

PHYSICAL AND OCCUPATIONAL THERAPY
CHAPTER 200
PHYSICAL THERAPY EXAMINERS
[Prior to 11/16/88, see Health Department[470], Ch 137]

645—200.1(147) Definitions.

“*Board*” means the board of physical and occupational therapy examiners.

“*Department*” means the department of public health.

“*Hour of continuing education*” means 50 minutes of attendance per clock hour.

“*Licensee*” means any person licensed to practice physical therapy in the state of Iowa.

“*Licensure by interstate endorsement*” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state. Application will be considered on an individual basis for licensure in Iowa, if the applicant meets the qualifications required of a licensed physical therapist in Iowa.

645—200.2(147) General.

200.2(1) Licenses issued by the board shall be for licensure by examination or licensure by interstate endorsement. Each license shall be 8½ by 11 inches in size. Each license issued shall bear the signature of the chairperson of the board of physical and occupational therapy examiners.

200.2(2) The board requires the satisfactory completion of the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

200.2(3) For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

200.2(4) An examinee failing the examination shall be required to repeat the entire examination. No individual may repeat the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination more than three times every five years. Payment of the examination fee is required for all repeats of the examination.

200.2(5) A notarized copy of the official document of name change, if applicable, is required with initial application.

200.2(6) Persons desiring information concerning the time and place of meetings of the board of physical and occupational therapy examiners or other information should write to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

200.2(7) Rescinded IAB 8/27/97, effective 10/1/97.

200.2(8) Incomplete applications that have been on file in the board office for two years shall be considered invalid and be destroyed. The application fee is nonrefundable.

645—200.3(147) Licensure by examination.

200.3(1) Applications for licensure to practice physical therapy in Iowa shall be made to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The application form will be furnished by the board. The application shall include the following:

a. Full name, current address, age, date of birth, place of birth, and other information as requested on the application form.

b. Foreign-trained physical therapists shall provide:

(1) An English translation and an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 66940, Los Angeles, CA 90066, telephone (310)390-6276; International Consultants of Delaware, Inc., 109 Barksdale, Professional Center, Newark, DE 19711, telephone (302)737-8715; International Credentialing Associates, Inc., One Progress Plaza, Suite 810, St. Petersburg, FL 33701, telephone (813)821-8852. The professional curriculum must be equivalent to the Commission of Accreditation in Physical Therapy Education standards and shall consist of a minimum of 60 hours of general education and 60 hours of professional education. An applicant shall bear the expense of the curriculum evaluation.

(2) A notarized copy of the certificate or diploma awarded to the applicant from a physical therapy program in the country in which the applicant was educated.

(3) Provide certified proof of proficiency in the English language by achieving a score of at least 550 on the Test of English as a Foreign Language (TOEFL) examination administered by the Educational Testing Service, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination.

(4) An official statement from each country or territory board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed.

c. If the professional examination is taken in another state, a certified copy of the scores from the appropriate examination.

d. Required fee in the form of a check or money order made payable to the Board of Physical and Occupational Therapy Examiners.

e. Official transcript, with school seal, of physical therapy professional curriculum.

f. A notarized copy of the certificate or diploma awarded the applicant from a school of physical therapy accredited by an accrediting agency recognized by the American Physical Therapy Association Commission on Accreditation and Education. If graduated from a degree program which did not issue a diploma stating the applicant's degree was in physical therapy, a statement verifying that the degree was in physical therapy is required from the school.

200.3(2) Rescinded IAB 10/23/96, effective 10/4/96.

200.3(3) An applicant who will be working in the scope of physical therapy prior to licensure shall include on the application form the name of the licensed physical therapist who will be providing supervision of the applicant until the applicant is licensed. The applicant will notify the board, within seven days, of any change in supervision.

a. *Applicant physical therapist.* A person who has made application for licensure and is awaiting board action may practice only under the supervision of a licensed physical therapist for a period not to exceed six months in the case of licensure by examination and three months for licensure by endorsement. During this time the applicant may evaluate, plan treatment programs, and provide periodic reevaluation only under "on-site" supervision of a licensed physical therapist who shall bear full responsibility for care provided under the physical therapist's supervision and cosign all physical therapy records. A person who has failed the examination in any state, territory, or country shall not practice as an applicant physical therapist.

b. Applicant physical therapist assistant. A person who has made application for licensure and is awaiting board action may practice under the supervision of a licensed physical therapist for a period not to exceed six months in the case of licensure by examination and three months for licensure by endorsement. During this time the applicant may perform physical therapy procedures as delegated by the supervising physical therapist only under “on-site” supervision. Documentation made in physical therapy records by an applicant physical therapist assistant shall be cosigned by the supervising physical therapist. A person who has failed the examination in any state, territory, or country shall not practice as an applicant physical therapist assistant.

200.3(4) Scores of examinations taken more than five years prior to date of application by examination will be considered invalid.

645—200.4(147) Licensure by interstate endorsement.

200.4(1) An individual from another state seeking a license to practice physical therapy in Iowa will be considered on an individual basis under the principle of interstate endorsement.

200.4(2) Applications for licensure to practice physical therapy in Iowa shall be made to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

200.4(3) An applicant for licensure by interstate endorsement shall have successfully completed a course of study for the physical therapist accredited by the commission on accreditation in education of the American Physical Therapy Association, or another appropriate accrediting body, and have passed the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board of physical and occupational therapy examiners and:

- a.* Have practiced physical therapy for a minimum of 2,080 hours during the immediately preceding three-year time period as a licensed physical therapist; or
- b.* Have served as a full-time faculty member teaching physical therapy in an accredited school of physical therapy for at least one of the immediately preceding three years; or
- c.* Have graduated from an approved school of physical therapy within a period of one year from the date of graduation to the time application is completed for licensure; or
- d.* Have completed 80 hours of board-approved continuing education during the immediately preceding three-year time period.

200.4(4) Applicants shall arrange to provide:

- a.* An official statement from each country, territory, and state board of examiners regarding the status of the applicant’s license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statements from all entities in which they are currently or formerly licensed.

- b.* A certified copy of the scores from the appropriate professional examination to be sent.

- c.* Foreign-trained physical therapists shall provide:

- (1) An English translation and an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 66940, Los Angeles, CA 90066, telephone (310)390-6276; International Consultants of Delaware, Inc., 109 Barksdale, Professional Center, Newark, DE 19711, telephone (302)737-8715; International Credentialing Associates, Inc., One Progress Plaza, Suite 810, St. Petersburg, FL 33701, telephone (813)821-8852. The professional curriculum must be equivalent to the Commission of Accreditation in Physical Therapy Education standards and shall consist of a minimum of 60 hours of general education and 60 hours of professional education. An applicant shall bear the expense of the curriculum evaluation.

(2) A notarized copy of the certificate or diploma awarded to the applicant from a physical therapy program in the country in which the applicant was educated.

(3) Provide certified proof of proficiency in the English language by achieving a score of at least 550 on the Test of English as a Foreign Language (TOEFL) examination administered by the Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination.

200.4(5) An applicant for licensure under subrule 200.4(3), paragraphs “a” and “b,” must include with this application a sworn statement of previous physical therapy practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced physical therapy at least 2,080 hours or taught as a full-time faculty member for at least one of the immediately preceding years during the last three-year time period.

200.4(6) An applicant shall submit the required fee in the form of a check or money order made payable to the Board of Physical and Occupational Therapy Examiners.

200.4(7) Rescinded IAB 10/23/96, effective 10/4/96.

200.4(8) An applicant, who will be working in the scope of physical therapy prior to licensure, shall include on the application form the name of the licensed physical therapist who will be providing supervision of the applicant until the applicant is licensed. In the event that there is a change of the licensed physical therapist providing supervision, the applicant shall submit the name of the therapist to the board in writing within seven days after the change in supervision takes place.

200.4(9) Applicants not meeting all requirements in this rule are required to meet all the requirements as set out in 200.3(147), including taking or retaking the appropriate physical therapy professional examination.

645—200.5(147) License renewal.

200.5(1) Beginning July 1, 1999, a license to practice as a physical therapist shall expire every two years on the fifteenth day of the birth month. Continuing education requirements shall be completed within the same renewal period for each license holder.

An application and a continuing education report form for renewal of license to practice as a physical therapist shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

200.5(2) Beginning July 1, 1999, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office 30 days before licensure expiration the application and continuing education report form with the renewal fee as specified in rule 200.9(147). Individuals who were issued their initial license within six months of their birth month will not be required to renew their license until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued. Individuals will be required to report 40 hours of continuing education for the first renewal and every renewal thereafter.

200.5(3) Late renewal. If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 200.9(147). Individuals who fail to submit the renewal application and complete documentation of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

200.5(4) Physical therapists who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of physical therapy.

645—200.6(147) Exemptions for inactive practitioners. A licensee who is not engaged in the active practice of physical therapy in the state of Iowa residing within or without the state of Iowa may be granted a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of physical therapy in Iowa without first complying with all regulations governing reinstatement after exemption (200.7(147)). The application for a certificate of exemption shall be submitted upon the form provided by the board.

Individuals who fail to request reinstatement after a three-year period from the date the certificate of exemption was granted shall be considered to have a lapsed license.

645—200.7(147) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certification of exemption shall, prior to engaging in the practice of physical therapy in the state of Iowa, satisfy the following requirements for reinstatement:

200.7(1) Submit written application for reinstatement to the board upon forms provided by the board, pay the current renewal fee and reinstatement fee; and

200.7(2) Furnish in the application evidence of one of the following:

a. Completion of a total number of hours of accredited continuing education computed by multiplying 40 for each renewal period the license has been inactive; or

b. Successful completion of the appropriate physical therapy professional examination (200.2(2)) within one year immediately prior to the submission of such application for reinstatement.

200.7(3) Rescinded IAB 10/23/96, effective 10/4/96.

645—200.8(147) Reinstatement of lapsed license. Individuals who have allowed their licenses to lapse, prior to practicing as a physical therapist in the state of Iowa, shall satisfy the following requirements for reinstatement:

200.8(1) Submit written application for reinstatement to the board on forms provided by the board, pay current application fee, the reinstatement fee and applicable penalty fees; and

200.8(2) Furnish in the application evidence of one of the following:

a. Completion of a total number of hours of accredited continuing education computed by multiplying 40 for each renewal period the license has been inactive; or

b. Successful completion of the appropriate physical therapy professional examination required in subrule 200.2(2) within one year immediately prior to the submission of the application for reinstatement.

645—200.9(147) License fees. All fees are nonrefundable.

200.9(1) The application fee for a license to practice physical therapy issued upon the basis of examination or endorsement is \$100 in check or money order made payable to the Board of Physical and Occupational Therapy Examiners. The examination fee is an additional \$185 made payable by cashier's check to the Professional Examination Service (PES) and submitted to the Board of Physical and Occupational Therapy Examiners with application.

200.9(2) The renewal fee of a license to practice physical therapy for a biennial period is \$55. Biennial renewal fee for a license to practice physical therapy for the 1999 renewal cycle only is as follows:

<u>Birth Month</u>	<u>Prorated Fee</u>
July 1999	\$55
August 1999	\$57
September 1999	\$60
October 1999	\$62
November 1999	\$64
December 1999	\$66
January 2000	\$69
February 2000	\$71
March 2000	\$73
April 2000	\$76
May 2000	\$78
June 2000	\$80

200.9(3) Penalty fee for failure to complete and return the physical therapy renewal application before the renewal expiration date is \$55.

200.9(4) Penalty fee for failure to complete the required continuing education during the renewal period is \$50. Failure to complete and return the continuing education report by the end of the renewal period is \$50.

200.9(5) Reinstatement fee following inactive exemption and lapsed license is \$100.

200.9(6) Fee for certified statement that a licensee is licensed in Iowa is \$10.

200.9(7) Fee for failure to report, in writing, change of address after 30 days is \$10.

200.9(8) Fee for failure to report, in writing, change of name within 30 days is \$10.

200.9(9) Fee for a duplicate or replacement license is \$10.

200.9(10) Fee for a returned check is \$15.

645—200.10(272C) Continuing education requirements.

200.10(1) It is the responsibility of each licensee to arrange for financing of costs of continuing education.

200.10(2) Each person licensed to practice physical therapy in this state shall complete during each continuing education compliance period a minimum of 40 hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal for each subsequent license renewal period.

200.10(3) The continuing education compliance period shall be each biennium beginning the fifteenth day of the birth month and ending two years later on the fifteenth day of the birth month. For the 1999 renewal cycle only, 50 hours of continuing education will be due by July 1, 1999. Continuing education hours will return to 40 hours each biennium at the end of this prorated compliance period.

200.10(4) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which meets the requirement herein.

200.10(5) Carryover credit of continuing education hours into the next continuing education period will not be permitted.

200.10(6) When an initial license is issued via examination, the new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued.

200.10(7) Reinstated licensees and licensees through interstate endorsement shall obtain 40 hours of continuing education credit for renewal of license if license is obtained in the first year of the continuing education biennium and 20 hours if license is obtained in the second year of the continuing education biennium. Reinstated licensees and licensees through interstate endorsement may use continuing education earned prior to licensure in Iowa, but within the same continuing education biennium in which they obtained Iowa licensure, to fulfill this requirement.

645—200.11(272C) Standards for approval.

200.11(1) Continuing education is that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit.

a. It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

b. It pertains to common subjects or other subject matters which integrally relate to the practice of physical therapy; and

c. It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule.

- d. It fulfills stated program goals or objectives, or both.
- e. It provides proof of attendance to include the following:
 - (1) Date, place, course title, presenter(s).
 - (2) Number of program contact hours.
 - (3) Official signature of program sponsor.

200.11(2) Continuing education credit may be granted for the following:

a. A maximum of 20 hours of credit will be given for presenting professional programs which meet the criteria as listed in 200.11(1). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

b. Official transcripts indicating successful completion of academic courses which apply to the field of physical therapy will be necessary in order to receive the following continuing education credits:

One semester credit = 10 continuing education hours of credit;

One trimester credit = 8 continuing education hours of credit;

One quarter credit = 7 continuing education hours of credit.

c. Participation in research or other activities of which the results are published in a recognized professional publication. (Maximum of 20 hours per continuing education biennium.)

d. A maximum of 20 hours of viewing videotaped presentations will be allowed per biennium if the following criteria are met:

- (1) There is a sponsoring group or agency.
- (2) There is a facilitator or program official present.
- (3) The program official may not be the only attendee.
- (4) The program meets all the criteria of 200.11(1).

e. Home study courses that have a certificate of completion will be considered for a maximum of 20 hours per biennium.

200.11(3) The subject areas listed below will be considered for a maximum of 20 hours of continuing education per biennium:

Business-related topics: marketing, time management, government regulations, and other like topics.

Personal skills topics: career burnout, communications skills, human relations, and other like topics.

General health topics: clinical research, CPR, child abuse reporting, and other like topics.

645—200.12(272C) Reporting continuing education credits.

200.12(1) A report of continuing education activities shall be submitted on a board-approved form with the application for renewal by the end of the biennial license renewal period. All continuing education activities submitted must be completed in the continuing education compliance period for which the license was issued as specified in 200.10(3) or a late fee will be assessed as outlined in 200.9(4).

200.12(2) Failure to receive renewal application shall not relieve the physical therapist of the responsibility of meeting continuing education requirements and submitting renewal fee by the end of the compliance period.

200.12(3) Audit of continuing education reports.

a. After each educational biennium the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- b. All renewal license applications that are submitted late (after the end of the compliance period) shall be subject to audit of continuing education reports.
- c. Any physical therapist against whom a complaint is filed may be subject to an audit of continuing education.
- d. The licensee must make the following information available to the board for auditing purposes:
 - (1) Date, place, course title, schedule, presenter(s).
 - (2) Number of contact hours for program attended.
 - (3) Official signature of sponsor indicating successful completion of course.
- e. For auditing purposes the physical therapist must retain the above information for four years.

645—200.13 Reserved.

645—200.14(272C) Hearings. In the event of denial, in whole or part, of credit for continuing education activity, the licensee shall have the right, within 20 days after the sending of the notification of denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board. If the hearing is conducted by an administrative law judge, the law judge shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the law judge. The decision of the board or decision of the administrative law judge after adoption by the board shall be final.

645—200.15(272C) Disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill them or make the required reports. No waiver or extension of time shall be granted unless written application shall be made on forms provided by the board and signed by the licensee and an appropriately licensed health care professional and the waiver is acceptable to the board. Waivers of the minimum continuing education requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived.

645—200.16(272C) Complaint. A complaint of a licensee's professional misconduct shall be made in writing by any person to the Board of Physical and Occupational Therapy Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall include complainant's address and telephone number, shall be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter. A complaint may also be initiated upon the board's own motion.

645—200.17(272C) Report of malpractice claims or actions or disciplinary actions. Each licensee shall submit a copy of any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state to the board within 30 days after such occurrences.

645—200.18(272C) Investigation of complaints or malpractice claims.

200.18(1) *Investigation.* The chair of the board of physical and occupational therapy examiners may assign an investigation of a complaint or malpractice claim to a member of the board who will be known as the investigating board member or may request the state department of inspections and appeals to investigate the complaint or malpractice claim. The investigating board member or employee of the department of inspections and appeals may request information from any peer review committee which may be established to assist the board. The investigating board member or employee of the department of inspections and appeals may consult with an officer or assistant attorney general concerning the investigation or evidence produced from the investigation. The investigating board member, if the board member investigates the complaint, or an assistant attorney general if the department investigates the complaint, shall make a written determination whether there is probable cause for a disciplinary hearing. The investigating board member shall not take part in the decision of the board, but may appear as a witness.

200.18(2) *Informal discussion.* In the course of conducting or directing an investigation, the board may request the licensee to attend a voluntary informal discussion before the board or board committee. The licensee is not required to attend or participate in the informal discussion. An informal discussion constitutes a part of the board's investigation of a pending disciplinary case, and the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing. A board member who participates in an informal discussion is not disqualified from participating in the contested case hearing.

645—200.19(272C) Informal settlement and license denial.

200.19(1) Rescinded IAB 2/11/98, effective 3/18/98.

200.19(2) *Informal settlement—parties.*

a. A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by the prosecuting attorney, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board.

b. The full board shall not be involved in negotiation until presentation of a final, written, signed informal settlement to the full board for approval.

200.19(3) *Informal settlement—waiver of notice and opportunity to be heard.* Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board's designee.

200.19(4) *Informal settlement—board approval.* All informal settlements are subject to approval of a majority of the full board. No informal settlement shall be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

200.19(5) *Informal settlement—disqualification of designee.* A board member who is designated to act in negotiation of an informal settlement is not disqualified from participating in the adjudication of the contested case.

200.19(6) *License denial.*

a. An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined herein shall specifically delineate the facts to be contested and determined at hearing.

b. If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this subrule, the hearing and subsequent procedures shall be held pursuant to the process outlined at rule 200.20(272C).

200.19(7) to 200.19(12) Rescinded IAB 2/11/98, effective 3/18/98.

645—200.20(272C) Disciplinary procedure.

200.20(1) *Notice of hearing.* If there is a finding of probable cause for a disciplinary hearing, the department of public health shall prepare the notice of hearing and transmit the notice of hearing to the respondent by certified mail, return receipt requested, at least 10 days before the date of the hearing. If licensees have absented or removed themselves from the state, the notice of hearing and statement of charges shall be so served at least 30 days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee are unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules.

200.20(2) *Statement of charges.* The statement of charges shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged. The statement of charges shall specify the statute(s) and rule(s) which are alleged to have been violated.

200.20(3) *Legal representation.* Every statement of charges and notice of hearing shall be reviewed by the office of the attorney general, which shall be responsible for the legal representation of the public interest in all contested case proceedings before the board.

200.20(4) *Continuances.* A party has no automatic right to a continuance or delay of the disciplinary hearing. A party may request a continuance of the board no later than seven days prior to the date set for hearing. Within seven days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency circumstances. The board administrator shall have the authority to grant a continuance after consultation, if needed, with the chairperson of the board. A board member shall not be contacted in person, by mail, by telephone, or by any other means by a party seeking a continuance.

200.20(5) *Prehearing conference.* The presiding officer or hearing officer either on the officer's own motion or at the request of either party may hold a prehearing conference which shall be scheduled not less than two days prior to the hearing. Notice by ordinary mail shall be given to each party of the date, time, and place of the prehearing conference.

200.20(6) *Failure by respondent to appear.* If a respondent, upon whom proper notice of hearing has been served, fails to appear at the hearing, the board may proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

200.20(7) *Hearing procedure.* The board adopts the rules of the department of public health found in 641—Chapter 173, Iowa Administrative Code, as the procedure for hearing before the board. The board may authorize an administrative law judge to conduct the hearings, administer oaths, issue subpoenas, and prepare written findings of fact, conclusions of law and decision at the direction of the board. If a majority of the board does not hear the disciplinary proceeding, a recording or a transcript of the proceeding shall be made available to members of the board who did not hear the proceeding.

200.20(8) *Application for rehearing.* The filing of an application for rehearing is not necessary to exhaust administrative remedies. Within 20 days after the issuance of a final decision, any party may file an application for rehearing. The application shall state the specific grounds for rehearing and the relief sought and copies thereof shall be timely mailed to all other parties. The application shall be deemed denied if not granted within 20 days after service on the board. Upon rehearing, the board shall consider facts not presented in the original hearing only if:

- a. Such facts arose subsequent to the original proceedings; or
- b. The party offering such evidence could not reasonably have provided such evidence at the original proceedings; or
- c. The party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceedings.

200.20(9) *Appeal.* Any appeal to the district court from disciplinary action of the board or denial of license shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court.

200.20(10) *Transcript.* The party who appeals a decision of the board to the district court shall pay the cost of the preparation of a transcript of the administrative hearing for the district court.

200.20(11) *Publication of decisions.* Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate association, the news media and employer.

200.20(12) *Hearings open to the public.* A hearing of a licensing board concerning a licensee shall be open to the public unless the licensee or the licensee's attorney requests in writing that the hearing be closed to the public.

200.20(13) *Reinstatement.* Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for reinstatement of the license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

d. An order denying or granting reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law. The order shall be published as provided for in this rule.

200.20(14) *Voluntary surrender.* The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

645—200.21(272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibiting permanently, until further order of the board or for a specific period, engaging in specified procedures, methods, or acts.
4. Probation.
5. Requiring additional education or training.
6. Requiring a reexamination.
7. Ordering a physical or mental evaluation, or ordering alcohol and drug screening within a time specified by the board.
8. Imposing civil penalties not to exceed \$1000.
9. Issuing a citation and warning.
10. Imposing other sanctions allowed by law as may be appropriate.

645—200.22(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

200.22(1) The relative serious nature of the violation as it relates to assuring the citizens of this state a high standard of professional care.

200.22(2) The facts of the particular violation.

200.22(3) Any extenuating facts or other countervailing considerations.

200.22(4) The number of prior violations or complaints.

200.22(5) The seriousness of prior violations or complaints.

200.22(6) Whether remedial action has been taken.

200.22(7) Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—200.23(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 200.21(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that a licensee is guilty of any of the following acts or offenses.

200.23(1) All grounds listed in Iowa Code section 147.55.

200.23(2) Violation of the rules promulgated by the board.

200.23(3) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

200.23(4) Practicing the profession while the license is suspended or lapsed.

200.23(5) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

200.23(6) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

200.23(7) Failure to comply with the following rules of ethical conduct and practice.

- a. A physical therapist shall not practice outside the scope of the license.
 - b. When the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the physical therapist is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.
 - c. The practice of physical therapy shall minimally consist of:
 - (1) Interpreting all referrals.
 - (2) Evaluating each patient.
 - (3) Identifying and documenting individual patient's problems and goals.
 - (4) Establishing and documenting a plan of care.
 - (5) Providing appropriate treatment.
 - (6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.
 - (7) Appropriately supervising individuals as described in rule 200.24(272C).
 - (8) Providing timely patient reevaluation.
 - (9) Maintaining timely and adequate patient records of all physical therapy activity and patient response.
 - d. It is the responsibility of the physical therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The physical therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner of such orders.
 - e. Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.
 - f. It is unethical for the physical therapist to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services.
 - g. The physical therapist shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist owns stock or has any other direct or indirect financial interest.
 - h. Physical therapists shall not permit another person to use their licenses for any purpose.
 - i. A physical therapist shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.
 - j. A physical therapist shall not verbally or physically abuse a patient.
 - k. A physical therapist shall not engage in sexual misconduct. Sexual misconduct includes the following:
 - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.
 - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.
- 200.23(8)** Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 200.24(272C).

200.23(9) Unethical business practices, consisting of any of the following:

- a. False or misleading advertising.
- b. Betrayal of a professional confidence.
- c. Falsifying patient's records.

200.23(10) Failure to notify the board of a change of name or address within 30 days after it occurs.

200.23(11) Submission of a false report of continuing education, or failure to submit the required report of continuing education.

200.23(12) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

200.23(13) Failure to comply with a subpoena issued by the board.

200.23(14) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

200.23(15) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist assistant of the reasons for disciplinary action as listed in rule 645—202.20(272C).

200.23(16) Obtaining a license by fraud or misrepresentation.

200.23(17) Conviction of a felony related to the practice of physical therapy or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

200.23(18) Professional incompetency. Professional incompetency includes but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist's practice;

b. A substantial deviation by the physical therapist from the standards of learning or skill ordinarily possessed and applied by other physical therapists in the state of Iowa acting in the same or similar circumstances;

c. A failure by a physical therapist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physical therapist in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of physical therapy in the state of Iowa.

200.23(19) Inability to practice physical therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

200.23(20) Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

200.23(21) Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

200.23(22) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

200.23(23) Practicing without a current license or practicing when a license is lapsed.

645—200.24(272C) Supervision requirements.

200.24(1) Licensed physical therapist assistants may assist in providing physical therapy services under immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimal frequency standards set forth in subrule 200.24(4).

200.24(2) Licensed physical therapist assistants may assist in providing physical therapy services as long as supervision and the physical therapy services are rendered in accordance with the minimal frequency standards set forth in subrule 200.24(4).

200.24(3) When providing physical therapy services under the supervision of a physical therapist, the physical therapist assistant shall:

- a. Provide physical therapy services only under the supervision of the physical therapist.
- b. Consult the supervising physical therapist if procedures are believed not to be in the best interest of the patient or if the assistant does not possess the skills necessary to provide the procedures.
- c. Provide treatment only after evaluation and development of a treatment plan by the physical therapist.
- d. Gather data relating to the patient’s disability, but not interpret the data as it pertains to the plan of care.
- e. Refer inquiries that require interpretation of patient information to the physical therapist.
- f. Communicate any change, or lack of change, which occurs in the patient’s condition which may need the assessment of the physical therapist.

200.24(4) The physical therapist must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. The minimal frequency shall be:

<u>Patient’s Health Care Residency or Admission Status</u>	<u>Frequency of Physical Therapist Treatment</u>
Hospital, acute care	Every 4th visit or 2nd calendar day
Hospital, non-CARF	Every 4th visit or 2nd calendar day
Hospital, CARF accredited beds	Every 5th visit or 5th calendar day
Skilled nursing	Every 5th visit or 5th calendar day
Home health	Every 5th visit or 10th calendar day
Nursing facility	Every 10th visit or 10th calendar day
Iowa educational agency	Every 5th visit or 30th calendar day
Other facility/admissions status	Every 5th visit or 10th calendar day

200.24(5) A physical therapist may be responsible for supervising not more than two physical therapist assistants who are providing physical therapy per calendar day. This includes physical therapist assistants being supervised by telecommunicative supervision. However, a physical therapist assistant may be supervised by any number of physical therapists. The physical therapist is responsible for maintaining timely records which indicate the names of the physical therapist assistants for whom the physical therapist has supervisory responsibility.

200.24(6) The signature of a physical therapist assistant or physical therapist on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

200.24(7) The physical therapist assumes responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the assistive personnel.

Following are activities which must be performed by the physical therapist and cannot be delegated to any assistive personnel including a physical therapist assistant:

1. Interpretation of referrals.
2. Initial physical therapy evaluation and reevaluations.
3. Identification, determination or modification of patient problems, goals, and care plans.
4. Final discharge evaluation and establishment of the discharge plan.
5. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times.
6. Delegation and instruction of the services to be rendered by the physical therapist assistant or other assistive personnel, including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures.
7. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

200.24(8) Other assistive personnel: provision of patient care independently. Physical therapists are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

a. The supervising physical therapist has physical participation in the patient's treatment or evaluation, or both, each treatment day.

b. The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising physical therapist. On-site supervision means that the supervising physical therapist shall:

(1) Be continuously on site and present in the department or facility where the assistive personnel are performing services; and

(2) Be immediately available to assist the person being supervised in the services being performed; and

(3) Provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

c. Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising physical therapist.

d. The physical therapist provides periodic reevaluation of assistive personnel's performance in relation to the patient.

200.24(9) Other assistive personnel. Physical therapy aides and other assistive personnel may assist a physical therapist assistant in providing patient care in the absence of a physical therapist only if the physical therapist assistant maintains in-sight supervision of the physical therapy aide or other assistive personnel and the physical therapist assistant is primarily and significantly involved in that patient's care.

645—200.25(272C) Peer review committees.

200.25(1) A complaint may be assigned to a peer review committee for review, investigation, and report to the board.

200.25(2) The board shall determine which peer review committee will review a case and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board.

200.25(3) Members of the peer review committees shall not be liable for acts, omissions, or decisions made in connection with service on the peer review committee. However, such immunity from civil liability shall not apply if such act is done with malice.

200.25(4) The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

645—200.26(21) Conduct of persons attending meetings.

200.26(1) The person presiding at a meeting for the board may exclude a person from an open meeting for behavior that obstructs the meeting.

200.26(2) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member presiding at the meeting.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 148A, 148B, and 272C.

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