

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
2600 EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS
Statutory Authority: 24 Delaware Code, Section 2604(a)(1) (24 **Del.C.** §2604(a)(1))
24 **DE Admin. Code** 2600

PROPOSED

PUBLIC NOTICE

2600 Examining Board of Physical Therapists and Athletic Trainers

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

Revisions to Section 14.0, pertaining to telehealth, are designed to increase patient access to physical therapy and athletic training services. Subsection 14.2.4.4 has been stricken to permit all evaluations, including initial evaluations, re-evaluations and scheduled discharges, to be performed via telehealth. Subsection 14.2.4.5 has been stricken to permit supervisory visits to be performed via telehealth. Finally, amendments to subsection 1.2 provide that supervising physical therapists may conduct supervision either in person or by telehealth.

A public hearing will be held on July 28, 2020 at 4:30 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware 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 or at danielle.cross@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be **August 12, 2020** which is 15 days following the public hearing. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

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 electronically, including but not limited to text and email, 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 electronically, including but not limited to text and email, 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~~ patient, in person or by telehealth, at least once every sixth treatment day, and the Physical Therapist Assistant must receive ~~on-site~~, face to face ~~supervision~~ supervision, in person or by telehealth, at least once every twelfth treatment day. The initial evaluation counts as a "treatment day." When not providing direct supervision on the premises, the supervising Physical Therapist must have at least one (1) year clinical experience and 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~~ patient, in person or by telehealth, at least once every sixth treatment day, and the Athletic Trainer must receive ~~on-site~~, face to face ~~supervision~~ supervision, in person or by telehealth, at least once every twelfth treatment day. The initial evaluation counts as a "treatment day." When not providing direct supervision on the premises, the supervising Physical Therapist must have at least one (1) year clinical experience and 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~~ supervision, in person or by telehealth, 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.

18 DE Reg. 469 (12/01/14)

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(9))

The Physical Therapist Assistant may treat patients only under the direction of a Physical Therapist as defined in subsections 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.

20 DE Reg. 913 (05/01/17)

21 DE Reg. 812 (04/01/18)

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 subsections 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.

5.3.2 Nothing in this regulation shall limit an Athletic Trainer's ability to provide care that the general population is permitted to perform as long as the Athletic Trainer does not represent himself or herself as an Athletic Trainer during the performance of such care, and if working in a physician's office or as a physician extender, only provides assistance to the physician during regular physician office visits where the patient is provided direct on-site care by the physician and the visit is not for rehabilitation purposes.

8 DE Reg. 1591 (05/01/05)

18 DE Reg. 469 (12/01/14)
20 DE Reg. 913 (05/01/17)

6.0 Support Personnel (24 Del.C. §2606(a))

- 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 subsection 6.1.
- 6.4 Home health aides: A Physical Therapist may develop a physical therapy home health plan of care and a home health aide plan of care relating to physical therapy; however, the home health care aide or certified nurse's aide must be under the supervision of the nurse employed by the home health agency.

18 DE Reg. 469 (12/01/14)
20 DE Reg. 913 (05/01/17)
21 DE Reg. 812 (04/01/18)

7.0 Duty to Update Address; Licensure Procedures; Renewal of Licenses (24 Del.C. §2606)

- 7.1 Applications, the Rules and Regulations, and the Practice Act (24 Del.C. Ch. 26) are available on the Division of Professional Regulation's website.
- 7.2 Duty to Update Address
 - 7.2.1 Licensees must provide the Division of Professional Regulation with any change of address from that registered with the Division. Any change in address must be reported to the Division within thirty days of such change. All notifications and correspondence pertaining to a licensee's license that are sent through the mail will be sent only to the most recent address provided by the licensee. The failure to provide the Division with a current address will not operate to excuse any duty or responsibility of the licensee and confirmed delivery to the most recent address provided by the licensee will be considered proper notice.
- 7.3 Applicants for licensure as a Physical Therapist or Physical Therapist Assistant.
 - 7.3.1 Examination.
 - 7.3.1.1 The Board shall use the Physical Therapist and Physical Therapist Assistant examination endorsed by the Federation of State Boards of Physical Therapy.
 - 7.3.1.2 All applicants for licensure as a Physical Therapist or Physical Therapist Assistant must successfully pass the examination described in subsection 7.3.1.1 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.
 - 7.3.1.3 The Board may designate a third-party as its authorized designee to approve applicants to sit for the examination, including approval of requests for testing accommodations under the Americans with Disabilities Act of 1990, as amended.
 - 7.3.1.3.1 A physical therapist student or physical therapist assistant student may take the examination up to 90 days prior to graduation from a CAPTE accredited program.
 - 7.3.2 Applicants for licensure as a Physical Therapist or Physical Therapist Assistant must submit to the Board the following:

- 7.3.2.1 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.
- 7.3.2.2 Proof of current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. CPR certification must be obtained through a course with a live lab component.
- 7.3.2.3 Proof of completion of a criminal background check, pursuant to application instructions.
- 7.3.2.4 A check or money order payable to the State of Delaware.
- 7.3.2.5 A completed application form.
- 7.4 Applicants for licensure as an Athletic Trainer must submit to the Board the following:
 - 7.4.1 Professional Qualifications - proof of graduation (official transcript) from an educational program described in 24 Del.C. §2606(a)(1), whether an accredited program or Board of Certification (BOC) internship.
 - 7.4.2 Official letter of Athletic Trainer certification from BOC.
 - 7.4.3 Proof of current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. CPR certification must be obtained through a course with a live lab component.
 - 7.4.4 Proof of completion of a criminal background check, pursuant to application instructions.
 - 7.4.5 A check or money order made payable to the State of Delaware.
 - 7.4.6 The completed application form.
- 7.5 Licenses shall expire biennially on every odd numbered year. License renewal shall be accomplished online at www.dpr.delaware.gov and shall include:
 - 7.5.1 the applicable fee, and
 - 7.5.2 attestation of completion of continuing education courses required by Section 13.0.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

21 DE Reg. 812 (04/01/18)

22 DE Reg. 618 (01/01/19)

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 subsections 7.3 or 7.4.
- 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 administered by the American Physical Therapy Association or the Federation of State Boards of Physical Therapy, if such existed at the time of 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 BOC [verification of certification] forwarded directly to the Board office.
- 8.3 All reciprocity applicants shall show proof of completion of a minimum two hours ethics class related to the practice of physical therapy and/or athletic training and proof of current CPR certification by the American Red

Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. CPR certification must be obtained through a course with a live lab component.

- 8.4 All reciprocity applicants shall show proof of completion of a criminal background check, pursuant to application instructions.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

21 DE Reg. 812 (04/01/18)

22 DE Reg. 618 (01/01/19)

9.0 Applicants Trained Outside of the United States (24 Del.C. §2606(b))

- 9.1 A physical therapist or physical therapist assistant applicant whose application is based on a diploma issued by a school located outside of the United States shall complete all of the following requirements:

9.1.1 Provide documentation that the institution at which the applicant received his or her education is recognized by the Ministry of Education or equivalent agency in that country.

9.1.2 Provide an evaluation of professional education and training, prepared by a Board approved credentialing agency, and paid for by the applicant. The evaluation must provide evidence and documentation that the applicant's education is substantially equivalent to the education of a physical therapist or physical therapist assistant who graduated from a program approved for the educational preparation of physical therapists or physical therapist assistants by the appropriate accrediting agency recognized by the Board.

9.1.2.1 For initial applicants: The evaluation shall be based on the most recent Course Work Tool ("CWT") adopted by the Federation of State Boards of Physical therapy.

9.1.2.2 For reciprocity applicants: The evaluation shall be based on the retro CWT corresponding to the applicant's year of graduation. The applicant must provide proof of current licensure in another state.

9.1.2.3 If an applicant received an entry-level degree from a school accredited by the appropriate accrediting agency recognized by the Board, the school is considered equivalent to a domestic accredited school and the applicant is exempt from the requirement of evaluation of the school by a credentialing agency.

9.1.3 Pass the applicable licensing examination as set forth in subsection 7.3.1.1.

9.1.4 Complete any additional education requirements requested by the Board.

- 9.2 An athletic trainer applicant whose application is based on a diploma issued by a school located outside of the United States shall be evaluated by the Board on a case-by-case basis.

- 9.3 All applicants who were educated outside of the United States shall also submit to the Board the following:

9.3.1 The completed application.

9.3.2 A check or money order made payable to the State of Delaware.

9.3.3 Proof of completion of a criminal background check, pursuant to application instructions.

9.3.4 Proof of current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. CPR certification must be obtained through a course with a live lab component.

9.3.5 Proof of completion of a minimum two hours ethics class related to the practice of physical therapy and/or athletic training, as applicable.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

21 DE Reg. 812 (04/01/18)

22 DE Reg. 618 (01/01/19)

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 subsections 7.3 and 7.4, 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 BOC stating the applicant's eligibility to take the BOC 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 subsection 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.

20 DE Reg. 913 (05/01/17)

21 DE Reg. 812 (04/01/18)

22 DE Reg. 618 (01/01/19)

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

- 11.1 Reactivation: 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 Shows proof of completion of 1.5 CEU's during the previous 12 months.
 - 11.1.3 In addition to the 1.5 CEU's set forth in subsection 11.1.2, shows proof of completion of a minimum two hours ethics class related to the practice of physical therapy and/or athletic training.
 - 11.1.4 Shows proof of current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. CPR certification must be obtained through a course with a live lab component.
 - 11.1.5 Has been actively engaged in the practice for the past five years.
 - 11.1.6 If the licensee has not met the condition in subsection 11.1.5, in addition to the requirements in subsections 11.1.1 - 11.1.4, the following requirements shall be completed:
 - 11.1.6.1 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. Prior to commencement of this period of supervision, the supervisor shall submit the applicable form to the Board.
 - 11.1.6.2 The Athletic Trainer shall work under the direct supervision of an Athletic Trainer in Delaware for a minimum of six months. Prior to commencement of this period of supervision, the supervisor shall submit the applicable form to the Board.
 - 11.1.6.3 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;
 - 11.1.7 Subsection 11.1.6 does not apply to an individual licensed in another state.
- 11.2 Reinstatement: 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 Shows proof of completion of 1.5 CEU's during the previous 12 months.
 - 11.2.3 In addition to the 1.5 CEU's set forth in subsection 11.2.2, shows proof of completion of a minimum two hours ethics class related to the practice of physical therapy and/or athletic training.
 - 11.2.4 Shows proof of current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website.
 - 11.2.5 Shows proof of completion of Delaware and Federal Bureau of Investigation criminal background checks.

11.2.6 If the Delaware license has been expired over five years, in addition to the requirements in subsections 11.2.1, 11.2.3 - 11.2.5, the Physical Therapist/Physical Therapist Assistant/Athletic Trainer must provide proof of completion of 3.0 CEU's.

11.2.6.1 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. Prior to commencement of this period of supervision, the supervisor shall submit the applicable form to the Board.

11.2.6.2 The Athletic Trainer shall work under the direct supervision of an Athletic Trainer in Delaware for a minimum of six months. Prior to commencement of this period of supervision, the supervisor shall submit the applicable form to the Board.

11.2.6.3 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;

11.2.7 Subsection 11.2.6 does not apply to an individual licensed in another state.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

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

Unprofessional conduct shall mean the 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).

12.1 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.

12.2 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.

12.3 The Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who knowingly performs prohibited activities is guilty of unprofessional conduct.

12.4 The Physical Therapist, Athletic Trainer, or Physical Therapist Assistant who knowingly allows support personnel to perform prohibited activities is guilty of unprofessional conduct.

12.5 Performing new physical therapy or athletic training techniques or procedures without proper education and practice or without proper supervision.

12.6 Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.

12.7 Inaccurately recording, falsifying, or altering a patient or facility record.

12.8 Committing any act of verbal, physical, mental or sexual abuse of patients.

12.9 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.

12.10 Failing to supervise individuals to whom physical therapy or athletic training tasks have been delegated.

12.11 Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, color, creed and status.

12.12 Violating the confidentiality of information concerning the patient.

12.13 Failing to take appropriate action in safeguarding the patient from incompetent health care practice.

12.14 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.

12.15 Practicing as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer when physical or mental ability to practice is impaired by alcohol or drugs.

12.16 Diverting drugs, supplies or property of a patient or a facility.

12.17 Allowing another person to use his/her license.

12.18 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.

12.19 Impersonating any applicant or acting as proxy for the applicant in a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer licensing examination.

12.20 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.

- 12.21 Substantially modifying a treatment prescription without consulting the referring licensed health practitioner.
- 12.22 Failing to comply with the mandatory continuing education requirements of 24 **Del.C.** §2607(a) and Section 13.0.
- 12.23 Any licensee who has knowledge that another licensee has violated the Code of Professional Conduct set forth in Section 12.0, or any other Board law, Rule or Regulation, shall present that information by complaint to the Division of Professional Regulation for investigation.
- 12.24 Involvement in a contract involving less than fair market value for services, such as the contracting of athletic training services for less than fair market value, where such services include the direct or indirect kickback of referrals or other financial gain.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

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. The required hours shall include 0.2 units of Ethics and proof of current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. Proof of current CPR certification will count for 0.1 CEU.
 - 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, for example, APTA and BOC, 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. CEU applications shall be reviewed and approved or denied by a designated Board member, and the designated Board member's decision shall be ratified by the Board. 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 online courses that demonstrate time requirements and are related to physical therapy or athletic training if there is a sponsoring agency and the 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:

0.34 CEU for each 1 credit profession-related course per semester

0.27 CEU for each 1 credit profession-related course per trimester

0.24 CEU for each 1 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 Section 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 subsection 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 subsection 12.22 and the licensee may be subject to one or more of the disciplinary sanctions set forth in 24 Del.C. §2616.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

14.0 Telehealth (29 Del.C. §2602(13))

14.1 Telehealth is the use of electronic communications to provide and deliver a host of health-related information and health-care services, including physical therapy and athletic training-related information and services, over large and small distances. Telehealth encompasses a variety of health care and health promotion activities, including education, advice, reminders, interventions, and monitoring of interventions.

14.2 The Physical Therapist, Athletic Trainer or Physical Therapist Assistant (referred to as "licensee" for the purpose of this regulation) who provides treatment through telehealth shall meet the following requirements:

14.2.1 Location of patient during treatment through telehealth

14.2.1.1 The licensee shall have an active Delaware license in good standing to practice telehealth in the state of Delaware.

14.2.1.2 During the telehealth treatment session, the patient shall be located within the borders of the State of Delaware.

14.2.2 Informed consent

14.2.2.1 Before services are provided through telehealth, the licensee shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. For the purpose of this subsection, written consent includes an electronic signature. At minimum, the informed consent shall inform the patient and document acknowledgement of the risk and limitations of:

14.2.2.1.1 The use of electronic communications in the provision of care;

14.2.2.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and

14.2.2.1.3 The potential disruption of electronic communication in the use of telehealth.

14.2.3 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

14.2.4 Competence and scope of practice

14.2.4.1 The licensee shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient.

14.2.4.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care.

14.2.4.3 The licensee shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training and experience.

~~14.2.4.4 All evaluations, including initial evaluations, and re-evaluations and scheduled discharges shall be performed face to face and not through telehealth.~~

~~14.2.4.5 Subject to the supervision requirements of subsection 1.2, every other supervisory visit may be performed via telehealth with the other alternating visit performed face to face.~~

~~14.2.4.6~~14.2.4.4 The licensee shall document in the file or record which services were provided by telehealth.

18 DE Reg. 469 (12/01/14)

18 DE Reg. 899 (05/01/15)

20 DE Reg. 913 (05/01/17)

15.0 Advanced Training Requirements

Certain techniques used in physical therapy and athletic training require advanced training to assure the licensee meets accepted standards of care.

15.1 Emergency administration of asthma and anaphylaxes medications: The licensee must be certified in first aid by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website. Proof of such certification shall be provided by the licensee to the Board or a member of the public on demand.

- 15.2 Emergency administration of glucagon: The licensee must complete the online course covering the emergency administration of glucagon provided by the American Diabetes Association, or other agency approved by the Board and posted on the Division of Professional Regulation's website. Proof of such course completion shall be provided by the licensee to the Board or a member of the public on demand.
- 15.3 Physical therapy or athletic training care provided outside the clinical setting, at an athletic venue, to athletic injuries.
- 15.3.1 Definitions
- 15.3.1.1 **"Approved supervisor"** shall mean a licensed physical therapist with Sports Physical Therapy Specialist ("SCS") certification by the American Board of Physical Therapy Specialties ("ABPTS"), a licensed athletic trainer, or a board certified sports medicine physician.
- 15.3.1.2 **"Collision sports"** shall mean sports such as football, soccer, wrestling, ice hockey, men's lacrosse or rugby.
- 15.3.1.3 **"Direct supervision"** shall mean that the approved supervisor is physically present and has the ability to intervene in all care or coverage.
- 15.3.1.4 **"Indirect supervision"** shall mean that the approved supervisor is available by telecommunication.
- 15.3.1.5 **"On-the-field care"** shall mean physical therapy or athletic training care provided outside the clinical setting, at an athletic venue, to athletic injuries.
- 15.3.2 Physical therapy or athletic training care may be provided outside the clinical setting at an athletic venue to athletic injuries only where: 1) as set forth in subsection 15.3.2.1, the licensee is either a physical therapist with SCS certification or an athletic trainer; 2) subject to the requirements of subsection 15.3.2.2, the licensee is pursuing SCS certification through a residency program; or 3) subject to the requirements of subsection 15.3.2.3, the licensee is pursuing SCS certification through supervised hours.
- 15.3.2.1 Certification. The licensee has received certification as an SCS by the ABPTS or has received certification as an Athletic Trainer by the Board of Certification for the Athletic Trainer; or
- 15.3.2.2 Residency program: The licensee is a licensed physical therapist enrolled in an approved, accredited APTA SCS residency ("SCSR"); and
- 15.3.2.2.1 Maintains CPR and first aid certification at the minimal level of Basic Life Support for Healthcare Providers by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website; and
- 15.3.2.2.2 Is directly supervised by an approved supervisor when providing on-the-field care for at least the first 100 hours, at least half of which shall be performed while covering collision sports, and until all residency competencies for on-the-field care have been satisfied. Such competencies shall include, but are not limited to:
- Administer acute emergency care
 - Make recommendations concerning return to play
 - Apply external bandages, dressings, and supports
 - Provide health status information and recommendations to coaches, parents, and physicians
 - Recommend activity limitations based on environmental conditions
 - Recommend modifications to playing environments
 - Select, fit and maintain athletic equipment; and
- 15.3.2.2.3 After the 100 hours have been completed, is indirectly supervised until the results of the next offered SCS examination are obtained; or
- 15.3.2.3 Supervised hours: The licensee is a licensed physical therapist obtaining experience hours under direct supervision by an approved supervisor at all times when on-the-field care is provided; and
- 15.3.2.3.1 Maintains CPR and first aid certification at the minimal level of Basic Life Support for Healthcare Providers by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website; and
- 15.3.2.3.2 Completes SCS certification within a four-year period, with the hours documented, including the confirmation signature of the primary supervisor.
- 15.3.3 All licensees providing care pursuant to subsection 15.3 shall provide proof of certification or documentation of training to the Board or public on demand.
- 15.4 Dry Needling

- 15.4.1 Dry needling is "an intervention that uses a thin filiform needle to penetrate the skin and stimulate underlying muscular tissue, connective tissues and myofascial trigger points for the management of neuromusculoskeletal pain and movement impairments; is based upon Western medical concepts; and requires a physical therapy examination and diagnosis." 24 **Del.C.** §2602(6). Dry needling is within the scope of practice for a Physical Therapist. 24 **Del.C.** §2602(10)(a). It is not in the scope of practice for Athletic Trainers, Physical Therapy Assistants or Physical Therapy Aides.
- 15.4.2 Requirements for Physical Therapists to perform dry needling:
- 15.4.2.1 Dry needling may be performed by a licensed Physical Therapist who meets the requirements of subsection 15.4.
 - 15.4.2.2 The Physical Therapist shall have no less than 2 years of active clinical experience in the treatment of patients as a licensed Physical Therapist and shall hold a current license in good standing.
 - 15.4.2.3 The Physical Therapist shall have current CPR certification by the American Red Cross, American Heart Association, National Safety Council or other agency approved by the Board and posted on the Division of Professional Regulation's website.
 - 15.4.2.4 Dry needling shall be performed directly by the Physical Therapist and shall not be delegated.
 - 15.4.2.5 Dry needling shall be performed in a manner that is consistent with generally accepted standards of practice, including clean needle techniques and the bloodborne pathogen standards of the Occupational Safety and Health Administration ("OSHA").
 - 15.4.2.6 Dry needling is an advanced procedure that requires specialized training. A Physical Therapist shall not perform dry needling in Delaware unless he or she has and maintains documented proof of completing a Board-approved training program on dry needling.
 - 15.4.2.6.1 The program shall be a minimum of 54 hours, which shall be completed within no more than two years;
 - 15.4.2.6.2 The Physical Therapist shall successfully complete the minimum passing criteria for the dry needling program; and
 - 15.4.2.6.3 The Physical Therapist shall only utilize the specific techniques for which he or she has demonstrated competency.
- 15.4.3 Physical Therapists who are performing dry needling at the time of enactment of this regulation, and who have completed 25 hours of dry needling education, may continue to practice dry needling, upon submission of proof of experience and education to the Board. Such Physical Therapists shall complete the required 54 hours of education within two years after enactment of this regulation.
- 15.4.4 Board approved dry needling training program: A dry needling training program shall include the following to be eligible for Board approval:
- 15.4.4.1 A dry needling training program shall require each trainee to demonstrate successful psychomotor and cognitive performance through practical and written examination.
 - 15.4.4.2 A dry needling program shall be attended in person by the Physical Therapist, shall not be attended online or through any other means of distance learning and shall not be a self-study program.
 - 15.4.4.3 The program curriculum shall include the following:
 - 15.4.4.3.1 History and current literature review of dry needling and evidence based practice;
 - 15.4.4.3.2 Pertinent anatomy and physiology;
 - 15.4.4.3.3 Choice and operation of supplies and equipment;
 - 15.4.4.3.4 Knowledge of technique including indications/contraindications and precautions for use;
 - 15.4.4.3.5 Proper technique of tissue penetration;
 - 15.4.4.3.6 Knowledge of hazards and complications;
 - 15.4.4.3.7 Safe practice guidelines and generally accepted standards of practice including clean needle techniques and OSHA's bloodborne pathogen standards;
 - 15.4.4.3.8 Post intervention care, including an adverse response or emergency;
 - 15.4.4.3.9 Documentation of successful completion of psychomotor and cognitive performance through practical and written examination; and
 - 15.4.4.3.10 Supervised training.
 - 15.4.4.3.11 The dry needling program, including the required supervised training, shall be taught by a Physical Therapist who meets the qualifications of subsection 15.4.

15.4.5 Scope of Practice

- 15.4.5.1 A Physical Therapist may not perform dry needling on a patient until completion of at least 25 hours of education in a Board approved dry needling program.
- 15.4.5.2 A Physical Therapist may not perform dry needling on high risk areas until completion of at least 54 hours of education in a Board approved dry needling program. As used in this regulation, high risk areas are the anterior cervical region, abdominal region, and the region directly over the ribs, unless the pincher technique is performed.
- 15.4.6 Examination and Informed Consent
 - 15.4.6.1 Examination: A Physical Therapist shall only perform dry needling following an examination and diagnosis for the purpose of treating specific anatomic entities selected according to physical signs.
 - 15.4.6.2 Informed consent: At the first visit, a Physical Therapist performing dry needling shall obtain written informed consent from the patient before the Physical Therapist performs dry needling on the patient. The patient shall receive a copy of the informed consent, and the Physical Therapist shall retain a copy in the patient's record. The informed consent shall include, at a minimum, the following:
 - 15.4.6.2.1 The patient's signature;
 - 15.4.6.2.2 The risks and benefits of dry needling;
 - 15.4.6.2.3 The Physical Therapist's level of education regarding supervised hours of training in dry needling; and
 - 15.4.6.2.4 A clearly and conspicuously written statement that the patient is not receiving acupuncture, including the following language: "Dry needling is a technique used in physical therapy practice to treat myofascial, muscular, and connective tissues for the management of neuromuscular pain and movement dysfunction. Dry needling technique should not be confused with an acupuncture treatment performed by a licensed acupuncturist."
- 15.4.7 Referral required: A physician referral specific for dry needling is required. If the initial referral is received orally, it must be followed up with a written referral.
- 15.4.8 Procedure notes: A Physical Therapist who performs dry needling shall maintain documentation in the patient's chart or record for each dry needling session. The note shall include the treatment received, the response to treatment and any adverse response.
- 15.4.9 Documentation of training: The Physical Therapist bears the burden of proof of sufficient education and training to ensure competence with the treatment or intervention. If requested by the Board or a member of the public, the Physical Therapist practicing dry needling shall provide documentation of completion of the training required by this regulation. Failure to provide written documentation to the Board of meeting the training requirements shall be deemed prima facie evidence that the Physical Therapist is not competent and shall not be permitted to perform dry needling.

18 DE Reg. 469 (12/01/14)

18 DE Reg. 899 (05/01/15)

20 DE Reg. 913 (05/01/17)

16.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 16.1 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.
- 16.2 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.
- 16.3 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).
- 16.4 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.

- 16.5 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.
- 16.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
 - 16.6.1 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.
 - 16.6.2 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.
 - 16.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
 - 16.6.4 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.
 - 16.6.5 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.
 - 16.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 16.7 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.
- 16.8 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.
- 16.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 16.10 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.
- 16.11 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.

16.12 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.

18 DE Reg. 469 (12/01/14)

20 DE Reg. 913 (05/01/17)

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

17.1 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:

- 17.1.1 Aggravated menacing. 11 **Del.C.** §602 (b).
- 17.1.2 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 17.1.3 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
- 17.1.4 Assault in the second degree. 11 **Del.C.** §612.
- 17.1.5 Assault in the first degree. 11 **Del.C.** §613.
- 17.1.6 Assault by abuse or neglect. 11 **Del.C.** §1103B.
- 17.1.7 Unlawfully administering drugs. 11 **Del.C.** §625.
- 17.1.8 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 17.1.9 Criminally negligent homicide. 11 **Del.C.** §631.
- 17.1.10 Manslaughter. 11 **Del.C.** §632.
- 17.1.11 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 17.1.12 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 17.1.13 Murder in the second degree; class A felony. 11 **Del.C.** §635.
- 17.1.14 Murder in the first degree. 11 **Del.C.** §636.
- 17.1.15 Promoting suicide. 11 **Del.C.** §645.
- 17.1.16 Abortion. 11 **Del.C.** §651.
- 17.1.17 Incest. 11 **Del.C.** §766.
- 17.1.18 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 17.1.19 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 17.1.20 Rape in the fourth degree. 11 **Del.C.** §770.
- 17.1.21 Rape in the third degree. 11 **Del.C.** §771.
- 17.1.22 Rape in the second degree. 11 **Del.C.** §772.
- 17.1.23 Rape in the first degree. 11 **Del.C.** §773.
- 17.1.24 Sexual extortion. 11 **Del.C.** §774.
- 17.1.25 Continuous sexual abuse of a child. 11 **Del.C.** §776.
- 17.1.26 Dangerous crime against a child. 11 **Del.C.** §777.
- 17.1.27 Sex offender unlawful sexual conduct against a child. 11 **Del.C.** §777A.
- 17.1.28 Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree; penalties. 11 **Del.C.** §778.
- 17.1.29 Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree; penalties. 11 **Del.C.** §778A.
- 17.1.30 Female genital mutilation. 11 **Del.C.** §780.
- 17.1.31 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 17.1.32 Kidnapping in the second degree. 11 **Del.C.** §783.
- 17.1.33 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 17.1.34 Arson in the first degree. 11 **Del.C.** §803.
- 17.1.35 Burglary in the second degree. 11 **Del.C.** §825.
- 17.1.36 Burglary in the first degree. 11 **Del.C.** §826.
- 17.1.37 Robbery in the second degree. 11 **Del.C.** §831.
- 17.1.38 Robbery in the first degree. 11 **Del.C.** §832.
- 17.1.39 Carjacking in the second degree. 11 **Del.C.** §835.
- 17.1.40 Carjacking in the first degree. 11 **Del.C.** §836.

- 17.1.41 Theft; felony. 11 **Del.C.** §841.
- 17.1.42 Extortion. 11 **Del.C.** §846.
- 17.1.43 Identity theft. 11 **Del.C.** §854.
- 17.1.44 Forgery. 11 **Del.C.** §861.
- 17.1.45 Falsifying business records. 11 **Del.C.** §871.
- 17.1.46 Tampering with public records in the first degree. 11 **Del.C.** §876.
- 17.1.47 Issuing a false certificate. 11 **Del.C.** §878.
- 17.1.48 Reencoder and scanning devices. 11 **Del.C.** §903A.
- 17.1.49 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
- 17.1.50 Insurance fraud. 11 **Del.C.** §913.
- 17.1.51 Health care fraud. 11 **Del.C.** §913A.
- 17.1.52 Dealing in children. 11 **Del.C.** §1100A.
- 17.1.53 Child abuse in the second degree. 11 **Del.C.** §1103A.
- 17.1.54 Child abuse in the first degree. 11 **Del.C.** §1103B.
- 17.1.55 Sexual exploitation of a child. 11 **Del.C.** §1108.
- 17.1.56 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
- 17.1.57 Possession of child pornography. 11 **Del.C.** §1111.
- 17.1.58 Sexual solicitation of a child. 11 **Del.C.** §1112A.
- 17.1.59 Promoting sexual solicitation of a child. 11 **Del.C.** §1112B.
- 17.1.60 Bribery. 11 **Del.C.** §1201.
- 17.1.61 Receiving a bribe; felony. 11 **Del.C.** §1203.
- 17.1.62 Perjury in the second degree. 11 **Del.C.** §1222.
- 17.1.63 Perjury in the first degree. 11 **Del.C.** §1223.
- 17.1.64 Bribing a witness. 11 **Del.C.** §1261.
- 17.1.65 Bribe receiving by a witness. 11 **Del.C.** §1262.
- 17.1.66 Tampering with a witness. 11 **Del.C.** §1263.
- 17.1.67 Interfering with child witness; class F. 11 **Del.C.** §1263A.
- 17.1.68 Bribing a juror. 11 **Del.C.** §1264.
- 17.1.69 Bribe receiving by a juror. 11 **Del.C.** §1265.
- 17.1.70 Tampering with physical evidence. 11 **Del.C.** §1269.
- 17.1.71 Riot. 11 **Del.C.** §1302.
- 17.1.72 Hate crimes; felony. 11 **Del.C.** §1304.
- 17.1.73 Stalking; felony. 11 **Del.C.** §1312.
- 17.1.74 Violation of privacy; felony. 11 **Del.C.** §1335.
- 17.1.75 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.
- 17.1.76 Adulteration. 11 **Del.C.** §1339.
- 17.1.77 Promoting prostitution in the second degree. 11 **Del.C.** §1352.
- 17.1.78 Promoting prostitution in the first degree. 11 **Del.C.** §1353.
- 17.1.79 Carrying a concealed deadly weapon; Class E (if previous conviction within 5 years). 11 **Del.C.** §1442.
- 17.1.80 Possessing a destructive weapon. 11 **Del.C.** §1444.
- 17.1.81 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445.
- 17.1.82 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
- 17.1.83 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
- 17.1.84 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
- 17.1.85 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.
- 17.1.86 Organized Crime and Racketeering. 11 **Del.C.** §1504.
- 17.1.87 Victim or Witness Intimidation. 11 **Del.C.** §§3532 & 3533.
- 17.1.88 Abuse, neglect, mistreatment or financial exploitation of residents or patients; felony or under subsection (c). 16 **Del.C.** §1136(a), (b) and (c).
- 17.1.89 Prohibited acts A under the Uniform Controlled Substances Act. Former 16 **Del.C.** §4751(a), (b) and (c).
- 17.1.90 Prohibited acts B under the Uniform Controlled Substances Act. Former 16 **Del.C.** §4752(a) and (b).

- 17.1.91 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). Former 16 **Del.C.** §4753A (a)(1)-(9).
- 17.1.92 Prohibited acts E under the Uniform Controlled Substances Act. Former 16 **Del.C.** §4755.(a)(1) and (2).
- 17.1.93 Prohibited acts under the Uniform Controlled Substances Act. Former 16 **Del.C.** §4756(a)(1)-(5) and (b).
- 17.1.94 Distribution to persons under 21 years of age. Former 16 **Del.C.** §4761.
- 17.1.95 Purchase of drugs from minors. Former 16 **Del.C.** §4761A.
- 17.1.96 Drug dealing - aggravated possession; class B felony. 16 **Del.C.** §4752.
- 17.1.97 Drug dealing - aggravated possession; class C felony. 16 **Del.C.** §4753.
- 17.1.98 Drug dealing - aggravated possession; class D felony. 16 **Del.C.** §4754.
- 17.1.99 Aggravated possession; class E felony. 16 **Del.C.** §4755.
- 17.1.100 Aggravated possession; class F felony. 16 **Del.C.** §4756.
- 17.1.101 Miscellaneous drug crimes; class B, C and F felony. 16 **Del.C.** §4757.
- 17.1.102 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).
- 17.1.103 Failure to collect or pay over tax. 30 **Del.C.** §572.
- 17.1.104 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).
- 17.1.105 Duty of driver involved in accident resulting in injury or death to any person; felony. 21 **Del.C.** §4202.
- 17.1.106 Interception of Communications Generally; Divulging Contents of Communications; felony. 11 **Del.C.** §2402.
- 17.1.107 Breaking and Entering, Etc. to Place or Remove Equipment. 11 **Del.C.** §2410.
- 17.1.108 Aggravated Act of Intimidation. 11 **Del.C.** §3533.
- 17.1.109 Background Checks for Child-Serving Entities. 31 **Del.C.** §309.
- 17.1.110 Abuse, neglect, exploitation or mistreatment of infirm adult; felony. 31 **Del.C.** §3913(a), (b) and (c).
- 17.2 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 Section.

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

5 DE Reg. 2101 (05/01/02)

6 DE Reg. 189 (08/01/02)

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

8 DE Reg. 1591 (05/01/05)

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

15 DE Reg. 1054 (01/01/12)

18 DE Reg. 469 (12/01/14)

18 DE Reg. 899 (05/01/15)

20 DE Reg. 913 (05/01/17)

21 DE Reg. 812 (04/01/18)

22 DE Reg. 618 (01/01/19)

24 DE Reg. 37 (07/01/20) (Prop.)