

## CHAPTER 5601

### BOARD OF PHYSICAL THERAPY

### PHYSICAL THERAPY

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#### 5601.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Board.** "Board" means the Board of Physical Therapy.

Subp. 3. **Physical therapist assistant.** "Physical therapist assistant" means a skilled technical worker who is a graduate of a physical therapist assistant educational program accredited by the American Physical Therapy Association or a comparable accrediting agency. The physical therapist assistant performs selected physical therapy treatments and related duties as delegated by the physical therapist to assist the physical therapist in patient-, client-, and resident-related activities.

Subp. 4. **Physical therapy aide.** "Physical therapy aide" means a supportive worker who has been trained on the job to perform tasks assigned by a supervising licensed physical therapist.

Subp. 5. **Licensed health care professional or licensed health care provider.** "Licensed health care professional" or "licensed health care provider" means a person licensed in good standing in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, or dentistry.

Subp. 6. **Initiation of treatment.** "Initiation of treatment" means the initiation by a physical therapist of physical measures, therapeutic exercises, and rehabilitation procedures, as defined by Minnesota Statutes, section 148.65, without the express direction or supervision of a health care professional.

Subp. 7. **Previously diagnosed condition.** "Previously diagnosed condition" means a lifelong and ongoing condition diagnosed by a health care professional which requires physical therapy treatment.

Subp. 8. **Clinical experience.** "Clinical experience" means practice under a physician's direction or supervision as verified by the board's records.

Subp. 9. **Contact hour.** "Contact hour" means an instructional session of 60 minutes, excluding coffee breaks, registration, meals with a speaker or without a speaker, and other social activities.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** *8 SR 2573; 15 SR 1055; L 1991 c 107 s 6; 25 SR 1725*

**5601.0200 APPLICATION.**

An applicant for admission to a licensing examination to practice physical therapy shall file an application with the board. If the board finds that the application is complete and that all of the requirements of Minnesota Statutes, section 148.70, and this chapter have been met, it shall advise the applicant of the date and place of the examination.

**Statutory Authority:** *MS s 148.70*

**History:** 8 SR 2573; 25 SR 1725

**5601.0300 CONTENTS OF APPLICATION.**

The application must be submitted on forms prepared by the board together with the fee described under part 5601.3000, items A and B. To be complete, the application must include the following information:

A. a notarized or certified copy of the original diploma, degree, or certificate or evidence satisfactory to the board, taking into consideration the qualifications for applicants set out in Minnesota Statutes, section 148.70, indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as set out in Minnesota Statutes, section 148.705, clauses (a) and (b), and has been graduated from a school of physical therapy approved by the board;

B. a recommendation of the applicant's ethical and moral character by two physical therapists duly registered or licensed to practice physical therapy in the United States or Canada;

C. a recent full-faced photograph of the applicant attached to the application with the affidavit on the form completed and notarized;

D. an accounting of the applicant's high school, college, and board-approved physical therapy school education listing the names, locations, dates of attendance, and diplomas, degrees, or certificates awarded;

E. an accounting of the applicant's postgraduate work and military service;

F. a listing of the states or countries in which the applicant is currently licensed or registered including the applicant's license or registration certificate number, the date the license or registration was obtained, and the method by which the license or registration was received;

G. an accounting of the applicant's current and previous physical therapy practice experience;

H. an accounting of disciplinary action taken on past complaints, refusal of licensure or registration, or denial of examination eligibility by another state board or physical therapy society against the applicant;

I. an accounting of the applicant's personal use or administration of any controlled substances and treatment for alcohol or drug abuse;

J. an accounting by the applicant of any disease, illness, or injury that impairs the applicant's ability to practice physical therapy;

K. an accounting of any convictions for crimes related to the practice of physical therapy, felonies, gross misdemeanors, and crimes involving moral turpitude;

L. a listing of any memberships in a physical therapy society;

M. the applicant's name and address;

N. the applicant's social security number, if the applicant chooses to voluntarily provide the number to the board for identification purposes, or the applicant's alien registration card number, whichever is applicable, or notification to the board if no social security number or alien registration card number is assigned to or available from the applicant;

O. completed copies of credentials verification forms provided by the board;  
and

P. any other information judged necessary by the board to evaluate the applicant.

**Statutory Authority:** *MS s 16A.1285; 147A.04; 147A.05; 147A.21; 147B.02; 148.70; 148.74; 214.06*

**History:** *8 SR 2573; 15 SR 1055; 20 SR 2376; 25 SR 1721; 25 SR 1725*

## **5601.0400 APPLICATION DEADLINE.**

All applications for examination must be fully completed in accordance with part 5601.0300 and forwarded to the secretary of the board. An application must be postmarked not later than 45 days before the date of the examination.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** *8 SR 2573; 15 SR 1055*

## **5601.0500 EXAMINATION.**

The examination, as described in Minnesota Statutes, section 148.72, subdivision 3, must be the professional examination service physical therapy examination or a comparable nationally recognized examination. The passing score is one standard deviation below the mean of all persons taking the examination.

**Statutory Authority:** *MS s 148.70*

**History:** *8 SR 2573*

## **5601.0600 INELIGIBILITY FOR EXAMINATION.**

If the board determines that an applicant is ineligible for examination, the board shall notify the applicant of this determination and the grounds for it. The applicant may be granted a hearing according to part 5601.3115 of the Board of Physical Therapy by filing a statement of issues with the board within 20 days after receiving notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** *8 SR 2573; L 1991 c 107 s 6; 25 SR 1722*

## **5601.0700 LICENSURE WITHOUT EXAMINATION.**

The board may license a person as a physical therapist in this state without examination if that person completes or presents evidence satisfactory to the board of having passed an examination in accordance with Minnesota Statutes, section 148.70, administered by a state licensing agency. An applicant for licensure without examination shall submit an application on forms provided by the board together with the fees described in part 5601.3000. The form must include the following information:

A. a notarized or certified copy of a current license or certificate to practice physical therapy, if any, issued by the duly accredited examining agency of the state or foreign country in which the applicant has been licensed or certified;

B. an original or certified copy of a diploma, degree, or certificate or evidence satisfactory to the board indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as provided in Minnesota Statutes, section 148.70, and has been graduated from a school of physical therapy approved by the board; and

C. the information required by part 5601.0300, items B to P.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** *8 SR 2573; 15 SR 1055; 25 SR 1721; 25 SR 1725*

## **5601.0800 REQUIREMENTS FOR FOREIGN-TRAINED APPLICANTS.**

Subpart 1. **Scope and documentation.** An applicant for licensure who is a foreign-trained physical therapist must fulfill the requirements in subparts 2 to 5, providing certified English translations of board-required relevant documentation.

Subp. 2. **Education evaluation.** The applicant must present evidence of completion of physical therapy schooling equivalent to that required in Minnesota Statutes, section 148.705, and part 5601.0500. This evidence will be evaluated by the Board of Physical Therapy with the assistance of a credentials evaluation service familiar with educational standards and professional qualification. Agencies providing evaluation services must be approved by the American Physical Therapy Association or meet its standards. The applicant shall be responsible for the expenses incurred as a result of the evaluation.

Subp. 3. **English test.** The applicant must achieve a score of at least 550 on the TOEFL (Test of English as a Foreign Language) examination administered by the Educational Testing Service, Inc., Princeton, New Jersey, or a passing score on a comparable nationally recognized examination approved by the board.

Subp. 4. **Experience.** The applicant must have practiced satisfactorily for at least six months under the supervision of a licensed physical therapist at a board-approved facility. A facility that offers such practice must provide a broad base of experience including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses. Supervision must be provided by a licensed physical therapist with at least three years of clinical experience. A proposed outline of clinical experiences must be approved by the Board of Physical Therapy before the facility begins offering the experience.

Subp. 5. **Examination.** The applicant must satisfactorily complete the board-approved examination as stated in Minnesota Statutes, section 148.72, subdivision 3.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** 8 SR 2573; 15 SR 1055; 25 SR 1725

#### 5601.0900 ADDRESS.

Every physical therapist shall provide the board with a current address. A physical therapist who moves from the address on the physical therapist's license shall notify the board of the change within 30 days.

**Statutory Authority:** *MS s 148.70*

**History:** 8 SR 2573; 25 SR 1725

#### 5601.1000 [Repealed, 15 SR 1055]

#### 5601.1100 [Repealed, 15 SR 1055]

#### 5601.1200 REPORTS.

The physical therapist shall submit reports to a licensed health care provider for periodic review at least every two years. Reports should include, but are not limited to, an initial evaluation, progress notes, and a discharge note. Reports by the physical therapist must be made more frequently if the patient's condition warrants. The physical therapist shall retain dated records evidencing submission of reports to a licensed health care provider for periodic review.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** 8 SR 2573; 15 SR 1055

#### 5601.1300 RETENTION OF PATIENT RECORDS.

All patient records including directions and orders within the control of the physical therapist shall be retained for at least seven years, or six years after the patient's majority. The physical therapist shall provide access to these records to the board.

**Statutory Authority:** *MS s 148.70*

**History:** 8 SR 2573

## **5601.1400 DELEGATION OF DUTIES.**

The physical therapist may delegate patient treatment procedures only to a physical therapist assistant who has sufficient didactic and clinical preparation. The licensed physical therapist may not delegate the following activities to the physical therapist assistant or to other supportive personnel: patient evaluation, treatment planning, initial treatment, change of treatment, and initial or final documentation.

The licensed physical therapist must observe the patient's status before and after the treatment administered by a physical therapy aide. The physical therapy aide may perform tasks related to preparation of patient and equipment for treatment, house-keeping, transportation, clerical duties, departmental maintenance, and selected treatment procedures. The tasks must be performed under the direct supervision of a licensed physical therapist who is readily available for advice, instruction, or immediate assistance.

The licensed physical therapist is responsible for all duties delegated to the physical therapist assistant or tasks assigned to the physical therapy aide.

**Statutory Authority:** *MS s 148.70*

**History:** 8 SR 2573; 25 SR 1725

## **5601.1500 OBSERVATION AND DOCUMENTATION OF DELEGATED DUTIES.**

When components of a patient's treatment are delegated to a physical therapist assistant, a licensed physical therapist must provide on-site observation of the treatment and documentation of its appropriateness at least every six treatment sessions.

**Statutory Authority:** *MS s 148.70*

**History:** 8 SR 2573; 25 SR 1725

## **5601.1600 SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS.**

A licensed physical therapist may supervise no more than two physical therapist assistants.

**Statutory Authority:** *MS s 148.70*

**History:** 8 SR 2573; 25 SR 1725

## **5601.1700 RENEWAL OF LICENSURE.**

When they renew their licenses each year in compliance with Minnesota Statutes, section 148.73, physical therapists must submit lists of locations or institutions where they have practiced during the past five years. Applicants for licensure who have not practiced the equivalent of eight full weeks during the past five years are required to achieve a passing score on retaking the licensure examination or complete no less than eight weeks of board-approved clinical experience with a broad base of treatment modalities and patient diagnoses. In addition, every two years, the applicant must submit verification of compliance with the continuing education requirements of parts 5601.2100 to 5601.2500. An application submitted after the deadline date must be accompanied by the late fee described in part 5601.3000.

**Statutory Authority:** *MS s 148.70; 148.74*

**History:** 8 SR 2573; 15 SR 1055; 25 SR 1721; 25 SR 1725

## **5601.1800 INITIATION OF TREATMENT FOR A CONDITION NOT PREVIOUSLY DIAGNOSED.**

A. A physical therapist who has had more than one year of clinical experience may initiate treatment of a patient for a condition not previously diagnosed for up to 30 calendar days from the date of initial treatment once within a four-month period without referring to a licensed health care professional. Subsequent treatments for a condition not previously diagnosed of up to 30 calendar days within a four-month period beginning with the start of the initial treatment may only be made if the

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patient's complaint and symptoms are unrelated to the complaint and symptoms of the original treatment.

B. Item A does not apply to patients who have been referred for physical therapy treatment by order or referral of a licensed health care professional or an individual licensed in advanced practice nursing when such orders or referrals from the advanced practice nurse are made in collaboration with a physician, chiropractor, podiatrist, or dentist.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1725*

**5601.1900 INITIATION OF TREATMENT FOR A PREVIOUSLY DIAGNOSED CONDITION.**

A. A physical therapist who has had more than one year of clinical experience may initiate treatment of a patient for a lifelong and ongoing previously diagnosed condition warranting physical therapy treatment.

B. Verification of the diagnosis under item A must be obtained from medical records or a licensed health care professional by the physical therapist within 30 calendar days of the initial admission.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055*

**5601.2000 LIMITATIONS ON PRACTICE.**

If a patient's medical condition is determined by the physical therapist to be beyond the scope of practice of that physical therapist, the physical therapist must refer the patient to a licensed health care professional. A physical therapist shall modify or terminate treatment of a patient that is not beneficial to the patient or that is not tolerated by the patient and shall notify the patient's health care provider of the modification or termination of treatment.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055*

**5601.2100 CONTINUING EDUCATION REQUIREMENT.**

Every two years, each physical therapist licensed by the board shall obtain 20 contact hours of continuing education credit as required by parts 5601.2200 to 5601.2600.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1725*

**5601.2200 TWO-YEAR CONTINUING EDUCATION CYCLE.**

Subpart 1. **Initial registration or licensure on or after January 1, 1991.** For physical therapists initially registered or licensed on or after January 1, 1991, the first two-year continuing education cycle begins on the January 1 following the date of initial registration or licensure. Future cycles will run consecutively from that point. Continuing education courses taken between the date of initial registration or licensure and January 1 of the following year may be credited toward the first cycle.

Subp. 2. **Initial registration before January 1, 1991.** For physical therapists renewing their registrations or licenses on or after January 1, 1991, but who were initially registered before that date, the first two-year continuing education cycle begins as described in item A or B and runs consecutively from that date.

A. If the physical therapist's month of birth occurs in the months of January to June, the cycle begins on January 1, 1992.

B. If the physical therapist's month of birth occurs in the months of July to December, the cycle begins on January 1, 1993. In the first cycle, ending December 31, 1994, a physical therapist in this group shall submit 30 hours of credit.

For purposes of this subpart, continuing education courses taken between January 1, 1991, and January 1 of the physical therapist's first two-year continuing education cycle may be credited toward the first cycle.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1725*

#### **5601.2300 CATEGORIES OF CREDITED ACTIVITIES.**

Continuing education credit may be obtained from the following activities:

A. Category 1: No less than ten hours of credit must be obtained in a cycle by attendance at educational activities recognized by the board under part 5601.2400. Physical therapists who must submit 30 hours of credit under part 5601.2200, subpart 2, item B, must obtain no less than 15 hours of credit under this item.

B. Category 2: No more than ten hours of credit may be obtained in a cycle through in-service educational activities sponsored by organizations or individuals not designated in Category 1. Physical therapists who must submit 30 hours of credit under part 5601.2200, subpart 2, item B, must obtain no more than 15 hours of credit under this item.

C. Category 3: No more than four hours of credit may be obtained in a cycle through teaching, lecturing, or similar presentation programs. Physical therapists who must submit 30 hours of credit under part 5601.2200, subpart 2, item B, must obtain no more than six hours of credit under this item.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055*

#### **5601.2400 CATEGORY 1 CREDIT.**

Subpart 1. **Courses.** The board shall grant Category 1 continuing education credit meeting the standards of part 5601.2500 for educational activities in items A to C:

A. any course planned, sponsored, or cosponsored by an accredited university or college, medical school, state or national medical or osteopathic association, or a national medical specialty society;

B. any course planned, sponsored, or cosponsored by the American Physical Therapy Association or other national or state physical therapy association; and

C. any course planned, sponsored, or cosponsored by the Arthritis Foundation, American Heart Association, or other national or state health organization.

Subp. 2. **Other educational activity.** Any educational activity not included under subpart 1 that meets the standards of part 5601.2500 shall be approved for Category 1 continuing education credit by the board.

An individual or organization seeking board approval of an educational activity for Category 1 continuing education credit as provided under this subpart shall provide to the board documents describing the name and address of the organization sponsoring the activity, the name and address of the facility at which the activity will be presented, the name and credentials of each instructor or person making a presentation, and the course content in detail, including a time schedule for the activity.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055*

#### **5601.2500 CREDIT STANDARDS.**

The board shall grant continuing education credit for any educational activity that meets the standards in items A to E.

A. The educational activities must 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.

B. Each person making a presentation shall be qualified by practical or academic experience to teach the subject the person covers.

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C. Participants shall attend educational activities in a classroom or other setting suitable for the activity. Video, motion picture, or sound presentations may be used.

D. One hour of credit shall be given for each 60 minutes actually spent on educational activities.

E. Credit shall not be given for entertainment or recreational activities or programs, employment orientation sessions, holding an office or serving as an organizational delegate, individual self-directed study programs, management seminars not directly concerning physical therapy operations, meetings for the purpose of making policy, or noneducational association meetings.

Any course planned, sponsored, or cosponsored as provided under part 5601.2400, subpart 1, shall be presumed to meet the standards in items A to E. This presumption may be withdrawn by the board if it determines that a college, university, association, or specialty has sought credit for a course not meeting these standards.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055*

**5601.2600 VERIFICATION OF COMPLIANCE.**

At the January license renewal immediately following their two-year continuing education cycle, licensees shall provide a signed statement to the board on a form provided by the board indicating compliance with parts 5601.2100 to 5601.2500. The board shall also accept certification of other state regulatory agencies whose continuing education requirements are equal to or greater than those in parts 5601.2100 to 5601.2500.

Periodically, the board shall select a sample of the licensed physical therapists and request evidence of the continuing education to which they attested. Documentation may come directly from the licensee or from state or national organizations that maintain those types of records.

A licensee failing to submit a statement or who submits a statement that, on its face, indicates noncompliance with parts 5601.2100 to 5601.2500 may be subject to the disciplinary provisions in part 5601.2700.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1725*

**5601.2700 PENALTIES FOR NONCOMPLIANCE.**

The board shall refuse to renew or grant, or shall suspend, condition, limit, or qualify the licensure of any person who the board determines has failed to comply with parts 5601.2100 to 5601.2600.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1725*

**5601.2800 HEARING UPON REFUSAL TO RENEW.**

A licensee whose licensure renewal materials fail to comply with part 5601.1700 as determined by the board shall be notified of this determination and the grounds for it and may be granted a hearing under part 5601.3115 by filing a statement of issues with the board within 20 days after receipt of notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1722; 25 SR 1725*

**5601.2900 TEMPORARY PERMIT.**

Subpart 1. **Who may apply.** Applicants who have complied completely with the informational requirements in part 5601.0300, items A to P, or 5601.0700, items A to C, may apply for a temporary permit to practice physical therapy under supervision.



Foreign-trained applicants must comply completely with part 5601.0800 in addition to the information requirements of part 5601.0300, items A to P, or 5601.0700, items A to C.

Subp. 2. **Application.** The application for a temporary permit to practice physical therapy under supervision must be submitted on forms prepared by the board together with the fee described in part 5601.3000.

Subp. 3. **Contents of application.** To be complete, an application for a temporary permit to practice physical therapy under supervision must include the following information:

A. an original or certified copy of a diploma, degree, or certificate; or evidence satisfactory to the board indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as provided in Minnesota Statutes, section 148.70, and has been graduated from a school of physical therapy approved by the board;

B. if the applicant is providing evidence of compliance of the informational requirements of part 5601.0700, a notarized or certified copy of a current license or certificate to practice physical therapy issued by the duly accredited examining agency of the state or foreign country in which the applicant has been licensed or certified; and

C. the information required by part 5601.0300, items B to P.

**Statutory Authority:** *MS s 148.74*

**History:** *15 SR 1055; 25 SR 1721*

#### **5601.3000 FEES.**

The fees charged by the board are fixed at the following rates:

- A. physical therapist application, \$100;
- B. annual registration, \$60;
- C. late fee, \$20;
- D. temporary permit, \$25;
- E. duplicate license or registration, \$20;
- F. certification letter, \$25;
- G. verification of status, \$10;
- H. education or training program approval, \$100;
- I. report creation and generation, \$60 per hour billed in quarter-hour increments with a quarter-hour minimum; and
- J. examination administration:
  - (1) half day, \$50; and
  - (2) full day, \$80.

**Statutory Authority:** *MS s 148.74*

**History:** *25 SR 1721*

#### **5601.3105 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 5601.3105 to 5601.3165 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Minnesota Board of Physical Therapy or any member or members the board authorized by law to adjudicate contested cases.

Subp. 3. **Contested case.** "Contested case" means a proceeding before the board in which the legal rights, duties, or privileges of specific parties under the provisions of any statute granting jurisdiction to the board are required by law or constitutional right to be determined after a board hearing.

Subp. 4. **Party.** "Party" includes the board, the respondent, and any person, other than a member of the board in the member's official capacity, who has been permitted to appear in the proceeding.

Subp. 5. **Respondent.** "Respondent" means any person against whom an accusation or charge has been filed under any statute granting jurisdiction to the board, or any person who is subject to a dispute concerning any legal rights, duties, or privileges granted or conferred by the statute.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### 5601.3110 ACCUSATION.

A hearing to determine whether a right, license, or privilege should be revoked, suspended, qualified, restricted, limited, or conditioned, must be initiated by the issuance of an accusation by the board. The accusation must be a written statement of charges which sets forth in ordinary and concise language the acts or omissions with which the respondent is charged and must be in sufficient detail to enable the respondent to prepare a defense. It must specify the statutes and rules that the respondent is alleged to have violated. The accusation may also include any additional information that the board considers appropriate. The accusation must be verified by a member of the board. The verification may be on information and belief.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### 5601.3115 STATEMENT OF ISSUES.

Subpart 1. **Initiation of hearing.** A hearing to determine whether a right, license, or privilege should be granted, issued, or renewed must be initiated either by the board or by the applicant by filing a statement of issues. The statement of issues must be a written statement specifying the statutes and rules with which the applicant must show compliance by producing proof at the hearing and, in addition, any additional matters that have come to the attention of the initiating party and that would bear upon the issues presented.

Subp. 2. **Verification.** The statement of issues must be verified by the initiating party. The verification may be on information and belief.

Subp. 3. **Service of statement of issues.** If the board is the initiating party, the statement of issues must be served in the same manner as an accusation, and must be accompanied by a notice of hearing substantially in the form set forth in part 5601.3130. If the applicant is the initiating party, the statement of issues must be served on the board by registered or certified mail, addressed to the board at its office in Minneapolis, Minnesota. Service is considered a request for hearing.

Subp. 4. **Notice of hearing.** Within ten days after service, the board shall deliver or mail to the applicant a notice of hearing, substantially in the form set forth in part 5601.3130.

Subp. 5. **Time of hearing.** In either case, the hearing must be held not less than 20 days nor more than 120 days after service of the statement of issues.

Subp. 6. **Place of hearing.** Hearings must be held in Minneapolis, Minnesota, at a place designated by the board, unless the parties, by agreement, select another place within the state.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### 5601.3120 SERVICE OF ACCUSATION.

Upon the issuance of an accusation, the board shall serve a copy on the respondent as provided in this part.

If the respondent is a resident of Minnesota and can be found in the state, the accusation and all accompanying information must be served upon respondent personally in the manner provided by law for the service of a summons in a civil action.

If the respondent is not a resident of Minnesota, or if the respondent is a resident of Minnesota but cannot be found in the state, the accusation and all accompanying information must be served upon respondent by registered or certified mail, addressed to the most recent address furnished by the respondent to the board. The accusation and accompanying information are considered received by respondent five days after having been deposited in the United States mail, postage prepaid, addressed to such address.

The appearance of respondent in the proceeding constitutes a waiver of any defect in service.

Service may be proved by the affidavit of the person making the service.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3125 TIME AND PLACE OF HEARING.**

The board shall determine the time and place of the hearing on the accusation which must be held not less than 20 days nor more than 120 days after service of the accusation upon the respondent. The hearing must be held in Minneapolis, Minnesota, at a place designated by the board, unless the parties, by agreement, select another place within the state.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3130 NOTICE OF HEARING.**

A notice of hearing on the accusation must be served by the board upon respondent at the same time and in the same manner as the service of the accusation. The notice of hearing must be substantially in the following form:

You are hereby notified that a hearing will be held before the Minnesota Board of Physical Therapy at \_\_\_\_\_ on \_\_\_\_\_, 2\_\_\_\_, at the hour of \_\_\_\_\_M., o'clock, upon the charges made in the accusation served upon you. You may be present at the hearing; may be, but need not be, represented by counsel of your own choosing; may present any relevant evidence on your own behalf and will be given full opportunity to cross-examine all witnesses who testify. If you fail to appear at the time and place described above, the failure will constitute a waiver of your right to a hearing and the Minnesota Board of Physical Therapy may proceed upon the accusation with or without a hearing.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3135 DEPOSITIONS.**

On request of the respondent, or upon notice from the board to the respondent, the board may permit the testimony of any material witness, residing within or without the state, to be taken for use as evidence in the hearing, by deposition in the manner prescribed by law for such depositions in civil actions. The request or notice must set forth the nature of pending proceedings, the name and address of the witness whose testimony is desired, a showing of the materiality of the testimony, and a showing that the witness will be unable to attend. The board shall then forward a request to the witness to appear and testify before an officer named in the request.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

**5601.3140 CONDUCT OF HEARING.**

Subpart 1. **Role of board members.** Every hearing in a contested case must be presided over by a member of the board. A case may be heard by three or more members of the board.

Subp. 2. **Legal counsel.** The attorney for the board shall advise the member or members of the board concerning the conduct of the hearing and rulings on the admission or exclusion of evidence and other matters of law.

Subp. 3. **Disqualification of board member.** Any member of the board shall voluntarily be disqualified and withdraw from any case in which the member cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any board member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue must be determined by the other members of the board. No board member may withdraw voluntarily or be subject to disqualification if the disqualification would prevent the existence of a quorum qualified to act in a particular case.

Subp. 4. **Record of hearings.** All proceedings at the hearing must be reported in writing, and the board shall prepare an official record, including testimony and exhibits in each contested case. The board need not transcribe the record unless requested for purposes of rehearing or court review.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

**5601.3145 EVIDENCE.**

Subpart 1. **Oath.** All evidence may be taken only on oath or affirmation.

Subp. 2. **Rights of parties.** Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in direct examination, impeach any witness regardless of which party first called that witness to testify, and rebut the evidence against that party. If the respondent does not testify in the respondent's own behalf, the respondent may be called and examined as if under cross-examination.

Subp. 3. **Admissible evidence.** The board may admit and give probative effect to relevant evidence that possesses probative value and is not bound by the technical rules relating to evidence and witnesses; provided, however, that the board shall give effect to the rules of privilege recognized by law. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but is not sufficient in itself to support a finding unless it would be admissible over objection in civil actions. All evidence including records and documents, except tax returns and tax reports, in the possession of the board of which it desires to avail itself must be offered and made a part of the record in the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

**5601.3150 DECISION IN CONTESTED CASE.**

Subpart 1. **Votes required.** No right, license, or privilege may be granted, issued, renewed, revoked, suspended, limited, qualified, restricted, or conditioned except upon the affirmative vote of at least three members of the board.

Subp. 2. **Exceptions and argument before the board.** Whenever, in a contested case, a member of the board who has not participated in the hearing votes in the decision of the case, a final decision, if adverse to the respondent, must not be made until a proposed decision, including the statement of reasons, has been served on the respondent, and opportunity has been afforded to file exceptions and present argument to all of the members of the board who are to render the final decision.

Subp. 3. **Respondent's argument and evidence.** The respondent shall have the opportunity to present either oral or written argument and to present additional newly discovered evidence after the close of the record but prior to final decision.

Subp. 4. **Informal dispositions.** Informal disposition of a contested case may be made in the manner prescribed by law.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3155 FORM OF DECISION AND FINDINGS.**

Every decision and order adverse to a party to the proceeding must be in writing and, except when the decision or order is made pursuant to stipulation with or the consent of the respondent, shall contain a statement of findings or reasons, a determination of the issues presented, and the penalty, if any, or decision of the board. The findings must consist of a statement of the conclusions upon each contested issue of fact necessary to the decision. Parties to the proceedings must be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying statement of reasons together with proof of service must be delivered or mailed, upon request, to the respondent or to the respondent's attorney of record.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3160 EFFECTIVE DATE OF DECISION.**

The decision or order of the board is effective immediately upon its service on respondent. However, the board may, in its discretion, stay the enforcement of its decision pending appeal or reconsideration within 30 days after service.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3165 REVIEW OF DECISION IN CONTESTED CASE.**

The board may, upon its own motion or upon petition by respondent, reconsider or grant a rehearing of any decision rendered in a contested case or may condition any such decision upon just and reasonable grounds.

The filing of a petition for review does not automatically stay the enforcement of the board's decision.

**Statutory Authority:** *MS s 148.74*

**History:** 25 SR 1722

#### **5601.3200 CODE OF ETHICAL PRACTICE.**

Subpart 1. **Scope.** The code of ethical practice for licensees and applicants constitutes the code of ethics required by Minnesota Statutes, section 148.66, clause (7).

Subp. 2. **Prohibited activities.** Violation of the conduct rules in items A to E is prohibited and is grounds for disciplinary action under Minnesota Statutes, section 148.75, paragraph (a), clause (5).

A. Physical therapists shall not engage in conduct that constitutes harassment or abuse of, or unlawful discrimination against, patients.

B. Information relating to the physical therapist-patient relationship is confidential and may not be communicated to a third party not involved in that patient's care without the prior written consent of the patient or patient's representative, or unless otherwise allowed by law. Information must be disclosed when required by law for the protection of the patient or the public.

C. Physical therapists shall not engage in any sexual relationship or activity with any patient, or engage in any conduct that may reasonably be interpreted by the patient to be sexual, whether consensual or nonconsensual, while a physical therapist-

patient relationship exists. A physical therapist shall not exploit the physical therapist-patient relationship for sexual purposes, and termination of the physical therapist-patient relationship is not a defense to exploitation involving sexual misconduct.

D. A physical therapist, unless otherwise allowed by law, shall not provide patient care without disclosing benefits and substantial risks, if any, of the recommended examination, intervention, and the alternatives to the patient or patient's legal representative.

E. A physical therapist shall not provide care to patients when impaired by illness, chemical use, or chemical dependency that affects the physical therapist's ability to practice with reasonable skill and safety.

**Subp. 3. Reporting requirements.** A physical therapist shall self report to the board within 30 days:

A. any personal actions which may be grounds for disciplinary actions in Minnesota Statutes, sections 148.75 and 148.76;

B. impairment by illness, chemical use, or chemical dependency that affects the practitioner's ability to practice with reasonable skill and safety; a report of the impairment to the health professional services program satisfies this reporting obligation;

C. conviction of a misdemeanor, gross misdemeanor, or felony relating to patient care; and

D. the termination, revocation, or suspension of membership by a state or national physical therapy professional association.

Failure to comply with items A to D is considered conduct detrimental to the best interests of the public and grounds for disciplinary action under Minnesota Statutes, section 148.75, paragraph (a), clause (5).

**Subp. 4. Cooperation.** A physical therapist shall cooperate with an investigation of the board. Failure to cooperate is conduct detrimental to the best interest of the public and grounds for disciplinary action under Minnesota Statutes, section 148.75, paragraph (a), clause (5). Cooperation includes responding fully and promptly to any question raised by the board and providing copies of the medical records and other documents requested by the board.

**Subp. 5. Ethical integrity.** Licensees and applicants shall use the principles in items A to H as nonbinding guidelines for promoting ethical integrity and professionalism.

A. A physical therapist shall respect the rights and dignity of all patients and provide compassionate care as described in subitems (1) and (2).

(1) A physical therapist shall recognize individual differences with patients and shall respect and be responsive to those differences.

(2) A physical therapist shall be guided by concern for the physical, psychological, and socioeconomic welfare of patients.

B. A physical therapist shall exercise sound judgment and act in a trustworthy manner toward patients and in all other aspects of physical therapy practice. Regardless of practice setting, physical therapists shall maintain the ability to make independent judgments. A physical therapist shall strive to effect changes that benefit patients.

C. A physical therapist shall maintain professional competence and promote high standards for physical therapy practice, education, and research. Physical therapists shall participate in educational activities that enhance their basic knowledge and provide new knowledge.

D. A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services performed and shall never place the therapist's own financial interest above the welfare of patients under the therapist's care.

E. A physical therapist shall endeavor to address the health needs of society.

F. A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

G. A physical therapist shall safeguard the public from underutilization or overutilization of physical therapy services.

H. A physical therapist shall provide and make available accurate and relevant information to patients about their care and to the public about physical therapy services.

Subp. 6. **Aid to interpretation.** The American Physical Therapy Association (APTA) Code of Ethics and APTA Guide for Professional Conduct shall be used as aids in resolving any ambiguity that may arise in the interpretation of this part. However, in a conflict between this part and the APTA Code of Ethics and Guide for Professional Conduct, this part shall prevail. The Code of Ethics published by the American Physical Therapy Association in July 2000, and Guide for Professional Conduct published by the American Physical Therapy Association in January 2001, are incorporated by reference, are available at the State Law Library, and are not subject to frequent change.

Subp. 7. **Interpretation.** The conduct rules found under subparts 2, items A to D; 3; and 4, do not represent the exclusive grounds for disciplinary action under Minnesota Statutes, section 148.75, paragraph (a), clause (5), and must not be construed as limiting the grounds for disciplinary action under Minnesota Statutes, section 148.75, paragraph (a), clause (5), for conduct not listed in this part. Violation of the guidelines in subpart 5 is not grounds for disciplinary action under Minnesota Statutes, section 148.75, paragraph (a), clause (5).

**Statutory Authority:** *MS s 148.66; 148.67; L 2002 c 219 s 1*

**History:** *27 SR 1663*