

PROPOSED CHANGES TO ADMINISTRATIVE RULES FOR NORTH DAKOTA BOARD OF PHYSICAL THERAPY

8-9-19

CHAPTER 61.5-01-02 DEFINITIONS

Section

61.5-01-02-01 Definitions

61.5-01-02-01. Definitions.

Unless specifically stated otherwise, the following definitions are applicable throughout this title:

1. "A school of physical therapy or a program of physical therapist assistant training" is a nationally accredited program approved by the board.
2. "Board" means the North Dakota board of physical therapy.
3. "Consultation by ~~means of telecommunications~~ telehealth" means that a physical therapist renders professional or expert opinion or advice to another physical therapist or professional health care provider via ~~telecommunications~~ electronic communications or computer technology from a distant location. ~~It includes the transfer of data or exchange of educational or related information by means of audio, video, or data communications. The physical therapist may use telehealth technology as a vehicle for providing only services that are legally or professionally authorized.~~ The patient's written or verbal consent will be obtained and documented prior to such consultation. All records used or resulting from a consultation by means of ~~telecommunications~~ telehealth are part of a patient's record and are subject to applicable confidentiality requirements.
4. "Continuing competence" ~~means~~ is the lifelong process of maintaining and documenting competence through ongoing self-assessment, development and implementation of a personal learning plan, and subsequent reassessment.
5. "Direct supervision" means the supervising physical therapist is physically present on the premises and immediately available for direction and supervision. ~~, has~~ The physical therapist will have direct contact with the patient during each visit, and completes all components of care requiring

skilled therapy services. Telecommunications Telehealth does not meet the requirement for direct supervision.

6. "Examination" means a national examination approved by the board for the licensure of a physical therapist or a physical therapist assistant.
7. "General Supervision" means the supervising physical therapist is onsite and present where services are provided or is immediately available to the physical therapist assistant being supervised by means of electronic communications, maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all patient care services rendered by a physical therapist assistant.
- ~~7~~ 8. "Manual therapy" means the use of techniques such as mobilization or manipulation, manual lymphatic drainage, and manual traction on one or more regions of the body.
- ~~8~~ 9. "Onsite supervision" means the supervising physical therapist is onsite and present in the department or facility where services are provided, is immediately available to the ~~person~~ individual being supervised, and maintains continued involvement in appropriate aspects of each treatment session in which ~~supportive personnel~~ a student physical therapist or a student physical therapist assistant are involved in components of care.
- ~~9~~ 10. "Physical therapist" means ~~a person~~ an individual licensed under North Dakota Century Code chapter 43-26.1 or holding a North Dakota compact privilege in accordance with North Dakota Century Code chapter 43-26.2 to practice physical therapy. The term "physiotherapist" is synonymous with "physical therapist" for purposes of these rules.
- ~~10~~ 11. "Physical therapist assistant" means ~~a person~~ an individual licensed under North Dakota Century Code chapter 43-26.1 or holding a North Dakota compact privilege in accordance with North Dakota Century Code chapter 43-26.2 who assists a physical therapist in selected components of physical therapy intervention. ~~The physical therapist assistant must be a graduate of a physical therapist assistant program approved by the board.~~
- ~~11~~ 12. "Physical therapy" means the care and services by or under the direction of a physical therapist.
- ~~12~~ 13. "Physical therapy aide" means ~~a person~~ an individual trained under the direction of a physical therapist who performs designated and supervised routine tasks related to physical therapy.

13.14 "Practice of physical therapy" means:

- a. Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement and mobility, and disabilities or other health-related and movement-related conditions ~~in order~~ to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention.
- b. Alleviating impairments, functional limitations in movement and mobility, and disabilities by designing, implementing, and modifying therapeutic interventions that may include therapeutic exercise; neuromuscular education; functional training related to positioning, movement, and mobility in self-care and in-home, community, or work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective, and supportive devices and equipment related to positioning, movement, and mobility; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physiotherapy; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction.
- c. Engaging as a physical therapist in reducing the risk of injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and wellness in populations of all ages.
- d. Engaging as a physical therapist in administration, consultation, education, and research.

14.15. "Restricted license" for a physical therapist or physical therapist assistant means a license on which the board places restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client to whom the licensee may provide services.

15.16. "Student" is an individual who is currently engaged in the fulfillment of a physical therapy or physical therapist assistant educational program approved by the board.

16.17 "Supportive personnel" are ~~persons other than licensed physical therapists~~

~~who function physical therapist assistants and physical therapy aides working in a physical therapy setting and assist with physical therapy care.~~

~~17.18~~ "Telehealth" is the use of electronic communications to provide and deliver a host of health-related information and health care services, including, but not limited to physical therapy related information and services, over large and small any distance. Telehealth encompasses a variety of health care and health promotion activities, including, but not limited to, education, advice, reminders, interventions, and the monitoring of interventions.

~~18.19.~~ "Testing" means standard methods and techniques used to gather data about the patient.

History: Effective December 1, 1980; amended effective April 1, 1992; December 1, 1994; July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01, 43-26.1-04

CHAPTER 61.5-02-01 EXAMINATIONS

Section

61.5-02-01-03 Repeating Examinations

61.5-02-01-04 Eligibility to Take Examination

61.5-02-01-03. Repeating examinations

An applicant who fails an examination may repeat the examination, but must pay another examination fee to the federation of state boards of physical therapy each time the examination is repeated. ~~After the second failed attempt, an applicant must complete a remediation plan approved by the board. An applicant is limited to three examination attempts within any twelve month period.~~

History: Effective December 1, 1980; amended effective April 1, 1992; July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-03, 43-26.1-05

61.5-02-01-04. Eligibility to take examination.

An applicant must have graduated from an approved program or demonstrate good standing in the final semester of an approved program prior to

writing the examination. The earliest date the examination for licensure may be taken by the applicant is the examination nearest to and before the applicant's expected graduation date. An applicant who does not pass the examination on the first attempt may retake up to six times. There is a limit of two attempts for scores below four hundred.

History: Effective April 1, 1992; amended effective July 1, 2004; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-03, 43-26.1-05

CHAPTER 61.5-02-02 LICENSURE

61.5-02-02-01. General licensure requirements for graduates of approved curricula.

The following requirements apply to all applicants for licensure who are graduates of physical therapy or physical therapist assistant curricula approved by the board:

1. United States-educated applicants:
 - a. A completed application form.
 - b. Payment of the fees set by the board.
 - c. An official transcript or electronic confirmation giving evidence of graduation from a curricula approved by the board.
 - d. Passing scores on the national examination approved by the board.
 - e. Completion of the juris prudence examination.
 - f. Completion of other educational requirements as set by the board.
 - g. At the board's discretion, an interview with the board or its designees.
 - h. Completion of a criminal background check.

2. Foreign-educated applicants:
 - a. A completed application form.
 - b. Payment of the appropriate fees set by the board.
 - c. Verification of documents by an agency recognized by the board.

- d. Satisfactory evidence that the applicant's education is substantially equivalent to the requirements of physical therapists or physical therapist assistants educated in a physical ~~therapy~~ therapist or physical therapist assistant education programs approved by the board. Substantially equivalent means an applicant for licensure educated outside of the United States shall have:
- (1) Graduated from a physical therapist or physical therapist assistant education program that prepares the applicant to engage without restrictions in the practice of physical therapy.
 - (2) Proof that the applicant's school of physical ~~therapy~~ therapist or physical therapist assistant education is recognized by its own ministry of education.
 - (3) Pass the board-approved English proficiency examination if the applicant's native language is not English.
 - (4) For initial licensure, satisfactory completion of the federation of state boards of physical therapy coursework tools in effect in 2015 ~~2017~~ ~~and for~~
 - (5) For licensure by endorsement, satisfactory completion of the federation of state boards of physical therapy ~~2015~~ 2017 coursework tools, or a prior version in effect at the time of graduation from the physical ~~therapy~~ therapist or physical therapist assistant education program.
- e. Passing scores on the national examination approved by the board.
- f. Completion of juris prudence examination.

- g. At the board's discretion, an interview with the board or its designees.
- h. At the board's discretion, successful completion of a supervised clinical practice, including one thousand hours of a preceptorship under the onsite supervision of a physical therapist licensed and actively practicing in North Dakota.
- i. Completion of a criminal background check.

History: Effective December 1, 1980; amended effective July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-03, 43-26.1-04

61.5-02-02-02. Types of licensure.

- 1. For licensure by examination, all general licensure requirements must be met.
- 2. For licensure by endorsement from another United States jurisdiction:
 - a. All general licensure requirements must be met.
 - b. Verification of licensure ~~in good standing~~ from all jurisdictions in which the applicant ~~has been~~ is currently licensed.
 - c. Copy of scores on the examination transmitted by a score transfer service approved by the board.
 - d. At the board's discretion, an interview with the board or its designees.
 - e. If the applicant has not practiced physical therapy for three or more years, the applicant shall demonstrate to the board's satisfaction competence to practice physical therapy by one or more of the following as determined by the board:
 - (1) Practice for a specified time under a restricted license.
 - (2) Complete prescribed remedial courses.

- (3) Complete continuing ~~education~~ competence or similar requirements for the period of the expired license.
 - (4) Pass an examination approved by the board.
 - f. ~~If the applicant is foreign trained, satisfactory completion of the 2015 federation of state boards of physical therapy coursework tool, or a prior version in effect at the time of graduation from the physical therapy education program.~~
3. For compact privileges, all general requirements set forth in the physical therapy licensure compact in North Dakota Century Code Chapter 43-26.2.

History: Effective December 1, 1980; amended effective April 1, 1992; December 1, 1994; July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-04, 43-26.1-05

61.5-02-02-05. Renewal of licensure.

- 1. Licenses not renewed annually by January thirty-first will expire.
- 2. If a licensee fails to receive the renewal notice, it is the licensee's responsibility to contact the board before the January thirty-first deadline.
- 3. A licensee who fails to renew the license on or before the expiration date shall not practice as a physical therapist or physical therapist assistant in this state, and may be subject to a late renewal fee.
- 4. Complete other ~~educational~~ competence requirements as prescribed by the board.
- 5. Each licensee is responsible for reporting to the board ~~a name change and changes in business, email, and home addresses~~ changes in contact information within thirty days of the change.
- 6. ~~All licensed physical therapists may be required to file with the board a notarized statement indicating they have read these administrative rules.~~

History: Effective December 1, 1980; amended effective April 1, 1992; December 1, 1994; July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-08, 43-26.1-09

61.5-02-02-05.1. Reinstatement of licenses.

1. The board may reinstate an expired license upon payment of a renewal fee and reinstatement fee.
2. If a license has expired for more than one year, the licensee is not eligible for renewal, but must submit application for licensure.
3. Licensees whose licenses have lapsed and who have been unlicensed for more than one year but less than three years from the last renewal must reapply for licensure and provide evidence that the cumulative continuing education requirements have been met for the unlicensed period.
4. Licensees whose licenses have lapsed for more than three consecutive years must reapply for licensure and shall demonstrate to the board's satisfaction competence to practice physical therapy, by one or more of the following as determined by the board:
 - a. Practice for a specified time under a restricted license.
 - b. Complete prescribed remedial courses.
 - c. Complete continuing ~~education~~ competency or similar requirements for the period of the expired license.
 - d. Pass an examination approved by the board.

History: Effective April 1, 2006; amended effective January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-09

61.5-02-02-06. Exceptions to licensure.

1. The following persons are exempt from North Dakota physical therapy licensure requirements when engaged in the following activities:
 - a. A person in a professional education program approved by the board who is pursuing a course of study leading to a degree

as a physical therapist or a physical therapist assistant and who is satisfying supervised clinical education requirements related to the person's physical therapy education while under onsite supervision of a licensed physical therapist.

- b. A physical therapist or a physical therapist assistant who is practicing in the United States armed services, United States public health service, or veterans administration pursuant to federal regulation for state licensure of health care providers.
- c. A physical therapist or a physical therapist assistant who is licensed in another United States jurisdiction or a foreign-educated physical therapist credentialed in another country if that person is performing physical therapy in connection with teaching or participating in an educational seminar of no more than sixty days in a calendar year.
- d. A military spouse, as defined in §43-51-01, NDCC, will be immediately eligible to work as a physical therapist or physical therapist assistant if they have an active unencumbered license to practice in another jurisdiction. This practice privilege will be good for ninety days as long as progress is being made with the spouse's application process in North Dakota. If the spouse is unable to complete the application process within ninety days, the board may grant an extension on a case by case basis as provided under §43-51-11.1, NDCC.

~~A physical therapist who is licensed in another United States jurisdiction if that person is providing consultation by means of telecommunication to a physical therapist licensed in North Dakota.~~

- ~~2. If aides provide physical therapy services other than under direct supervision of a licensed physical therapist, or if students provide physical therapy services other than under onsite supervision of a licensed physical therapist, they are in violation of North Dakota Century Code chapter 43-26.1.~~

History: Effective December 1, 1980; amended effective July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-51

Law Implemented: NDCC 43-26.1-07

61.5-02-02-07. Grounds for disciplinary actions.

The board may refuse to license any physical therapist or physical therapist assistant, may discipline, or may suspend or revoke the license of any physical therapist or physical therapist assistant for any of the following grounds:

1. Violating any provision of this chapter, board rules, or a written order of the board.
2. Practicing or offering to practice beyond the scope of the practice of physical therapy.
3. Failing to refer a patient or client to an appropriate practitioner if the diagnostic process reveals findings that are outside the scope of the physical therapist's knowledge, experience, or expertise.
4. Obtaining or attempting to obtain a license by fraud or misrepresentation.
5. Engaging in the performance of substandard physical therapy care due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established.
6. Engaging in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform components of intervention selected by the supervising physical therapist regardless of whether actual injury to the patient is established.
7. Failing to supervise physical therapist assistants or physical therapy aides in accordance with this chapter and board rules.
8. A determination by the board that a licensee's conviction of an offense has a direct bearing on the licensee's ability to serve the public as a physical therapist or physical therapist assistant or that, following conviction of any offense, the holder is not sufficiently rehabilitated as provided under North Dakota Century Code section 12.1-33-02.1.

9. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other habit-forming drugs, chemicals, alcohol, or by other causes.
10. Having had a license revoked or suspended, other disciplinary action taken, or an application for licensure refused, revoked, or suspended by the proper authorities of another state, territory, or country.
11. Engaging in sexual misconduct. For the purpose of this subsection, sexual misconduct includes:
 - a. Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a physical therapist or physical therapist assistant-patient relationship exists, ~~except with a spouse.~~
 - b. Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients.
 - c. Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.
12. Failing to adhere to the standards of ethics ~~of the physical therapy profession~~ adopted in 2010 by the American physical therapy association and adopted by rule by the board.
13. Charging unreasonable or fraudulent fees for services performed or not performed.
14. Making misleading, deceptive, untrue, or fraudulent representations in violation of this chapter or in the practice of the profession.
15. Having been adjudged mentally incompetent by a court.
16. Aiding and abetting a person who is not licensed in this state in the performance of activities requiring a license.

17. Failing to report to the board, when there is direct knowledge, any unprofessional, incompetent, or illegal acts that appear to be in violation of this chapter or any rules established by the board.
18. Interfering with an investigation or disciplinary proceeding by failure to cooperate, by willful misrepresentation of facts, or by the use of threats or harassment against any patient or witness to prevent that patient or witness from providing evidence in a disciplinary proceeding or any legal action.
19. Failing to maintain adequate patient records. For the purposes of this subsection, "adequate patient records" means legible records that contain at a minimum sufficient information to identify the patient, an evaluation of objective findings, a diagnosis, a plan of care, a treatment record, and a discharge plan.
20. Failing to maintain patient confidentiality without the written authorization of the patient or unless otherwise permitted by law. All records used or resulting from a consultation under North Dakota Century Code section 43-51-03 are part of a patient's records and are subject to applicable confidentiality requirements.
21. Promoting any unnecessary device, treatment intervention, or service resulting in the financial gain of the practitioner or of a third party.
22. Providing treatment intervention unwarranted by the condition of the patient or continuing treatment beyond the point of reasonable benefit.
23. Participating in underutilization or overutilization of physical therapy services for personal or institutional financial gain.
24. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process, including a violation of security and copyright provisions related to the national licensure examination; utilizing recalled or memorized examination questions from or with any individual; communicating or attempting to communicate with other examinees during the examination; or copying or sharing examination questions or portions of questions.

History: Effective December 1, 1980; amended effective July 1, 2004; April 1, 2006; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)
Law Implemented: NDCC 43-26.1-13

CHAPTER 61.5-02-03 FEES

Section
61.5-02-03-01 Fees

61.5-02-03-01. Fees.

1. Application fee - not refundable - \$200.00.
2. Annual renewal fee - \$100.00 for physical therapists and \$60.00 for physical therapist assistants.
3. Late renewal fee - \$50.00.
4. Compact fee - \$40.00.

History: Effective December 1, 1980; amended effective July 1, 2004; April 1, 2006.

General Authority: NDCC 43-26.1-03(5)
Law Implemented: NDCC 43-26.1-10

CHAPTER 61.5-03-02 CONTINUING COMPETENCE ACTIVITIES AND UNIT STANDARDS

Section
61.5-03-02-01 ~~Activity Content~~ Unit Standards
61.5-03-02-02 ~~Unit Standards~~ Activity Content

61.5-03-02-02~~1~~. Unit standards.

One unit equals one hour of participation in competence activities. The following unit standards apply to any continuing competence activity that is intended to meet the continuing competence requirements for physical therapists or physical therapist assistants:

1. The educational activities shall have significant intellectual or practical content dealing primarily with matters directly related to the practice of physical therapy or to the professional responsibility or ethical obligations of the participants.

2. Each person making a presentation at a continuing competence activity shall be qualified by practical or academic experience to teach the subject the person covers.
- ~~3. Participants shall attend educational activities in a classroom or other setting suitable for the activity. Video, motion picture, or sound presentations may be used.~~
4. 3. Credit may not be given for entertainment or recreational activities or programs, employment orientation sessions, holding an office or serving as an organizational delegate, meeting for the purpose of making policy, or noneducational association meetings.
- ~~5.~~ 4. Credit may not be given for meals, keynote speeches, introductory or preliminary sessions, post session activities, and similar events associated with continuing competence programs.
- ~~6. A person teaching an approved continuing competence activity shall be awarded additional credit for preparation time not to exceed a ratio of five to one between preparation time and presentation time respectively. This credit may be taken for only one course annually.~~

History: Effective April 1, 1992; amended effective July 1, 2004; January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-03(7)

61.5-03-02-042. Activity content.

1. Twenty-five units are required every two years. ~~At least fifteen of the required units shall be clinically related and certified activities. Nonclinical and approved activities shall relate to a therapist's job responsibilities. Certified activities have completed a certification process to determine if the activity meets a minimal threshold of required criteria. Certified activities include all continuing competence activities related to physical therapy sponsored by the American physical therapy association, state physical therapy associations, medical institutions, educational institutions, or certified by the federation of state boards of physical therapy and are automatically certified activities. Any continuing competence activities planned, sponsored, or cosponsored by national or state~~

~~health organizations, which meet the credit standards of section 61.5-03-02-02, are automatically approved as certified activities. Any postsecondary coursework taken at an accredited educational institution will be automatically approved as certified activities, provided the coursework meets the credit standards. Approved activities do not go through a formal certification process because these activities would be difficult to certify. Approved activities are assigned a set value as a group versus each individual activity being assigned a value. The units may include:~~

- ~~a. Activities related to physical therapy approved by the American physical therapy association, state physical therapy associations and state physical therapy boards.~~
- ~~b. Completion of an American physical therapy association specialty certification or re-certification will equal fifteen units.~~
- ~~c. Completion of a physical therapy residency program will equal twenty-five units.~~
- ~~d. One unit for every one hundred sixty-five hours of clinical instruction with a maximum of five units per reporting period.~~
- ~~e. A person teaching an approved continuing competence activity shall be awarded additional credit for preparation time not to exceed a ratio of five to one between preparation time and presentation time respectively. This credit may be taken for only one course annually.~~
- ~~f. Teaching at an accredited physical therapy or physical therapist assistant program as long as teaching is not your primary occupation. One unit will be allowed per direct contact hour in teaching a maximum of five units per recording period.~~

History: Effective April 1, 1992; amended effective January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-03(7)

CHAPTER 61.5-03-04 COMPETENCE

Section

61.5-03-04-01 Evidence of Competence

61.5-03-04-01. Evidence of competence.

1. Qualification for manual therapy as defined in subsection 3 of North Dakota Century Code section 43-26.1-01 and subsection 6 of North Dakota Administrative Code section 61.5-01-02-01, other than high velocity, low amplitude thrust manual therapy, include:
 - a. Graduate of a United States accredited, entry-level physical therapist or physical therapist assistant program.
 - b. Foreign-educated licensees would have to show evidence of entry-level training in manual therapy techniques as part of their curriculum.
 - c. Physical therapist assistants may perform soft tissue mobilization and peripheral joint mobilization when the physical therapist has determined that the physical therapist assistant has the necessary degree of education, training, and skill for safe patient care.
2. Qualification for high velocity, low amplitude thrust manual therapy must include one or more of the following:
 - a. Graduate from entry-level, commission on accreditation of physical therapy education accredited doctor of physical therapy programs within the state of North Dakota.
 - b. Graduates from other physical therapy programs would have to submit evidence showing that high velocity, low amplitude thrust techniques were included in their entry-level educational program.
 - c. Hold the orthopedic clinical specialist (OCS) or sports clinical specialist (SCS) certification ~~from the American physical therapy association~~ with documentation that high velocity, low amplitude thrust techniques were included in the study program.

- d. Complete a formal, credentialed manual therapy fellowship or other certification.
 - e. Successful completion of post entry-level education in high velocity, low amplitude thrust techniques.
3. In addition to the above criteria, licensees are also bound by the regulations listed in North Dakota Century Code section 43-26.1-13 regarding practicing beyond their scope of practice or performing substandard physical therapy care as being grounds for disciplinary actions and North Dakota Century Code section 43-26.1-11 concerning patient care management. Physical therapists are mandated by North Dakota Administrative Code section 61.5-03-01-02 to obtain twenty-five units of continuing competence every two years.

History: Effective April 1, 2006; amended effective January 1, 2016.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-03(7), 43-26.1-14(1)

CHAPTER 61.5-04 VIOLATIONS

Section

61.5-04-01-01 Violations

61.5-04-01-01. Violations.

Complaints and problems about alleged violations of North Dakota Century Code chapter 43-26.1 shall be forwarded to the board for its consideration. The board shall review and, if necessary, investigate all complaints and allegations that come before it. The board may seek the advice and assistance of legal counsel in this review and investigation process. The board may direct its executive officer, or other personnel, to act either directly, on its behalf, or to assist others, in filing complaints of North Dakota Century Code chapter 43-26.1 violations with state's attorneys, and to provide assistance and information as required by state's attorneys. The board may seek the advice of legal counsel concerning the use of injunctions as a means of preventing or stopping violations, and may direct legal counsel, on its behalf, to use such remedies. The board shall keep all information relating to the receipt and investigation of the complaint confidential until the information is disclosed in the course of the investigation or any subsequent proceeding, or until disclosure is required by law.

However, patient records, including clinical records, files, any other report or oral statement relating to diagnostic findings of a patient or treatment of a patient, any information from which a patient or the patient's family might be identified, or information received and records or reports kept by the board as a result of an investigation made pursuant to Chapter 43-26.1 of the North Dakota Century Code, are confidential.

History: Effective December 1, 1980; amended effective July 1, 2004; April 1, 2006.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-16, 43-26.1-17

CHAPTER 61.5-05-01 SUPERVISION OF SUPPORTIVE PERSONNEL

Section

61.5-05-01-01 Delegation of Responsibility

61.5-05-01-01. Delegation of responsibility.

When a physical therapist delegates patient care responsibilities to physical therapist assistants ~~or other supportive personnel~~, the physical therapist holds responsibility for supervision of the physical therapy program. Physical therapists shall not delegate to a less qualified person any activity that requires the unique skills, knowledge, and judgment of the physical therapist. The primary responsibility for physical therapy care ~~rendered by supportive personnel~~ rests with the supervising physical therapist. Adequate supervision requires, at a minimum, that the supervising physical therapist perform the following activities:

1. Designate or establish channels of written and oral communication.
2. Interpret available information concerning the individual under care.
3. Provide initial evaluation.
4. Develop plan of care, including short-term and long-term goals.
5. Select and delegate appropriate tasks for plan of care.
6. When the supervising physical therapist is not available he or she must transfer responsibility of all patient care to another qualified

physical therapist who will assume responsibility for all patient care including those being rendered by the physical therapist assistant under general supervision.

7. The supervising physical therapist maintains primary responsibility for all patient care services including those rendered by a physical therapist assistant under general supervision.
- 6- 8. Assess competence of supportive personnel to perform assigned tasks.
- 7- 9. Direct and supervise supportive personnel in delegated tasks.
- 8- 10. Identify and document precautions, goals, anticipated progress, and plans for reevaluation.
- 9- 11. Reevaluate, adjust plan of care when necessary, perform final evaluation, and establish follow-up plan of care.

History: Effective December 1, 1994.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(7), 43-26.1-11, 43-26.1-13(7)

61.5-05-01-02. Physical therapist assistants.

The physical therapist assistant shall perform ~~specific physical therapy duties~~ selected components of patient care under the supervision of a physical therapist who is properly credentialed in the jurisdiction in which the physical therapist assistant practices.

1. Performance of service in general.
 - a. The physical therapist assistant may initiate or alter a treatment program only with prior evaluation by, and approval of, the supervising physical therapist.
 - b. The physical therapist assistant, with prior approval by the supervising physical therapist, may adjust the specific treatment procedure in accordance with changes in the patient's status.
 - c. The physical therapist assistant may interpret data only within the scope of the physical therapist assistant's education.

- d. The physical therapist assistant may respond to inquiries regarding a patient's status to appropriate parties within the protocol established by the supervising physical therapist.
- e. The physical therapist assistant shall refer inquiries regarding patient prognosis to a supervising physical therapist.
- f. Documentation other than the initial note and the discharge summary can be written by a physical therapist assistant.

2. ~~Service in home health, long-term care, and school settings.~~

- a-g. ~~A qualified~~ The supervising physical therapist must be accessible by communication to the physical therapist assistant at all times while the physical therapist assistant is treating the patient.
- b-h. An initial visit must be made by ~~a qualified~~ the supervising physical therapist for evaluation of the patient and establishment of a plan of care.
- e-i. A joint visit by the supervising physical therapist and physical therapist assistant or a conference between the supervising physical therapist and physical therapist assistant must be made prior to or on the first physical therapist assistant visit to the patient. ~~The physical therapist must complete the initial evaluation.~~ This visit must include:
 - (1) A functional assessment.
 - (2) Review of activities with appropriate revisions or termination of plan of care.
 - (3) Assessment of utilization of outside resources.
- d-j. At least once every sixth day of a physical therapist assistant visit or at least once every thirty calendar days, whichever occurs first, ~~the a~~ a physical therapist must visit the patient. Following each ~~onsite~~ visit by a supervising physical therapist, the medical/education record must reflect a documented conference with the physical therapist assistant outlining treatment goals and program modifications. The supervising physical therapist will complete the documentation for this

conference. The physical therapist must make the final visit to terminate the plan of care. If the physical therapist performing the sixth-day visit is not the patient's initial evaluator, then the medical record must reflect a transfer of supervisory authority from the initial evaluator to that physical therapist.

- e A supervisory onsite visit must include:
 - (1) An onsite functional assessment.
 - (2) Review of activities with appropriate revisions or termination of plan of care.
 - (3) Assessment of utilization of outside resources.

~~3. Service in hospitals or other clinical settings require constant onsite supervision.~~

- ~~a. All duties must conform to section 61.5-05-01-01.~~
- ~~b. A joint treatment with the physical therapist and physical therapist assistant or after a direct treatment by the physical therapist with a conference between the physical therapist and physical therapist assistant must occur at least once per week.~~

History: Effective December 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(6), 43-26.1-11, 43-26.1-13(7)

61.5-05-01-04. Physical therapy aides.

The physical therapy aide may assist the physical therapist in the following activities:

1. Carry out established procedures for the care of equipment and supplies.
2. Prepare, maintain, and clean up treatment areas and maintain a supportive area.
3. Transport patients, records, equipment, and supplies in accordance with established policies and procedures.

4. Assemble and disassemble equipment and accessories.
5. Under the direct supervision of a physical therapist, assist in preparation for and perform routine tasks as assigned. Routine tasks do not include skilled components of patient care.

History: Effective December 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-01(8), 43-26.1-11, and 43-26.1-13(7)

CHAPTER 61.5-06-01 TERMS AND TITLES

Section

61.5-06-01-01 Terms and Titles

61.5-06-01-01. Terms and titles.

A physical therapist shall use the letters "PT" in connection with the physical therapist's name or place of business to denote licensure under North Dakota Century Code chapter 43-26.1. Other letter designations such as "RPT", "LPT", or academic and professional degrees should not be substituted for the regulatory designation of "PT".

1. "PTA" is the preferred regulatory designation of a physical therapist assistant. A physical therapist assistant shall use the letters "PTA" in connection with that person's name to denote licensure under this chapter. A person shall not use the title "physical therapist assistant", the letters "PTA", or any other words, abbreviations, or insignia in connection with that person's name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is licensed under this chapter.
2. Except as otherwise provided by law, a person or business entity, and its employees, agents, or representatives, shall not use in connection with that person's or entity's name or activity the words "physical therapy", "physical therapist", "physiotherapist", "registered physical therapist", the letters "PT", "MPT", "DPT", "LPT", "RPT", or any other words, abbreviation, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to this chapter. A person or

business entity shall not advertise or otherwise promote another person as being a "physical therapist" or "physiotherapist" unless the Individual so advertised or promoted is licensed as a physical therapist under this chapter. A person or business entity that offers, provides, or bills any other person for services shall not characterize those services as "physical therapy" unless the individual performing that service is licensed as a physical therapist under this chapter.

3. The designations "SPT" and "SPTA" should be used for physical therapist students and physical therapist assistant students, respectively, up to the time of graduation.
4. In order to promote consistent communication of the presentation of credentials and letter designations, the preferred order of credentials should be:
 - a. PT/PTA.
 - b. Highest earned physical therapy-related degree.
 - c. Other earned academic degrees.
 - d. Specialist certification credentials in alphabetical order (specific to the American board of physical therapy specialties).
 - e. Physical therapists who have graduated from a DPT program may use the title "Doctor of Physical Therapy." A physical therapist holding a DPT degree or another doctoral degree shall not use the title "Doctor" without clearly informing the public of his or her profession as a physical therapist.

History: Effective April 1, 2006.

General Authority: NDCC 43-26.1-03(5)

Law Implemented: NDCC 43-26.1-15