedioxymethamphetamine (MDMA). 16 ~~Del.C.~~ §4753A (a)(1) (9).
- 13.1.99 Prohibited acts E under the Uniform Controlled Substances Act. 16 ~~Del.C.~~ §4755.(a)(1) and (2)
- 13.1.100 Prohibited acts under the Uniform Controlled Substances Act. 16 ~~Del.C.~~ §4756(a)(1)-(5) and (b).
- 13.1.101 Distribution to persons under 21 years of age. 16 ~~Del.C.~~ §4761.
- 13.1.102 Purchase of drugs from minors. 16 ~~Del.C.~~ §4761A
- 13.1.103 Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; felony. 23 ~~Del.C.~~ §2302(a) and §2305 (3) and (4).
- 13.1.104 Failure to collect or pay over tax. 30 ~~Del.C.~~ §572.
- 13.1.105 Driving a vehicle while under the influence or with a prohibited alcohol content; felony. 21 ~~Del.C.~~ §4177 (3) and (4).
- 13.1.106 Duty of driver involved in accident resulting in injury or death to any person; felony. 21 ~~Del.C.~~ §4202.
- 13.1.107 Prohibition of Intimidation under the Fair Housing Act; felony. 6 ~~Del.C.~~ §2581.
- 13.1.108 Interception of Communications Generally; Divulging Contents of Communications; felony. 11 ~~Del.C.~~ §2402
- 13.1.109 Breaking and Entering, Etc. to Place or Remove Equipment. 11 ~~Del.C.~~ §2410.
- 13.1.110 Aggravated Act of Intimidation. 11 ~~Del.C.~~ §3533
- 13.1.111 Attempt to Intimidate. 11 ~~Del.C.~~ §3534
- 13.1.112 Providing false information when seeking employment in a public school. 11 ~~Del.C.~~ §8572
- 13.1.113 Abuse, neglect, exploitation or mistreatment of infirm adult; felony. 31 ~~Del.C.~~ §3913(a), (b) and (c).
- 13.2 Crimes substantially related to the practice of physical therapy and athletic training shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

8 DE Reg. 1452 (04/01/05)

2600 Examining Board of Physical Therapists and Athletic Trainers

1.0 Definitions

1.1 Consultation (24 Del.C. §2612)

- 1.1.1 Consultation in direct access. A licensed health practitioner who has been granted prescriptive authority must be consulted if a patient is still receiving physical therapy after 30 calendar days have lapsed from the date of the initial assessment. This consultation must be documented and could take place at any time during the initial thirty day period. The consultation can be made by telephone, fax, in writing, or in person. There is nothing in these Rules and Regulations or in the Physical Therapy Law that limits the number of

consultations the Physical Therapist can make on the patient's behalf. The consult should be with the patient's personal licensed health practitioner. If the patient does not have a personal licensed health practitioner, the Physical Therapist is to offer the patient at least three licensed health practitioners from which to choose. The referral to a licensed health practitioner after the initial thirty day period must not be in conflict with 24 Del.C. §2616(a)(8) which deals with referral for profit. If no licensed health practitioner consult has been made in this initial thirty day period, treatment must be terminated and no treatment may be resumed without a licensed health practitioner consult.

- 1.1.2 Consultation with written prescription from a licensed health practitioner. A prescription accompanying a patient must not be substantially modified without documented consultation with the referring practitioner. The consultation can be made by telephone, fax, in writing, or in person.

1.2 Direct Supervision

- 1.2.1 Direct supervision in connection with a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer practicing under a temporary license means:

- 1.2.1.1 a licensed Physical Therapist or Athletic Trainer supervisor shall be on the premises when the individual with a temporary license is practicing and

- 1.2.1.2 evaluations and progress notes written by the individual with a temporary license shall be co-signed by the licensed Physical Therapist supervisor.

- 1.2.2 Direct supervision in relation to a Physical Therapist Assistant with less than one (1) year experience means a Physical Therapist shall be on the premises at all times and see each patient.

- 1.2.3 Direct supervision in relation to a Physical Therapist Assistant with one (1) year or more experience means that the supervising Physical Therapist must see the patient at least once every sixth treatment day, and the Physical Therapist Assistant must receive on-site, face to face supervision at least once every twelfth treatment day. The initial evaluation counts as a "treatment day." The supervising Physical Therapist must have at least one (1) year clinical experience. The Physical Therapist must be available and accessible by telecommunications to the Physical Therapist Assistant during all working hours of the Physical Therapist Assistant.

- 1.2.4 Direct supervision in relation to an Athletic Trainer treating an injury not defined as an 'athletic injury,' which must be a musculoskeletal disorder if seen for physical therapy, when the Athletic Trainer has one (1) year or more experience, means that the supervising Physical Therapist must see the patient at least once every fifth treatment day, and the Athletic Trainer must receive on-site, face to face supervision at least once every tenth treatment day. The initial evaluation counts as a "treatment day." The supervising Physical Therapist must have at least one (1) year clinical experience. The Physical Therapist must be available and accessible by telecommunications to the Athletic Trainer during all working hours of the Athletic Trainer.

- 1.2.5 Direct supervision in connection with an Athletic Trainer treating an injury not defined as an 'athletic injury,' which must be a musculoskeletal disorder if seen for physical therapy, when the Athletic Trainer has less than one (1) year of continuous experience means a Physical Therapist shall be on the premises at all times and see each patient.

- 1.2.6 Direct supervision in connection with an Athletic Trainer with a temporary license treating an 'athletic injury' is that the licensed Athletic Trainer supervisor shall be on the premises when the individual with a temporary license is practicing and all evaluations and progress notes shall be co-signed by the Athletic Trainer supervisor.

- 1.2.7 Direct supervision in relation to an Athletic Trainer with one (1) year or more experience, who is treating a non-athletic injury, means that an Athletic Trainer must receive on-site, face to face supervision at least once every fifth treatment day or once every three weeks, whichever occurs first. The Supervising Physical Therapist must have at least one (1) year experience. The Supervising Physical Therapist must be available and accessible by telecommunications to the Athletic Trainer during all working hours.

- 1.2.8 At any given time, a Physical Therapist shall not supervise more than: 2 Physical Therapist Assistants; or 2 Athletic Trainers; or 1 Physical Therapist Assistant and 1 Athletic Trainer. While a Physical Therapist may supervise up to two Physical Therapist Assistants, only one of those Physical Therapist Assistants may be off-site.

- 1.2.9 Direct supervision in connection with support personnel means a licensed Physical Therapist, Physical Therapist Assistant or Athletic Trainer shall be personally present and immediately available within the treatment area to give aid, direction, and instruction when procedures are performed.

- 1.3 Support personnel (24 Del.C. §2615) means a person(s) who performs certain routine, designated physical therapy tasks, or athletic training tasks, under the direct supervision of a licensed Physical Therapist or

Physical Therapist Assistant or Athletic Trainer. There shall be documented evidence of sufficient in-service training to assure safe performance of the duties assigned to the support personnel.

2.0 Board

2.1 Specific duties of the officers:

2.1.1 The Chairperson:

2.1.1.1 Shall call meetings of the Board at least twice a year.

2.1.1.2 Shall represent the Board in all official functions and act as Board spokesperson.

2.1.2 The Vice-Chairperson:

2.1.2.1 Shall substitute for the Chairperson during the officer's absence.

2.1.3 The Secretary:

2.1.3.1 Shall preside when the Chairperson and Vice-Chairperson are absent.

3.0 Responsibility of Physical Therapist

The Physical Therapist is responsible for the actions of the Physical Therapist Assistant or the Athletic Trainer when under his/her supervision. All supervision must be documented.

4.0 Physical Therapist Assistants (24 Del.C. §2602(7))

The Physical Therapist Assistant may treat patients only under the direction of a Physical Therapist as defined in Rules 1.2.2 and 1.2.3. The Physical Therapist Assistant may perform physical therapy procedures and related tasks that have been selected and delegated by the supervising Physical Therapist. The Physical Therapist Assistant may administer treatment with therapeutic exercise, massage, mechanical devices, and therapeutic agents that use the properties of air, water, electricity, sound or light. The Physical Therapist Assistant may make minor modifications to treatment plans within the predetermined plan of care, assist the Physical Therapist with evaluations, and document treatment progress. The ability of the Physical Therapist Assistant to perform the selected and delegated tasks shall be assessed by the supervising Physical Therapist. The Physical Therapist Assistant shall not perform interpretation of referrals, physical therapy evaluation and reevaluation, major modification of the treatment plan, final discharge of the patient, or therapeutic techniques beyond the skill and knowledge of the Physical Therapist Assistant without proper supervision.

5.0 Athletic Trainers (24 Del.C. §§2602(2) and (3))

5.1 Athletic injuries:

5.1.1 Athletic trainers may treat athletic injuries. Athletic injuries shall be considered musculoskeletal injuries to athletes that occur while currently participating in, or currently training for, scholastic, professional, or sanctioned amateur athletics, where such injury limits the athlete's ability to participate or train for their sport. Athletic Trainers may also treat musculoskeletal injuries received by athletes that occur while currently participating in recreational activities, where such recreational activities are recognized by the Amateur Athletic Union. All Athletic injuries must be documented by the Athletic Trainer as interfering with participation in or training for such athletic activities. Nothing prohibits the Athletic Trainer from treating minor sprains, strains, and contusions to athletes currently participating in professional, scholastic, recreational, or sanctioned amateur athletic activities.

5.2 Non-athletic injuries:

5.2.1 Athletic Trainers may treat musculoskeletal injuries as part of a physical therapy plan of care only under the direction and supervision of a Physical Therapist as defined in Rules 1.2.5 and 1.2.7. The Athletic Trainer may perform physical therapy and athletic training procedures and related tasks that have been selected and delegated by the supervising Physical Therapist. The Athletic Trainer may administer treatment with therapeutic exercises and modalities such as heat, cold, light air water, sound, electricity, massage and non-thrust mobilization. The Athletic Trainer may document treatment progress. The ability of the Athletic Trainer to perform selected and delegated tasks shall be assessed by the supervising Physical Therapist. The Athletic Trainer shall not perform interpretation of referrals, physical therapy evaluation and reevaluation, modification of the treatment plan, final discharge of the patient, or therapeutic techniques beyond the skill and knowledge of the athletic trainer without proper supervision. The supervising Physical Therapist must be contacted for approval to make any modification of the treatment plan within the physical therapy plan of care.

5.3 Exceptions:

- 5.3.1 Nothing in this regulation shall limit an Athletic Trainer's ability to provide preventative care procedures of conditioning, taping, protective bandaging, padding and icing. Nothing in this regulation shall limit an Athletic Trainer's ability to provide emergency treatment to injuries, or to provide immediate care to athletes who are currently participating in scholastic, professional, or sanctioned amateur athletics, within the scope of their training, so long as the immediate care does not last longer than 5 days without a consultation with a physician.

8 DE Reg. 1591 (5/1/05)

6.0 Support Personnel (24 Del.C. §2615)

- 6.1 Treatments which may be performed by support personnel under direct supervision are:
- 6.1.1 ambulation
 - 6.1.2 functional activities
 - 6.1.3 transfers
 - 6.1.4 routine follow-up of specific exercises
 - 6.1.5 hot or cold packs
 - 6.1.6 whirlpool/Hubbard tank
 - 6.1.7 contrast bath
 - 6.1.8 infrared
 - 6.1.9 paraffin bath
 - 6.1.10 ultra sound
- 6.2 Exceptions - A support person may perform:
- 6.2.1 patient related activities that do not involve treatment, including transporting patients, undressing and dressing patients, and applying assistive and supportive devices without direct supervision, and
 - 6.2.2 set up and preparation of patients requiring treatment using modalities.
- 6.3 Prohibited Activities - support personnel may not perform:
- 6.3.1 evaluation, or
 - 6.3.2 treatments other than those listed in Rule 6.1.

7.0 Licensure Procedures: Renewal of Licenses (24 Del.C. §2606)

- 7.1 Applications, the Rules and Regulations, and the Practice Act (24 Del. C. Chapter 26) are available on the Division of Professional Regulation's website.
- 7.2 Applicants for Physical Therapist or Physical Therapist Assistant licensure shall not be admitted to the examination without the submission of the following documents:
- 7.2.1 Professional Qualifications - proof of graduation (official transcript) from an educational program for the Physical Therapist or Physical Therapist Assistant which is accredited by the appropriate accrediting agency as set forth in the Practice Act.
 - 7.2.2 A fee in check or money order payable to the State of Delaware.
 - 7.2.3 A completed application form.
- 7.3 The Board may use the Physical Therapist and Physical Therapist Assistant examination endorsed by the Federation of State Boards of Physical Therapy.
- 7.4 All applicants for licensure as a Physical Therapist or Physical Therapist Assistant must successfully pass the examination described in Rule 7.3 in order to become eligible for licensure. The Board will adopt the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.
- 7.5 Applicants for licensure as an Athletic Trainer must submit to the Board the following:
- 7.5.1 Professional Qualifications - proof of graduation (official transcript) from an educational program described in 24 Del.C. §2606(a)(1), whether an accredited program or National Athletic Trainers Association Board of Certification (NATABOC) internship.
 - 7.5.2 Official letter of Athletic Trainer certification from NATABOC.
 - 7.5.3 A check or money order made payable to the State of Delaware.
 - 7.5.4 The completed application form.
- 7.6 Licenses shall expire biennially on every odd numbered year. License renewal shall be accomplished online at www.dpr.delaware.gov and shall include:
- 7.6.2 the applicable fee, and
 - 7.6.3 attestation of completion of continuing education courses required by Rule 13.0.

8.0 Admission to Practice. Licensure by Reciprocity (24 Del.C. §2610)

Definition - The granting of a license to an applicant who meets all the requirements set forth in this Rule and 24 Del.C. §2610.

- 8.1 The reciprocity applicant shall submit the documentation listed in Rules 7.2 or 7.5.
- 8.2 An applicant shall be deemed to have satisfied this Rule upon evidence satisfactory to the Board that he/she has complied with the standards set forth below:
 - 8.2.1 The Physical Therapist or Physical Therapist Assistant applicant has passed the examination in the state, territory, or the District of Columbia in which he/she was originally licensed/registered. The passing score shall be 1.5 standard deviation below the national norm for those Physical Therapists and Physical Therapist Assistants having taken the examination prior to 1990.
 - 8.2.2 All Physical Therapist/Physical Therapy Assistant reciprocity applicants shall supply his/her examination scores to the Board. The applicant may obtain his/her scores from the regulatory body of the state, territory, or the District of Columbia in which he/she was originally licensed/registered or from the FSBPT Score Transfer Service. From Physical Therapist applicants who were licensed/registered by a state, territory, or the District of Columbia only prior to 1963, the Board shall accept the following:
 - 8.2.2.1 Professional Examination Service-American Physical Therapy Association (PES-APTA) examination scores with a passing grade of 1.5 standard deviation below the national norm on all sections, or
 - 8.2.2.2 other examining mechanisms which in the judgment of the Board were substantially equal to the mechanisms of the State of Delaware at the time of examination.
 - 8.2.3 For the Athletic Trainer candidate, the passing score shall be that which was established at time of examination. All sections of the examination shall be passed. The reciprocity applicant shall have their National Athletic Trainer Association Board of Certification (NATABOC) [verification of certification] forwarded directly to the Board office.

9.0 Foreign Trained Applicant for Licensure (24 Del.C. §2606(b))

- 9.1 Applicants for licensure who are graduates of a Physical Therapist, Physical Therapist Assistant school or Athletic Trainer program located in a foreign country shall complete all of the following requirements before being admitted to the examination:
 - 9.1.1 The applicant shall submit proof satisfactory to the Board of graduation from an education program appropriate to their profession in a foreign country. Each foreign applicant must demonstrate that they have met the minimum education requirements as presented by the Federation of State Boards in the Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States. The applicant shall arrange and pay for a credential evaluation of such foreign school's program to be completed by an agency approved by the Board.
 - 9.1.2 The applicant shall complete the requirements of Rules 7.2 or 7.5.
 - 9.1.3 The applicant shall pass the examination described in Rules 7.3 and 7.4.

10.0 Temporary Licensure (24 Del.C. §2611)

- 10.1 The Board may issue a temporary license to all applicants who have submitted to the Board the documents listed in Rule 7.2 and Rule 7.5, respectively, and who have been determined to be eligible to take the examination. The Board shall accept a letter signed by the Physical Therapist or Physical Therapist Assistant applicant's school official stating that the applicant has completed all requirements for graduation; provided, however, that the applicant shall submit to the Board an official transcript as soon as it becomes available. The Board will determine the Physical Therapist or Physical Therapist Assistant applicant's eligibility to take the examination. In the case of Athletic Trainer applicants for temporary license, a letter from NATA stating the applicant's eligibility to take the NATA examination will be required. Physical Therapist and Physical Therapist Assistant applicants may practice only under the direct supervision of a licensed Physical Therapist. Athletic Trainer applicants may practice only under the direct supervision of a licensed Athletic Trainer or Physical Therapist as that supervision is defined in Rule 1.2.1. A temporary license shall expire upon notice to the applicant of his/her failure to pass the license examination and may not be renewed. In all other cases, a temporary license may be renewed only once.
- 10.2 Applicants requesting reciprocity as a Physical Therapist, Physical Therapist Assistant, and Athletic Trainer. The Board may issue a temporary license to an applicant upon the applicant's submission of letters of good standing from all jurisdictions in which the applicant is or has ever been licensed. The temporary licensee may practice only under the direct supervision of an applicable licensed professional.

- 10.3 Applicants engaged in a special project, teaching assignment, or medical emergency as described in 24 Del.C. §2611(b) must submit letters of good standing from all jurisdictions in which the applicant is or has ever been licensed.

11.0 Reactivation and Reinstatement (24 Del.C. §2607)

- 11.1 Any person who has been registered in the State and is not actively engaged in the practice of physical therapy or athletic training in the State may, upon request, be placed on the inactive register for the remainder of the biennial licensure period. Subsequent requests for extensions of inactive status should be submitted biennially. The Board may reactivate an inactive license if the Physical Therapist, Physical Therapist Assistant or Athletic Trainer:
- 11.1.1 Files a written request for reactivation;
- 11.1.2 has been actively engaged in the practice for the past five years. If the licensee has not met this condition, the following requirements shall be completed:
- 11.1.2.1 The Physical Therapist or Physical Therapist Assistant working in a clinical setting shall work under the direct supervision of a Physical Therapist in Delaware for a minimum of six months.
- 11.1.2.2 The Athletic Trainer shall work under the direct supervision of an Athletic Trainer in Delaware for a minimum of six months.
- 11.1.2.3 At the end of the period, the supervising Physical Therapist/Athletic Trainer shall certify to the applicant's clinical competence on forms supplied by the Board;
- 11.1.3 Submits proof of completion of 1.5 CEU's during the previous 12 months.
- 11.2 Provided reinstatement is requested within 5 years of the expiration date, the Board may reinstate the license of a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who allowed their license to lapse without requesting placement on the inactive register if the Physical Therapist, Physical Therapist Assistant, or Athletic Trainer:
- 11.2.1 completes a form supplied by the Board
- 11.2.2 provides proof of completion of 3.0 CEU's during the previous 24 months
- 11.3 If the license has been expired over five years, the Physical Therapist/Physical Therapist Assistant/Athletic Trainer must file a new application and provide proof of completion of 3.0 CEU's.

12.0 Unprofessional Conduct (24 Del.C. §2616(7))

- Unprofessional conduct shall include departure from or the failure to conform to the minimal standards of acceptable and prevailing physical therapy practice or athletic training practice, in which actual injury to a patient need not be established. 24 Del.C. §2616(7). Such unprofessional conduct shall include, but not be limited to, the following:
- Assuming duties within the practice of physical therapy or athletic training without adequate preparation or supervision or when competency has not been established or maintained.
 - The Physical Therapist or Athletic Trainer who knowingly allows a Physical Therapist Assistant or Athletic Trainer to perform prohibited activities is guilty of unprofessional conduct.
 - The Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who knowingly performs prohibited activities is guilty of unprofessional conduct.
 - The Physical Therapist, Athletic Trainer, or Physical Therapist Assistant who knowingly allows support personnel to perform prohibited activities is guilty of unprofessional conduct.
 - Performing new physical therapy or athletic training techniques or procedures without proper education and practice or without proper supervision.
 - Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.
 - Inaccurately recording, falsifying, or altering a patient or facility record.
 - Committing any act of verbal, physical, mental or sexual abuse of patients.
 - Assigning untrained persons to perform functions which are detrimental to patient safety, for which they are not adequately trained or supervised, or which are not authorized under these Rules and Regulations.
 - Failing to supervise individuals to whom physical therapy or athletic training tasks have been delegated.
 - Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, color, creed and status.
 - Violating the confidentiality of information concerning the patient.
 - Failing to take appropriate action in safeguarding the patient from incompetent health care practice.

- Practicing physical therapy as a Physical Therapist or Physical Therapist Assistant or athletic training as an Athletic Trainer when unfit to perform procedures or unable to make decisions because of physical, psychological, or mental impairment.
- Practicing as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer when physical or mental ability to practice is impaired by alcohol or drugs.
- Diverting drugs, supplies or property of a patient or a facility.
- Allowing another person to use his/her license.
- Resorting to fraud, misrepresentation, or deceit in taking the licensing examination or obtaining a license as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer.
- Impersonating any applicant or acting as proxy for the applicant in a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer licensing examination.
- A Physical Therapist, who initiated a physical therapy plan of care without a referral, continuing to treat a patient for longer than thirty days without a licensed health practitioner consult. An Athletic Trainer continuing to treat a patient, who initiated treatment for a minor strain, sprain, or contusion for longer than thirty days without a licensed health practitioner consult; preventative taping, padding, bandaging, icing and conditioning excluded.
- Substantially modifying a treatment prescription without consulting the referring licensed health practitioner.
- Failing to comply with the mandatory continuing education requirements of 24 Del.C. §2607(a) and Rule 13.0.
- Any licensee who has knowledge that another licensee has violated the Code of Professional Conduct set forth in Rule 12.0, or any other Board law, Rule or Regulation, shall present that information by complaint to the Division of Professional Regulation for investigation.

13.0 Mandatory Continuing Education Units (CEU's) (24 Del.C. §2607(a))

- 13.1** Three CEU's are required for every biennial license renewal for Physical Therapists, Physical Therapist Assistants, and Athletic Trainers. The required CEU's shall be completed no later than January 31 of every odd-numbered year and every 2 years after such date. Effective as of the license renewal period beginning February 1, 2013, the required hours shall include 0.2 units of Ethics and completion of a CPR course, which will count for 0.1 unit.
- 13.1.1** One CEU will be given for every 10 hours of an approved continuing education course. (1 contact hour = .1 CEU).
- 13.1.2** CEU's shall not be carried over from one biennial period to the next.
- 13.1.3** CEU requirements shall be prorated for new licensees. If the license is granted during the six month period shown below, the following will be required for renewal:
- 13.1.3.1** If an applicant is granted a license during the first six months of a license period, between the dates of February 1 of an odd-numbered year and July 31 of that year, the new licensee must complete 2.5 CEUs.
- 13.1.3.2** If an applicant is granted a license during the second six months of a license period, between the dates of August 1 of an odd-numbered year and January 31 of an even-numbered year, the licensee must complete 2.0 CEUs.
- 13.1.3.3** If an applicant is granted a license during the third period of six months during a license period, between the dates of February 1 of an even-numbered year and July 31 of an even-numbered year, the licensee must complete 1.5 CEUs.
- 13.1.3.4** If an applicant is granted a license during the last period of six months during a license period, between the dates of August 1 of an even-numbered year and January 31 of an odd-numbered year, the licensee must complete .5 CEUs.
- 13.2** Each course must include topics relevant to the field of health care as it pertains to Physical Therapy or Athletic Training. Approval of CEU's shall be within the discretion of the Board.
- 13.2.1** Continuing education units that have been previously approved during the current licensing period by another agency such as a national governing body or a fellow state licensing board shall be acceptable to the Examining Board for the State of Delaware as appropriate CEU's.
- 13.2.2** Any sponsors or licensees wishing to receive prior written approval of CEU courses from the Board must complete a CEU Application Form. Board approval shall expire 3 years after the approval date. If the course is amended at any time during the 3 years, the sponsor or licensee shall submit a new Application Form.
- 13.2.3** Hardship. An applicant for license renewal may be granted an extension of time in which to complete CEU hours or a total or partial waiver of CEU requirements upon a showing of hardship. Hardship may include, but is not limited to, disability, illness, extended absence from the country and exceptional family

responsibilities. No extension of time or waiver shall be granted unless the licensee submits a written request to the Board prior to the expiration of the license.

13.2.4 CEU's may be earned through Board approved courses in colleges and universities, extension courses, independent study courses, workshops, seminars, conferences, lectures, videotapes, professional presentations and publications, and in-services oriented toward the enhancement of their respective professional practice. CEU programs shall be conducted under responsible sponsorship, capable direction and qualified instruction. The program may include staff development activities of agencies and cross-disciplinary offerings.

13.2.5 The following are examples of acceptable continuing education which the Board may approve. The Board will determine the appropriate number of contact hours for these categories of continuing education, subject to any limitation shown below.

13.2.5.1 professional meetings including national, state, chapter, and state board meetings

13.2.5.2 seminars/workshops

13.2.5.3 staff/faculty in-services

13.2.5.4 first time presentation of professionally oriented course/lecture (0.3 CEU/hour per presentation)

13.2.5.5 approved self studies including:

videotapes, if:

there is a sponsoring agency

there is a facilitator or program official present

the program official is not the only attendee

correspondence course, if a sponsoring agency provides a certificate of completion

13.2.6 The following are also examples of acceptable continuing education in the amount of CEU's shown.

13.2.6.1 university/college courses:

1.0 CEU for each 3 credit profession-related course per semester

0.8 CEU for each 3 credit profession-related course per trimester

0.7 CEU for each 3 credit profession-related course per quarter

13.2.6.2 passing of licensing examination (1.5 CEU's)

13.2.6.3 original publication in peer reviewed publication (0.3 CEU)

13.2.6.4 original publication in non-peer reviewed publication (0.1 CEU)

13.2.6.5 holding of an office (0.3 CEU), to include:

executive officer's position for the national or state professional associations (President, Vice-President, Secretary, Treasurer)

member, Examining Board of Physical Therapists

13.2.6.6 acting as the direct clinical instructor providing supervision to a Physical Therapist, Physical Therapist Assistant or Athletic Trainer student officially enrolled in an accredited institution during an internship (40 contact hours = 0.1 CEU)

13.2.6.7 acting as the direct clinical instructor providing supervision to an Athletic Training student officially enrolled in an accredited Athletic Training Education Program (40 contact hours = 0.1 CEU).

13.3 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Rule 13.0.

13.3.1 Attestation shall be completed electronically.

13.3.2 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule 13.4.

13.4 Random audits will be performed by the Board to ensure compliance with the CEU requirements.

13.4.1 The Board will notify licensees within sixty (60) days after January 31 that they have been selected for audit.

13.4.2 Licensees selected for random audit shall be required to submit verification within twenty (20) days of receipt of notification of selection for audit.

13.4.3 Verification shall include, but is not limited to, the following information:

13.4.3.1 Proof of attendance. While course brochures may be used to verify contact hours, they are not considered to be acceptable proof for use of verification of course attendance;

13.4.3.2 Date of CEU course;

13.4.3.3 Instructor of CEU course;

13.4.3.4 Sponsor of CEU course;

13.4.3.5 Title of CEU course; and

13.4.3.6 Number of hours of CEU course.

13.4.4 The Board shall review all documentation submitted by licensees pursuant to the CE audit. If the Board determines that the licensee has met the CE requirements, his or her license shall remain in effect. If the Board determines that the licensee has not met the CE requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying the noncompliance with the CE requirements. Unjustified noncompliance with the CE requirements set forth in these Rules and Regulations shall constitute a violation of 24 Del.C. §2616(a)(7) and Rule 12.4.22 and the licensee may be subject to one or more of the disciplinary sanctions set forth in 24 Del.C. §2616.

14.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 14.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.
- 14.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.
- 14.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).
- 14.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.
- 14.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in Rule 14.8.
- 14.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
 - 14.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
 - 14.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
 - 14.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
 - 14.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs

associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

- 14.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/ her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 14.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 14.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 14.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 14.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 14.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 14.11 Any person who reports pursuant to this Rule in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 14.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's Rules and Regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

15.0 Crimes substantially related to the practice of physical therapy and athletic training:

- 15.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of physical therapy and athletic training in the State of Delaware without regard to the place of conviction:
 - 15.1.1 Offensive touching. 11 Del.C. §601.
 - 15.1.2 Aggravated menacing. 11 Del.C. §602 (b).
 - 15.1.3 Abuse of a pregnant female in the second degree. 11 Del.C. §605.
 - 15.1.4 Abuse of a pregnant female in the first degree. 11 Del.C. §606.
 - 15.1.5 Assault in the second degree. 11 Del.C. §612.
 - 15.1.6 Assault in the first degree. 11 Del.C. §613.
 - 15.1.7 Assault by abuse or neglect. 11 Del.C. §615.
 - 15.1.8 Unlawfully administering drugs. 11 Del.C. §625.
 - 15.1.9 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 Del.C. §626.
 - 15.1.10 Criminally negligent homicide. 11 Del.C. §631.
 - 15.1.11 Manslaughter. 11 Del.C. §632.
 - 15.1.12 Murder by abuse or neglect in the second degree. 11 Del.C. §633.
 - 15.1.13 Murder by abuse or neglect in the first degree. 11 Del.C. §634.
 - 15.1.14 Murder in the second degree; class A felony. 11 Del.C. §635.
 - 15.1.15 Murder in the first degree. 11 Del.C. §636.
 - 15.1.16 Promoting suicide. 11 Del.C. §645.
 - 15.1.17 Abortion. 11 Del.C. §651.

15.1.18 Issuing abortifacient articles. 11 **Del.C.** §653.

15.1.19 Incest. 11 **Del.C.** §766.

15.1.20 Unlawful sexual contact in the third degree. 11 **Del.C.** §767.

15.1.21 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.

15.1.22 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.

15.1.23 Rape in the fourth degree. 11 **Del.C.** §770.

15.1.24 Rape in the third degree. 11 **Del.C.** §771.

15.1.25 Rape in the second degree. 11 **Del.C.** §772.

15.1.26 Rape in the first degree. 11 **Del.C.** §773.

15.1.27 Sexual extortion. 11 **Del.C.** §774.

15.1.28 Bestiality. 11 **Del.C.** §775.

15.1.29 Continuous sexual abuse of a child. 11 **Del.C.** §776.

15.1.30 Dangerous crime against a child. 11 **Del.C.** §777.

15.1.31 Female genital mutilation. 11 **Del.C.** §780.

15.1.32 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.

15.1.33 Kidnapping in the second degree. 11 **Del.C.** §783.

15.1.34 Kidnapping in the first degree. 11 **Del.C.** §783A.

15.1.35 Arson in the first degree. 11 **Del.C.** §803.

15.1.36 Burglary in the third degree. 11 **Del.C.** §824.

15.1.37 Burglary in the second degree. 11 **Del.C.** §825.

15.1.38 Burglary in the first degree. 11 **Del.C.** §826.

15.1.39 Robbery in the second degree. 11 **Del.C.** §831.

15.1.40 Robbery in the first degree. 11 **Del.C.** §832.

15.1.41 Carjacking in the second degree. 11 **Del.C.** §835.

15.1.42 Carjacking in the first degree. 11 **Del.C.** §836.

15.1.43 Theft; felony. 11 **Del.C.** §841.

15.1.44 Extortion. 11 **Del.C.** §846.

15.1.45 Identity theft. 11 **Del.C.** §854.

15.1.46 Forgery. 11 **Del.C.** §861.

15.1.47 Falsifying business records. 11 **Del.C.** §871.

15.1.48 Tampering with public records in the second degree. 11 **Del.C.** §873.

15.1.49 Tampering with public records in the first degree. 11 **Del.C.** §876.

15.1.50 Offering a false instrument for filing. 11 **Del.C.** §877.

15.1.51 Issuing a false certificate. 11 **Del.C.** §878.

15.1.52 Reencoder and scanning devices. 11 **Del.C.** §903A.

15.1.53 Criminal impersonation of a police officer. 11 **Del.C.** §907B.

15.1.54 Insurance fraud. 11 **Del.C.** §913.

15.1.55 Health care fraud. 11 **Del.C.** §913A.

15.1.56 Dealing in children. 11 **Del.C.** §1100.

15.1.57 Sexual exploitation of a child. 11 **Del.C.** §1108.

15.1.58 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.

15.1.59 Possession of child pornography. 11 **Del.C.** §1111.

15.1.60 Sexual solicitation of a child. 11 **Del.C.** §1112A.

15.1.61 Bribery. 11 **Del.C.** §1201.

15.1.62 Receiving a bribe; felony. 11 **Del.C.** §1203.

15.1.63 Perjury in the second degree. 11 **Del.C.** §1222.

15.1.64 Perjury in the first degree. 11 **Del.C.** §1223.

15.1.65 Escape after conviction. 11 **Del.C.** §1253.

15.1.66 Assault in a detention facility. 11 **Del.C.** §1254.

15.1.67 Promoting prison contraband; felony. 11 **Del.C.** §1256.

15.1.68 Bribing a witness. 11 **Del.C.** §1261.

- 15.1.69 Bribe receiving by a witness. 11 **Del.C.** §1262.
- 15.1.70 Tampering with a witness. 11 **Del.C.** §1263.
- 15.1.71 Interfering with child witness; class F. 11 **Del.C.** §1263A.
- 15.1.72 Bribing a juror. 11 **Del.C.** §1264.
- 15.1.73 Bribe receiving by a juror. 11 **Del.C.** §1265.
- 15.1.74 Tampering with physical evidence. 11 **Del.C.** §1269.
- 15.1.75 Riot. 11 **Del.C.** §1302.
- 15.1.76 Hate crimes; felony. 11 **Del.C.** §1304.
- 15.1.77 Aggravated harassment. 11 **Del.C.** §1312.
- 15.1.78 Stalking; felony. 11 **Del.C.** §1312A.
- 15.1.79 Abusing a corpse. 11 **Del.C.** §1332.
- 15.1.80 Violation of privacy; felony. 11 **Del.C.** §1335.
- 15.1.81 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.
- 15.1.82 Adulteration. 11 **Del.C.** §1339.
- 15.1.83 Promoting prostitution in the second degree. 11 **Del.C.** §1352.
- 15.1.84 Promoting prostitution in the first degree. 11 **Del.C.** §1353.
- 15.1.85 Obscenity. 11 **Del.C.** §1361.
- 15.1.86 Carrying a concealed deadly weapon; Class E (if previous conviction within 5 years). 11 **Del.C.** §1442.
- 15.1.87 Possessing a destructive weapon. 11 **Del.C.** §1444.
- 15.1.88 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445.
- 15.1.89 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
- 15.1.90 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
- 15.1.91 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
- 15.1.92 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.
- 15.1.93 Organized Crime and Racketeering. 11 **Del.C.** §1504.
- 15.1.94 Victim or Witness Intimidation. 11 **Del.C.** §§3532 & 3533.
- 15.1.95 Abuse, neglect, mistreatment or financial exploitation of residents or patients; felony or under subsection (c). 16 **Del.C.** §1136(a), (b) and (c).
- 15.1.96 Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).
- 15.1.97 Prohibited acts B under the Uniform Controlled Substances Act. 16 **Del.C.** §4752(a) and (b).
- 15.1.98 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).
- 15.1.99 Prohibited acts E under the Uniform Controlled Substances Act. 16 **Del.C.** §4755.(a)(1) and (2).
- 15.1.100 Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** §4756(a)(1)-(5) and (b).
- 15.1.101 Distribution to persons under 21 years of age. 16 **Del.C.** §4761.
- 15.1.102 Purchase of drugs from minors. 16 **Del.C.** §4761A.
- 15.1.103 Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; felony. 23 **Del.C.** §2302(a) and §2305 (3) and (4).
- 15.1.104 Failure to collect or pay over tax. 30 **Del.C.** §572.
- 15.1.105 Third or more conviction for driving a vehicle while under the influence or with a prohibited alcohol or drug content; felony. 21 **Del.C.** §4177(a); 21 **Del.C.** §4177(d)(3)-(7).
- 13.1.106 Duty of driver involved in accident resulting in injury or death to any person; felony. 21 **Del.C.** §4202.
- 15.1.107 Prohibition of Intimidation under the Fair Housing Act; felony. 6 **Del.C.** §2581.
- 15.1.108 Interception of Communications Generally; Divulging Contents of Communications; felony. 11 **Del.C.** §2402.
- 15.1.109 Breaking and Entering, Etc. to Place or Remove Equipment. 11 **Del.C.** §2410.
- 15.1.110 Aggravated Act of Intimidation. 11 **Del.C.** §3533.
- 15.1.111 Attempt to Intimidate. 11 **Del.C.** §3534.
- 15.1.112 Providing false information when seeking employment in a public school. 11 **Del.C.** §8572.
- 15.1.113 Abuse, neglect, exploitation or mistreatment of infirm adult; felony. 31 **Del.C.** §3913(a), (b) and (c).

15.2 Crimes substantially related to the practice of physical therapy and athletic training shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this Rule.

8 DE Reg. 1452 (04/01/05)

15 DE Reg. 183 (08/01/11) (Prop.)