CHAPTER 45

Physical Therapists

**SECTION 40‑45‑5.** Application of chapter; conflicts of law.

 Unless otherwise provided in this chapter, Article 1, Chapter 1 applies to the regulation of physical therapists and physical therapist assistants; however, if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.

HISTORY: 1998 Act No. 360, Section 1.

CROSS REFERENCES

Regulations of the State Board of Physical Therapy Examiners, see S.C. Code of Regulations R. 101‑01 et seq.

Services provided by health care professionals licensed under this chapter constitute “comprehensive rehabilitation services” within meaning of Provider Self‑Referral Act of 1993, see Section 44‑113‑20.

Library References

Health 103.

Westlaw Topic No. 198H.

C.J.S. Health and Environment Sections 5 to 6.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 1 to 4, 9 to 11, 136 to 137.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Witnesses Section 72, Qualification in General.

**SECTION 40‑45‑10.** Board of Physical Therapy Examiners; creation and purpose; membership.

 (A) There is created the State Board of Physical Therapy Examiners to license physical therapists and physical therapist assistants under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to protect the public through regulation of professionals who identify, assess, and provide treatment for individuals with physical disabilities through the administration and enforcement of this chapter and any regulations promulgated under the chapter.

 (B) The board consists of eleven members appointed by the Governor, seven of whom must be licensed physical therapists, with one from each congressional district, two of whom must be physical therapist assistants, and two from the general public. The South Carolina Physical Therapy Association, Inc. shall submit recommendations to the Governor of at least two names for each physical therapist and physical therapist assistant member. The Governor also shall consider nominations from any other individual, group, or association. The physical therapist and the physical therapist assistant member each must have had at least three years’ experience before being appointed and while serving on the board be actively practicing in this State. Members shall serve terms of four years and until their successors are appointed and qualify. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

HISTORY: 1998 Act No. 360, Section 1; 2012 Act No. 222, Section 7, eff June 7, 2012.

Editor’s Note

Prior Laws:1962 Code Section 56‑1337; 1952 (47) 1967; 1971 (57) 405; 1982 Act No. 413, Section 4; 1993 Act No. 85, Section 2; 1976 Code Section 40‑45‑30.

2012 Act No. 222, Section 15, provides as follows:

“SECTION 15. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires.”

Effect of Amendment

The 2012 amendment added the subsection identifiers; and substituted “eleven” for “nine”, “seven” for “six”, and “two” for “one” in subsection (B).

CROSS REFERENCES

Regulations for Board of Physical Therapy Examiners, see S.C. Code of Regulations R. 101‑01 et seq.

Requirement that all medical malpractice insurance carriers file with the board all final judgments, settlements, agreements, and awards against any licensee of this board, see Section 38‑79‑20.

Library References

Health 194.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 30 to 33, 71.

Attorney General’s Opinions

Simultaneously serving on State Board of Physical Therapy Examiners and on Rock Hill YMCA Board of Directors would not violate dual office holding prohibitions of state constitution. (Decided under former law) 1993 S.C. Op.Atty.Gen. 61, 1993 S.C. Op.Atty.Gen. No. 93‑24, (April 12, 1993) 1993 WL 720100.

**SECTION 40‑45‑20.** Definitions.

 As used in this chapter:

 (1) “Board” means the State Board of Physical Therapy Examiners.

 (2) “On‑site supervision” means supervision provided by a physical therapist or physical therapist assistant who must be:

 (a) continuously on site and present in the department or facility where the supervisee is performing services;

 (b) immediately available to assist the supervisee in the services being performed;

 (c) maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to the supervisee.

 (3) “Person” means an individual.

 (4) “Physical therapist” means a person who has met all the conditions of this chapter and is licensed in this State to practice physical therapy.

 (5) “Physical therapist assistant” means a person who is licensed by the board to assist a physical therapist in the practice of physical therapy and whose activities are supervised and directed by a physical therapist whose license is in good standing.

 (6) “Physical therapy” means the care and services provided by or under the direction and supervision of a licensed physical therapist.

 (7) “Physical therapy aide” means a nonlicensed person who helps the physical therapist or physical therapist assistant but whose duties do not require an understanding of physical therapy nor formal training in anatomical, biological, or physical sciences.

 (8) “Student” or “physical therapy student” means an individual enrolled in a board‑approved physical therapist or physical therapist assistant program while engaged in completing the clinical education requirement for graduation.

 (9) “The practice of physical therapy” means the evaluation and treatment of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction, and pain from injury, disease, and any other bodily or mental condition and includes the administration, interpretation, documentation, and evaluation of physical therapy tests and measurements of bodily functions and structures; the establishment, administration, evaluation, and modification of a physical therapy treatment plan which includes the use of physical, chemical, or mechanical agents, activities, instruction, and devices for prevention and therapeutic purposes; and the provision of consultation and educational and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction, and pain. The use of roentgen rays and radium for diagnostic or therapeutic purposes and the use of electricity for surgical purposes, including cauterization and colonic irrigations, are not authorized under the term “physical therapy” as used in this chapter, and nothing in this chapter shall be construed to authorize a physical therapist to prescribe medications or order laboratory or other medical tests.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1336; 1952 (47) 1967; 1971 (57) 405; 1982 Act No. 413, Sections 2, 3.

**SECTION 40‑45‑30.** Required licenses; practice while license suspended or revoked; practice without license; penalties.

 A person shall not engage in the practice of physical therapy without a license issued in accordance with this chapter. A person who practices as a physical therapist or as a physical therapist assistant without being licensed under this chapter or whose license has been suspended or revoked or who uses in connection with his name the words or letters “PT”, “Licensed Physical Therapist”, “Physical Therapist”, “Physio Therapist”, “Licensed Physical Therapist Assistant”, “PTA”, or any other letters, words, or insignia indicating or implying that he is a physical therapist or a physical therapist assistant or who in any other way, orally or in writing or in print or by sign directly or by implication, represents himself as a physical therapist or physical therapist assistant without being licensed by the board is subject to the penalties provided for in this chapter.

HISTORY: 1998 Act No. 360, Section 1.

CROSS REFERENCES

Regulations of the State Board of Physical Therapy Examiners, see S.C. Code of Regulations R. 101‑01 et seq.

Library References

Health 124.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 12 to 13.

Attorney General’s Opinions

A licensed physician, or a professional nurse under the direct supervision of a licensed physician, may practice physical therapy in South Carolina, although he or she should not hold himself or herself out to be a physical therapist. (Decided under former law) 1977 S.C. Op.Atty.Gen. 185, 1977 S.C. Op.Atty.Gen. No. 77‑253, (August 12, 1977) 1977 WL 24594.

NOTES OF DECISIONS

In general 1

1. In general

Plain language of rules governing physical therapist’s conduct provided fair notice to licensed physical therapist that training unregistered persons to perform physical therapy and then allowing them to treat patients was prohibited. Code 1976, Section 40‑45‑100; U.S.C.A. Const.Amends. 5, 14. Huber v. South Carolina State Bd. of Physical Therapy Examiners (S.C. 1994) 316 S.C. 24, 446 S.E.2d 433, rehearing denied.

**SECTION 40‑45‑50.** Administrative and fiscal responsibilities of board to be provided by Department of Labor, Licensing and Regulation; establishment of fees.

 (A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

 (B) The board shall establish fees in regulation.

 (C) The board may direct applicants to pay an examination fee directly to a third party who has contracted to administer the examination.

 (D) Fees are nonrefundable and may be prorated in order to comply with a biennial schedule.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 194, 199.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 5, 30 to 33, 71.

**SECTION 40‑45‑60.** Adoption of rules and regulations; seal.

 (A) The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter including, but not limited to, promulgation of regulations for the practice of physical therapy, determining the qualifications and requirements for licensure, establishing a code of ethics binding on persons licensed under or subject to this chapter, and establishing disciplinary procedures.

 (B) The board may have and use an official seal bearing the words “State Board of Physical Therapy Examiners in South Carolina”.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Sections 56‑1339, 56‑1340; 1952 (47) 1967; 1982 Act No. 413, Section 7; 1976 Code Section 40‑45‑50.

CROSS REFERENCES

Regulations for Board of Physical Therapy Examiners, see S.C. Code of Regulations R. 101‑01 et seq.

Library References

Health 194.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 30 to 33, 71.

**SECTION 40‑45‑70.** Additional powers and duties of board.

 In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40‑1‑70.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 194.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 30 to 33, 71.

**SECTION 40‑45‑80.** Investigation of complaints and violations; advisors.

 The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided in Section 40‑1‑80. Nonboard members may serve as advisors to provide professional expertise to inspectors or investigators.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 217.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 60 to 61.

**SECTION 40‑45‑90.** Evidence authorized to be collected for investigative purposes.

 For the purpose of an investigation or proceeding under this chapter, the board or a person designated by the board may subpoena witnesses, take evidence, and require the production of any documents or records which the board considers relevant to the inquiry.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 217.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 60 to 61.

**SECTION 40‑45‑100.** Restraining orders and other equitable relief.

 In addition to other remedies provided in this chapter or Article 1, Chapter 1, the board in accordance with Section 40‑1‑100 also may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 222.

Injunction 89(5).

Westlaw Topic Nos. 198H, 212.

C.J.S. Injunctions Sections 242 to 243, 245 to 247.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 60, 68.

**SECTION 40‑45‑110.** Refusal to grant licenses; suspensions, revocations, or other restrictions; grounds; mental and physical exams allowed; evidentiary use of records; opportunity to demonstrate ability to practice.

 (A) In addition to other grounds provided for in Section 40‑1‑110, the board, after notice and hearing, may restrict or refuse to grant a license to an applicant and may refuse to renew the license of a licensed person, and may suspend, revoke, or otherwise restrict the license of a licensed person who:

 (1) requests, receives, participates, or engages directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services or profits by means of a credit or other valuable consideration including, but not limited to, wages, an unearned commission, discount, or gratuity with a person who referred a patient, or with a relative or business associate of the referring person;

 (2) has treated or undertaken to treat human ailments otherwise than by physical therapy or has practiced physical therapy and failed to refer to a licensed medical doctor or dentist any patient whose medical condition should have been determined at the time of evaluation or treatment to be beyond the scope of practice of a physical therapist;

 (3) knowingly aided, assisted, procured, or advised a person to practice physical therapy contrary to this chapter or to regulations promulgated by the board pursuant to this chapter or knowingly performed an act which aids, assists, procures, or advises an unlicensed person to practice physical therapy;

 (4) in the absence of a referral from a licensed medical doctor or dentist, provides physical therapy services beyond thirty days after the initial evaluation and/or treatment date without the referral of the patient to a licensed medical doctor or dentist;

 (5) changes, or in any way modifies, any specific patient care instructions or protocols established by an appropriate health care provider without prior consultation with and approval by the appropriate health care provider.

 (B) An act or omission by a licensee causing the denial, revocation, suspension, or restriction of a license to practice physical therapy in another state is sufficient for the issuance of a formal complaint and the commencement of disciplinary proceedings as provided in this section. Proof of an act or omission may be shown by a copy of the transcript of record of the disciplinary proceedings in another state or a copy of the final order, consent order, or similar order stating the basis for the action taken. This subsection applies only when the disciplinary action taken in another state is based on grounds that would constitute grounds for disciplinary action under subsection (A) and Section 40‑1‑110.

 Upon the filing of an initial complaint alleging that a licensee has been disciplined in another state, the licensee must submit to the board copies of all transcripts, documents, and orders used, relied upon, or issued by the licensing authority in the other state. Failure to submit these items within ninety days of the board’s request for them results in the suspension of the individual’s license to practice physical therapy in this State until the items have been provided to the board.

 A licensee may present mitigating testimony to the board regarding disciplinary action taken in another state or evidence that the acts or omissions committed in another state do not constitute grounds for disciplinary action under subsection (A) and Section 40‑1‑110.

 (C) A complaint may be made in writing to the board or may be made by the board on its own initiative.

 (D) In enforcing this chapter, the board, upon reasonable grounds, may require a licensee or applicant to submit to a mental or physical examination performed by a physician designated by the board and including, but not limited to, urinalysis and blood work to determine the presence of drugs. The results of an examination are admissible in a hearing before the board, notwithstanding a claim or privilege under a contrary rule of law or statute. A person who accepts the privilege of practicing physical therapy in this State is deemed to have consented to submit to a mental or physical examination and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances beyond the person’s control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is prohibited from practicing physical therapy under this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of physical therapy with reasonable skill and safety to patients.

 (E) In enforcing this chapter, the board upon reasonable grounds may obtain records relating to the mental or physical condition of a licensee or applicant including, but not limited to, psychiatric records; and these records are admissible in a hearing before the board, notwithstanding any other provision of law. A person who accepts the privilege of practicing physical therapy in this State or who files an application to practice physical therapy in this State is deemed to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds that the same constitute a privileged communication. If a licensee or applicant refuses to sign a written consent for the board to obtain these records when properly requested by the board, unless the failure was due to circumstances beyond the person’s control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is prohibited from practicing physical therapy under this subsection must be afforded reasonable opportunity to demonstrate to the board the ability to resume or begin the practice of physical therapy with reasonable skill and safety to patients.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 146, 161, 173, 202 to 213.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19, 24 to 27, 52 to 59.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Medical and Health Professionals Section 6, Statutory Limitations on Practice of Medicine.

Attorney General’s Opinions

Section 40‑45‑110(A)(1) prohibits a physical therapist from working for pay for a licensed physician or group of physicians when the physician (or a member of the group) refers a patient to the physical therapist for physical therapy services. S.C. Op.Atty.Gen. (March 30, 2004) 2004 WL 736934.

Section 40‑45‑110(A)(1) prohibits a physical therapist from working for pay for a professional corporation owned by one or more licensed physicians when a physician owner or employee of the corporation refers a patient to the physical therapist for physical therapy services. S.C. Op.Atty.Gen. (March 30, 2004) 2004 WL 736934.

NOTES OF DECISIONS

In general 2

Referral fees 5

Regulations 3

Standing 4

Validity 1

1. Validity

Interpretation of statute prohibiting fees for physical‑therapy referrals as prohibiting physical therapists from being employed by a physician or physician group and providing physical therapy services to the employer’s referred patient, which distinguished physical therapists from other licensed health care professionals who could be employed by physicians, bore no rational relationship to legislative purpose of statute to protect consumers and government‑sponsored health care programs from conflicts of interest and potential misuse of medical services, and thus violated equal protection; there was no plausible reason as to why physical therapists were so different from other health care professional that they had to be singled or and provided disparate treatment for self‑referral purposes. Joseph v. South Carolina Department of Labor, Licensing and Regulation (S.C. 2016) 417 S.C. 436, 790 S.E.2d 763, rehearing denied. Courts 89

Statute prohibiting a physical therapist from receiving referrals from or dividing fees with a physician employer did not violate therapists’ substantive due process rights; while therapists possessed a property right to practice their profession when duly licensed by their respective governing bodies, their exercise of that right was subject to legislature’s police power to enact statutes and regulations aimed at enhancing public welfare in practice of medicine and related professions, and statute bore reasonable relationship to legitimate interest of government, and legislature did not engage in an arbitrary or wrongful act in enacting the statute. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Constitutional Law 4286; Health 105; Health 937

There was no violation of the procedural due process rights of physicians and physical therapists who challenged Board of Physical Therapy Examiners’ enforcement of statute prohibiting a physical therapist from receiving referrals from or dividing fees with a physician employer; the hearing at issue was not a contested case involving individual licensee, but was a regularly scheduled meeting at which Board discussed an issue of statutory interpretation and Board policy, minutes of meeting showed that representatives of physician‑owned practices and licensees offered comments in support of their positions, and Board voted in open session to begin enforcing the statute. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Constitutional Law 4286; Health 105; Health 937

Statute prohibiting a physical therapist from receiving referrals from or dividing fees with a physician employer did not violate the equal protection rights of physical therapists who wished to be employed by physicians who referred patients to them; the legislature had rational basis for defining the pertinent classification in this instance as the class of physical therapists, and legislative purpose sought to be achieved was the avoidance of overuse of physical therapy services by physicians who, for their own financial gain rather than their patients’ medical needs, referred patients to therapists employed by physicians. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Constitutional Law 3696; Health 105; Health 937

2. In general

Board of Physical Therapy Examiners’ decision to enforce statute prohibiting a physical therapist from receiving referrals from or dividing fees with a physician employer did not improperly infringe upon physicians’ statutory right to practice medicine. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Health 192; Health 948

Physical therapists generally are prohibited from providing therapy to a patient without an order from a physician or dentist. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Health 173

Term “referral” included the forwarding of a patient by a health care provider to another health care provider, who could be inside or outside the referring provider’s practice, or to an entity outside the health care professional’s office or group practice as that term was used in statute which allowed Board of Physical Therapy Examiners to suspend, restrict, or revoke license of a physical therapist who requested, received, or participated in dividing, transferring, or refunding of fees received for professional services by means of a credit or other valuable consideration, including, but not limited to, wages, discount, or gratuity with a person who “referred” a patient. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Health 202

Term “refer” meant to send or direct for treatment, aid, information, or decision, e.g., a patient to a specialist, as that term was used in statute which allowed Board of Physical Therapy Examiners to suspend, restrict, or revoke the license of a physical therapist who requested, received, or participated in the dividing, transferring, or refunding of fees received for professional services by means of a credit or other valuable consideration, including, but not limited to, wages, discount, or gratuity with a person who “referred” a patient. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Health 202

Statute which allows Board of Physical Therapy Examiners to suspend, restrict, or revoke license of a physical therapist who requests, receives, or participates in the dividing, transferring, or refunding of fees received for professional services by means of a credit or other valuable consideration, including, but not limited to, wages, discount, or gratuity with a person who referred a patient, prohibits a physical therapist from receiving referrals from or dividing fees with a physician employer; in other words, statute prohibits a physical therapist from working as an employee of physician when the physician refers patients to the physical therapist for services. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Health 202

3. Regulations

Board of Physical Therapy’s adoption of regulation interpreting statute prohibiting fees for physical‑therapy referrals as being inapplicable to individual physical therapists or associated physical therapist groups’ employment of other physical therapists or physical therapy assistants violated requirements of Administrative Procedure Act (APA) for promulgating regulations, and thus was invalid, where Board merely identified consideration of letter that prompted position paper as “discussion on Intra‑Professional Interactions” on its agenda, thus essentially providing no notice to public of what Board was deciding. Joseph v. South Carolina Department of Labor, Licensing and Regulation (S.C. 2016) 417 S.C. 436, 790 S.E.2d 763, rehearing denied. Health 939

Board of Physical Therapy’s adoption of position statement interpreting statute prohibiting fees for physical‑therapy referrals as being inapplicable to individual physical therapists or associated physical therapists groups’ employment of other physical therapists or physical therapy assistants constituted binding norm, rather than general policy statement, and thus was required to be promulgated as regulation under Administrative Procedure Act (APA); position statement was adopted to protect physical therapists from disciplinary action under statute and was intended to have force of law, Board intended physical therapists and physical therapist groups to rely on position statement, position statement left no question regarding whether physical therapists employed by another physical therapists or physical therapists group violated statute, and Board was not free to exercise its discretion in applying position statement. Joseph v. South Carolina Department of Labor, Licensing and Regulation (S.C. 2016) 417 S.C. 436, 790 S.E.2d 763, rehearing denied. Health 939

Board of Physical Therapy Examiners’ decision to begin enforcing statute, which prohibited physical therapists from receiving referrals from or dividing fees with a physician employer, after formally endorsing an opinion issued by Attorney General did not constitute a new “regulation” that was void for failure to comply with the rule‑making provisions of Administrative Procedure Act (APA); Board’s pronouncement did not implement law for therapists in more detail than set forth by statute, Attorney General’s opinion merely set forth legal reasoning and authority he used to interpret statute, and Board in endorsing that opinion did not set forth a list of criteria to use in analyzing whether employment relationship of physician and therapist violated statute. Sloan v. South Carolina Bd. of Physical Therapy Examiners (S.C. 2006) 370 S.C. 452, 636 S.E.2d 598, rehearing denied. Health 192; Health 202; Health 948

4. Standing

Physical therapist and orthopedic surgeons had standing to bring declaratory judgment action challenging Board of Physical Therapy’s interpretation of statute prohibiting fees for physical‑therapy referrals as prohibiting physical therapists from being employed by physician or physician group and providing physical therapy services to employer’s referred patient, but not applying to individual physical therapists or physical therapist groups’ employment of other physical therapists or physical therapy assistants; physical therapist had been injured by infringement on her ability to practice her profession, surgeons had interest in their ability to employ physical therapists, causal connection existed between injury and challenged actions, and there was likelihood that injuries would be redressed by favorable decision. Joseph v. South Carolina Department of Labor, Licensing and Regulation (S.C. 2016) 417 S.C. 436, 790 S.E.2d 763, rehearing denied. Health 952

5. Referral fees

Statute prohibiting fees for physical‑therapy referrals prohibits only referral‑for‑pay situations rather than prohibiting all employer‑employee relationships between physicians and physical therapists; overruling Sloan v. South Carolina Board of Physical Therapy Examiners, 370 S.C. Joseph v. South Carolina Department of Labor, Licensing and Regulation (S.C. 2016) 417 S.C. 436, 790 S.E.2d 763, rehearing denied. Health 948

**SECTION 40‑45‑115.** Jurisdiction of the board.

 The board has jurisdiction over the actions of licensees and former licensees as provided in Section 40‑1‑115.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 194, 203.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 30 to 33, 52 to 54, 71.

**SECTION 40‑45‑120.** Board authority to take disciplinary actions and impose civil penalties.

 In addition to the sanctions the board may impose against a person pursuant to Section 40‑45‑110, the board may take disciplinary action against a person as provided in Section 40‑1‑120 and also may impose a civil penalty of not more than two thousand dollars for each violation of this chapter or of a regulation promulgated under this chapter, the total penalty not to exceed ten thousand dollars.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 203, 222.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 52 to 54, 60, 68.

**SECTION 40‑45‑130.** Grounds for denial or restrictions of license may be same as for disciplinary action.

 As provided in Section 40‑1‑130, the board may restrict or deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 1962 Code Section 56‑1347; 1952 (47) 1967; 1971 (57) 405; 1982 Act No. 413, Section 13; 1996 Act No. 224, Section 1; 1998 Act No. 360, Section 1.

Library References

Health 146.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 24 to 27.

**SECTION 40‑45‑140.** Denial of license based on prior criminal record.

 A license may be denied based on a person’s prior criminal record only as provided in Section 40‑1‑140.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 146.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 24 to 27.

**SECTION 40‑45‑150.** Voluntary surrender of license by licensee being investigated.

 A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40‑1‑150.

HISTORY: 1998 Act No. 360, Section 1.

**SECTION 40‑45‑160.** Appeal.

 A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40‑1‑160.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 158, 223.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 38 to 39, 60, 69.

**SECTION 40‑45‑170.** Costs of investigation and prosecution; authority to require payment by violator.

 A person found in violation of this chapter or a regulation promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 222.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 60, 68.

**SECTION 40‑45‑180.** Collection and enforcement provisions for costs and fines.

 All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 222.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 60, 68.

**SECTION 40‑45‑190.** Confidentiality of proceedings and communications.

 Investigations and proceedings conducted under this chapter are confidential, and all communications are privileged as provided in Section 40‑1‑190.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 196.

Privileged Communications and Confidentiality 423.

Records 54, 60.

Westlaw Topic Nos. 198H, 311H, 326.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 71, 77.

C.J.S. Records Sections 116, 118, 120, 126, 130 to 132, 139 to 142.

C.J.S. Witnesses Sections 370 to 371.

**SECTION 40‑45‑200.** Violations of chapter; submission of false information to the board; penalty.

 A person who engages in the practice of or offers to engage in the practice of physical therapy in the State in violation of this chapter or who knowingly submits false information to the board for the purpose of obtaining a license or who violates any other provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than ninety days, or both. Each violation is a separate offense.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1349.4; 1952 (47) 1967; 1971 (57) 405; 1982 Act No. 413, Section 17; 1976 Code Section 40‑45‑210.

Library References

Health 173, 975.

Westlaw Topic No. 198H.

C.J.S. Health and Environment Section 89.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19.

**SECTION 40‑45‑210.** Injunctive relief.

 The department, on behalf of the board and in accordance with Section 40‑1‑120, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Injunction 89(5).

Westlaw Topic No. 212.

C.J.S. Injunctions Sections 242 to 243, 245 to 247.

**SECTION 40‑45‑220.** Qualifications of applicants for licensure; burden to demonstrate eligibility.

 (A) To be eligible for licensure as a physical therapist an applicant must:

 (1)(a) be a graduate of a physical therapy educational program approved by the board;

 (b) pass an examination administered or approved by the board; and

 (c) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board; or

 (2)(a) provide satisfactory evidence that his or her education is equivalent to the requirements of physical therapists educated in United States educational programs as determined by the board. If the board determines that an applicant’s education is not equivalent, it may require completion of additional course work before proceeding with the application process;

 (b) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board;

 (c) pass an examination administered or approved by the board;

 (d) submit evidence satisfactory to the board on a form approved by the board of not less than one thousand clinical practice hours under the on‑site supervision of a licensed physical therapist in this State or in a state with licensure requirements equal to or more stringent than this State.

 (B) To be eligible for licensure as a physical therapist assistant an applicant must:

 (1) be a graduate of a physical therapist assistant program approved by the board;

 (2) pass an examination administered or approved by the board; and

 (3) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board.

 (C) The burden is upon the applicant to demonstrate to the satisfaction of the board and in the manner prescribed by the board that the applicant has the qualifications and is eligible for licensure.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1344; 1952 (47) 1967; 1971 (57) 405; 1978 Act No. 442, Section 1; 1982 Act No. 413, Section 10; 1976 Code Section 40‑45‑100.

Library References

Health 146, 157.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 24 to 27, 30 to 37.

NOTES OF DECISIONS

Expert testimony 1

1. Expert testimony

Physical therapist was an expert in the limited area of physical therapy required to treat motorist’s injuries and was not qualified to testify regarding causation of injuries, where physical therapist did not make medical diagnoses and did not independently treat motorist but rather reported his findings to motorist’s treating physicians. Nelson v. Taylor (S.C.App. 2001) 347 S.C. 210, 553 S.E.2d 488. Evidence 544

**SECTION 40‑45‑230.** Notarized application form; fee; mastery of English language; submission of transcripts; accommodations for disabled applicants; time period for completion of process; examination requirements.

 (A) An applicant must submit with an application for licensure:

 (1) a completed notarized application form;

 (2) the applicable fee in the form of a check or money order;

 (3) legal documentation indicating a name change, if applicable;

 (4) proof that the applicant can speak, write, and be tested in the English language if English is not the native language of country of origin.

 (B) An applicant must arrange to have the official transcript sent directly to the board from the applicant’s physical therapy school. An applicant who is a new graduate of an approved school applying for licensure by examination may submit verification directly from the applicant’s physical therapy school with the registrar’s seal stating that graduation requirements have been met if the official transcript is not yet available. A final transcript indicating the degree and date the degree was conferred must be on file before a permanent license may be issued.

 (C) An applicant who is a graduate of a school that is not approved who is applying for licensure either by examination or endorsement must submit all items under subsection (A), must arrange to have an official transcript sent directly to the board, and also must submit an evaluation of educational credentials report.

 (D) An applicant with a documented disability may request special accommodations to take the examination.

 (E) An application for licensure must be completed within one year or the application and credentials must be brought up to date and resubmitted with payment of the applicable fee.

 (F) An application must be received by the board in a completed form, and an applicant must be determined by the board to be eligible to take the examination before the applicant can register for the examination. An eligible applicant must receive notification regarding registration procedures.

 (G) If an applicant fails the examination, whether or not taken in South Carolina, the applicant may take the examination a second time on payment of the examination fee and completion of an official application. If the applicant fails the examination for a second time, the applicant, in addition to the requirements for the previous examination, must take courses the board may require and furnish evidence of completing these courses.

 (H) No person may be licensed under this chapter if the person has failed the examination three or more times, whether or not the exam was taken in South Carolina.

 (I) The grade required for passing the examination must be established by the board.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1345; 1952 (47) 1967; 1964 (53) 2388; 1971 (57) 405; 1981 Act No. 35, Section 1; 1982 Act No. 413, Section 11; 1976 Code Section 40‑45‑110.

Library References

Health 155.

Westlaw Topic No. 198H.

**SECTION 40‑45‑240.** Licensure without examination.

 (A) The board may license as a physical therapist or as a physical therapist assistant, without examination, on the payment of the applicable fee, an applicant who is a physical therapist or physical therapist assistant licensed under the laws of another state or territory, if the requirements for licensure in that state or territory were at the date of licensure equivalent to the requirements in effect at the time of application in this State.

 (B) An applicant licensed in another state applying for licensure by endorsement must:

 (1) submit a completed notarized application form;

 (2) submit the applicable fee in the form of a check or money order;

 (3) legal documentation indicating a name change, if applicable;

 (4) have the official transcript sent directly to the board from the applicant’s physical therapy school;

 (5) submit an evaluation of educational credentials if a graduate of a nonapproved school;

 (6) have the examination scores reported directly to the board from the Interstate Reporting Service or other recognized examination service;

 (7) submit an official verification of a current license;

 (8) submit proof that the applicant can speak, write, and be tested in the English language if English is not the native language of country of origin;

 (9) submit evidence on a form approved by the board of one thousand clinical practice hours under the on‑site supervision of a licensed physical therapist if the applicant is a graduate of a nonapproved school.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1346; 1952 (47) 1967; 1964 (53) 2388; 1971 (57) 405; 1982 Act No. 413, Section 12; 1976 Code Section 40‑45‑120.

Library References

Health 146, 156.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 24 to 29, 36.

**SECTION 40‑45‑250.** Time period licenses are valid; renewals, fees, and penalties; continuing education requirements; inactive status.

 (A) A license is valid for up to two years and must be renewed biennially. However, a physical therapist or a physical therapist assistant who first becomes licensed in the last quarter of the calendar year must be issued a license for the next licensing period.

 (B) Before January first in every other year, a licensed physical therapist and physical therapist assistant shall renew the license and pay the renewal fee, whether or not a notice is received. If a license is not renewed or postmarked before January first, the board may charge a late renewal penalty as provided for in regulation beginning January first, for up to thirty days, for every day that the license is not renewed or postmarked.

 (C) If a licensee fails to renew or postmark a renewal before January thirty‑first the license automatically lapses. A person who fails to renew a license and practices as a physical therapist or physical therapist assistant after December thirty‑first is practicing without a license and is subject to the penalties provided in this chapter.

 (D) As a condition of license renewal, a licensee must satisfactorily complete 3.0 continuing education units each biennium as provided for in regulation and must submit proof of completion on a form approved by the board.

 (E) Notwithstanding subsection (H)(1), if a person’s license lapses because the person did not satisfy the continuing education requirements of subsection (D), the person must comply with subsection (D) before the board may renew the license.

 (F) A licensee who does not wish to renew an active license may select inactive status on the renewal form and return the form to the board.

 (G) A licensee shall notify the board of any change in name or mailing address within thirty days. If a name change on a license is requested, the licensee must submit legal documentation indicating the name change.

 (H) A physical therapist or physical therapist assistant whose license has lapsed or has been inactive for:

 (1) fewer than three years may reactivate the license by applying to the board, submitting proof of completing 1.5 continuing education units for each year the license has lapsed or has been inactive, and paying the reactivation fee;

 (2) three or more years is required to complete supervised clinical practice hours, additional education, and completion of an examination as provided in regulation;

 (3) fewer than three years and who has active status outside of this State may reinstate the license by submitting proof of completing 1.5 continuing education units for each year the license has lapsed, or has been inactive, official verification of a current license, and paying the reactivation fee;

 (4) three or more years and who has active status outside of this State may reinstate the license by submitting evidence satisfactory to the board of not less than one thousand hours of out‑of‑state employment within the last year, official verification of a current license, and paying the reactivation fee.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1349.1; 1952 (47) 1967; 1964 (53) 2388; 1971 (57) 405; 1981 Act No. 35, Section 2; 1982 Act No. 413, Section 16; 1976 Code Section 40‑45‑180.

Library References

Health 160, 161, 199.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 5, 40 to 42.

**SECTION 40‑45‑260.** Certificate of licensure; provisional licenses; restrictions; limit on attempts to pass licensure examination.

 (A) The board shall license as a physical therapist or a physical therapist assistant an applicant who proves to the satisfaction of the board fitness for licensure under the provisions of this chapter. The board shall issue to a licensee a certificate of licensure, which is prima facie evidence of the right of the person to represent himself or herself as a licensed physical therapist or as a licensed physical therapist assistant.

 (B) The board may issue a provisional license to:

 (1) an applicant for licensure as a physical therapist who has met all of the requirements for licensure under Section 40‑45‑230 except completing the clinical practice hours requirement pursuant to Section 40‑45‑220(A)(2)(d);

 (2) a person whose physical therapist or physical therapist assistant license has been inactive or lapsed for three years or more and who has applied to reactivate the license;

 (3) an applicant for licensure as a physical therapist or physical therapist assistant whose practice needs to be restricted, as determined by the board;

 (4) an applicant for licensure as a physical therapist or physical therapist assistant who has met all of the requirements for licensure under Section 40‑45‑230 except for completing the official transcript requirement pursuant to Section 40‑45‑230(B).

 A provisional license is valid for up to one year from the date of issue and may not be renewed. A physical therapist holding a provisional license issued pursuant to item (1), (2), or (3) must work under the on‑site supervision of a physical therapist licensed in this State, and a physical therapist assistant holding a provisional license issued pursuant to items (1), (2), or (3) must work under the on‑site supervision of a physical therapist or physical therapist assistant licensed in this State. A physical therapist and physical therapist assistant holding a provisional license issued pursuant to item (4) must work under the supervision of a physical therapist licensed in this State. A provisional licensee shall submit to the board a completed supervisory agreement form for each place of employment.

 (C) The board may require an applicant who is not actively engaged in practice as a physical therapist or as a physical therapist assistant to comply with one or more of the following:

 (1) complete a certain number of continuing education units;

 (2) have supervised practice as specified by the board;

 (3) pass a written examination approved by the board.

 (D) The board must not issue a physical therapist or physical therapist assistant license to an applicant who has failed to achieve a passing score three or more times on a board‑approved licensure examination.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1348; 1952 (47) 1967; 1971 (57) 405; 1982 Act No. 413, Section 14; 1976 Code Section 40‑45‑140.

Library References

Health 146, 160.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 24 to 27, 40 to 42.

**SECTION 40‑45‑270.** Persons exempt from licensure requirement.

 The following are not required to be licensed:

 (1) a “PT student” who is a student enrolled in a board‑approved physical therapist program while engaged in completing the clinical education requirement for graduation under the on‑site supervision of a physical therapist who is licensed to practice in this State;

 (2) a “PTA” student who is a student enrolled in a board‑approved physical therapist assistant program while engaged in completing the clinical education requirement for graduation under the on‑site supervision of a physical therapist or physical therapist assistant who is licensed to practice in this State;

 (3) a physical therapist or physical therapist assistant licensed in another state who is teaching or participating in special physical therapy education projects, demonstrations, or courses in this State;

 (4) a physical therapist or physical therapist assistant solely employed by the United States Armed Services, United States Public Health Service, Veterans Administration, or another federal agency and practicing within the scope of employment.

HISTORY: 1998 Act No. 360, Section 1.

Editor’s Note

Prior Laws:1962 Code Section 56‑1348.1; 1964 (53) 2388; 1971 (57) 405; 1982 Act No. 413, Section 15; 1984 Act No. 392; 1976 Code Section 40‑45‑150.

Library References

Health 146, 173.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19, 24 to 27.

**SECTION 40‑45‑280.** Physical therapy records; responsibility for records; contents; discharge notes.

 (A) A physical therapist is responsible for the physical therapy record of a patient.

 (B) Only a licensed physical therapist or physical therapist assistant, provisional licensed physical therapist or physical therapist assistant, or student physical therapist or physical therapist assistant shall document in a physical therapy record.

 (C) A physical therapy record consists of:

 (1) the initial evaluation which is a written report signed and dated by the physical therapist performing the evaluation. An initial evaluation by a provisional licensed physical therapist must be reviewed, cosigned, and dated by the on‑site supervising physical therapist;

 (2) a plan of care developed by a licensed physical therapist, including:

 (a) treatment to be rendered;

 (b) frequency and duration of treatment;

 (c) measurable goals.

 (3) clinical notes that must be signed and dated by the person rendering treatment. All clinical notes written by a physical therapist student or physical therapist assistant student are to be reviewed, cosigned, and dated by the physical therapist or physical therapist assistant who is supervising the appropriate level student. Clinical notes written by a provisional physical therapist or a physical therapist assistant licensee must be reviewed, cosigned, and dated by the on‑site supervising physical therapist every eighth treatment day or every sixty calendar days, whichever comes first;

 (4) a discharge note which is a statement of the patient’s status at the last treatment session as written, signed, and dated by the physical therapist or physical therapist assistant rendering service. All discharge notes written by a physical therapist student, physical therapist assistant student, and provisional licensed physical therapist or physical therapist assistant are to be reviewed, cosigned, and dated by the supervising physical therapist.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 173, 196.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19, 71, 77.

**SECTION 40‑45‑290.** Physical therapy aides; permissible duties; restrictions.

 (A) A physical therapy aide may provide departmental support to the on‑site physical therapist and physical therapist assistant in the following areas subject to guidelines established in regulations:

 (1) transporting patients;

 (2) preparing, cleaning, and maintaining the treatment area and equipment;

 (3) preparing patients for treatment;

 (4) attending to the personal needs of patients during treatment sessions;

 (5) clerical and housekeeping activities.

 (B) A physical therapy aide may not perform:

 (1) an activity which requires licensure under this chapter;

 (2) an activity which requires the exercise of the professional judgment of a physical therapist;

 (3) the interpretation of referrals, screenings, assessments, evaluations, or reassessments;

 (4) the development or modification of treatment plans or discharge plans.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 173.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19.

**SECTION 40‑45‑300.** Delegation and supervision of physical therapy tasks; responsibility for care; supervisor to be approved by board.

 (A) A physical therapist is professionally and legally responsible for patient care given by a physical therapist assistant, physical therapy aide, physical therapist student, or physical therapist assistant student under the physical therapist’s supervision. A physical therapist may delegate to and supervise selected acts, tasks, or procedures which fall within the practice of physical therapy but do not exceed the education or training of a physical therapist assistant, physical therapy aide, physical therapist student, or physical therapist assistant student.

 (B) A physical therapist assistant shall function under the supervision of a licensed physical therapist. A person licensed under this chapter as a physical therapist assistant shall perform duties only after the initial evaluation of the patient is conducted by a licensed physical therapist. A patient plan of care may not be altered without the prior written, dated, and signed approval of a licensed physical therapist. A patient must be reevaluated and the plan of care must be reapproved by a physical therapist licensed in this State every eighth treatment day or every sixty calendar days, whichever comes first. The board may establish in regulation the number of physical therapist assistants a physical therapist may concurrently supervise except in hospitals licensed by the Department of Health and Environmental Control which may determine their own staffing ratios.

 (C) A physical therapist student shall function under the on‑site supervision of a licensed physical therapist.

 (D) A physical therapist assistant student and a physical therapy aide shall function under the on‑site supervision of a licensed physical therapist or licensed physical therapist assistant. The physical therapist is ultimately responsible for the licensed physical therapist assistant, the student physical therapist assistant, and the physical therapy aide.

 (E) A supervisor must be a licensed physical therapist or physical therapist assistant who has been approved by the board to supervise provisional licensees, students, and aides based on the supervisor’s training and work experience, which must be relevant to the work of those under the supervision and must be sufficiently extensive to enable the supervisor to direct and evaluate the work of a supervisee.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 173.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19.

**SECTION 40‑45‑310.** Construction of chapter; authority not granted to practice other forms, branches, or methods of healing.

 Nothing in this chapter may be construed as authorizing a licensed physical therapist or any other person to practice medicine, surgery, osteopathy, homeopathy, chiropractic, naturopathy, magnetic healing, or any other form, branch, or method of healing as authorized by the laws of this State. Nothing in this chapter shall be construed to restrict, inhibit, or limit the practice of chiropractic as now practiced in this State and as taught by accredited schools or colleges of chiropractic. Nothing in this chapter shall be construed to restrict, inhibit, or limit the practice of licensed nurse practitioners, licensed physicians assistants, certified athletic trainers, licensed massage therapists, exercise physiologists, or personal trainers. Moreover, nothing in this chapter shall be construed to restrict, inhibit, or limit in any way the practice of dentistry pursuant to Chapter 15 of Title 40 or the practice of medicine pursuant to Chapter 47 of Title 40.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Health 173.

Westlaw Topic No. 198H.

C.J.S. Physicians, Surgeons, and Other Health Care Providers Sections 15 to 19.

Attorney General’s Opinions

A licensed physician, or a professional nurse under the direct supervision of a licensed physician, may practice physical therapy in South Carolina, although he or she should not hold himself or herself out to be a physical therapist. (Decided under former law) 1977 S.C. Op.Atty.Gen. 185, 1977 S.C. Op.Atty.Gen. No. 77‑253, (August 12, 1977) 1977 WL 24594.

**SECTION 40‑45‑320.** Construction of chapter; rights to payment of certain health plan benefits; effect on contractual agreements requiring doctor’s prescription for therapy services; effect on workers’ compensation.

 (A) Nothing in this chapter may be construed to create a right in a physical therapist or physical therapist assistant to:

 (1) have paid to a physical therapist or physical therapist assistant a benefit under:

 (a) a self‑funded plan providing benefits to residents of this State;

 (b) accident and health insurance provided to residents of this State;

 (c) a plan of operation established by a health maintenance organization licensed in this State; or

 (2) have a claim against a third party payer, however situated.

 (B) Nothing contained in this chapter may be construed to limit, enlarge, or otherwise affect any contractual agreement now in effect or entered into after the effective date of this act which provides that a person obtaining physical therapy services must have a prescription from a doctor of medicine licensed under Chapter 47 or from a person licensed to practice dentistry under Chapter 25 in order to be entitled to receive reimbursement for these therapy services.

 (C) Nothing contained in this chapter may be construed to affect the provisions of Title 42 of the South Carolina Code of Laws relating to workers’ compensation.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Insurance 2484, 2503.

Westlaw Topic No. 217.

C.J.S. Insurance Sections 1335, 1591.

**SECTION 40‑45‑330.** Severability.

 If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

HISTORY: 1998 Act No. 360, Section 1.

Library References

Statutes 64(1) to 64(10).

Westlaw Topic No. 361.

C.J.S. Statutes Sections 83 to 107.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Witnesses Section 72, Qualification in General.