

PHYSICAL THERAPY PRACTICE ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill recodifies and amends the Physical Therapist Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ recodifies the "Physical Therapist Practice Act" as the "Physical Therapy Practice Act";
- ▶ describes the membership and duties of the Physical Therapy Licensing Board;
- ▶ requires the board to designate a member of the board to assist the division in reviewing and investigating complaints of unlawful or unprofessional conduct;
- ▶ prohibits a person from practicing physical therapy in Utah, unless the person is licensed to practice physical therapy in Utah or is exempt from the requirements of this bill;
- ▶ describes the requirements for licensure as a physical therapist or a physical therapist assistant;
- ▶ describes requirements relating to the term of a license, license renewal, exemption from licensure, and denial of a license;
- ▶ describes the power of the Division of Occupational and Professional Licensing to discipline a license holder and to issue a cease and desist order;
- ▶ describes the practice of physical therapy and the scope of a license for a physical therapist and a physical therapist assistant;
- ▶ describes the function of a physical therapy aide;

- 30 ▶ describes the duties of a physical therapist in relation to patient care and
- 31 management;
- 32 ▶ describes the circumstances under which a physical therapist may administer
- 33 certain prescription medications;
- 34 ▶ grants rulemaking authority to the Division of Occupational and Professional
- 35 Licensing;
- 36 ▶ describes requirements relating to the practice of animal physical therapy;
- 37 ▶ describes unlawful and unprofessional conduct relating to physical therapy;
- 38 ▶ provides for confidentiality and immunity, under certain circumstances, for
- 39 reporting unlawful or unprofessional conduct;
- 40 ▶ exempts a physical therapist assistant from licensure under the Massage Therapy
- 41 Practice Act;
- 42 ▶ includes a physical therapist assistant as a health care provider covered under the
- 43 provisions of the Utah Health Care Malpractice Act; and
- 44 ▶ makes technical changes.

45 Monies Appropriated in this Bill:

46 None

47 Other Special Clauses:

48 This bill takes effect on July 1, 2009.

49 Utah Code Sections Affected:

50 AMENDS:

51 **16-11-2**, as last amended by Laws of Utah 2006, Chapter 242

52 **34A-2-111**, as last amended by Laws of Utah 2008, Chapter 382

53 **48-2c-1502**, as last amended by Laws of Utah 2004, Chapter 280

54 **58-28-307**, as renumbered and amended by Laws of Utah 2006, Chapter 109

55 **58-47b-304**, as last amended by Laws of Utah 2000, Chapter 309

56 **78B-3-403**, as renumbered and amended by Laws of Utah 2008, Chapter 3

57 ENACTS:

- 58 **58-24b-101**, Utah Code Annotated 1953
- 59 **58-24b-102**, Utah Code Annotated 1953
- 60 **58-24b-201**, Utah Code Annotated 1953
- 61 **58-24b-301**, Utah Code Annotated 1953
- 62 **58-24b-302**, Utah Code Annotated 1953
- 63 **58-24b-303**, Utah Code Annotated 1953
- 64 **58-24b-304**, Utah Code Annotated 1953
- 65 **58-24b-305**, Utah Code Annotated 1953
- 66 **58-24b-401**, Utah Code Annotated 1953
- 67 **58-24b-402**, Utah Code Annotated 1953
- 68 **58-24b-403**, Utah Code Annotated 1953
- 69 **58-24b-404**, Utah Code Annotated 1953
- 70 **58-24b-405**, Utah Code Annotated 1953
- 71 **58-24b-501**, Utah Code Annotated 1953
- 72 **58-24b-502**, Utah Code Annotated 1953
- 73 **58-24b-503**, Utah Code Annotated 1953
- 74 **58-24b-504**, Utah Code Annotated 1953

75 REPEALS:

- 76 **58-24a-101**, as enacted by Laws of Utah 1991, Chapter 237
- 77 **58-24a-102**, as last amended by Laws of Utah 2006, Chapter 109
- 78 **58-24a-103**, as enacted by Laws of Utah 1991, Chapter 237
- 79 **58-24a-104**, as enacted by Laws of Utah 1991, Chapter 237
- 80 **58-24a-105**, as last amended by Laws of Utah 2004, Chapter 280
- 81 **58-24a-106**, as enacted by Laws of Utah 1991, Chapter 237
- 82 **58-24a-107**, as enacted by Laws of Utah 1991, Chapter 237
- 83 **58-24a-108**, as last amended by Laws of Utah 1993, Chapter 297
- 84 **58-24a-109**, as last amended by Laws of Utah 1992, Chapter 30
- 85 **58-24a-110**, as last amended by Laws of Utah 1993, Chapter 297

86 **58-24a-111**, as repealed and reenacted by Laws of Utah 1993, Chapter 297

87 **58-24a-112**, as last amended by Laws of Utah 1994, Chapter 222

88 **58-24a-114**, as repealed and reenacted by Laws of Utah 1993, Chapter 297

89

90 *Be it enacted by the Legislature of the state of Utah:*

91 Section 1. Section **16-11-2** is amended to read:

92 **16-11-2. Definitions.**

93 As used in this chapter:

94 (1) "Filed" means the division has received and approved, as to form, a document
95 submitted under the provisions of this chapter, and has marked on the face of the document a
96 stamp or seal indicating the time of day and date of approval, the name of the division, the
97 division director's signature and division seal, or facsimiles of the signature or seal.

98 (2) "Professional corporation" means a corporation organized under this chapter.

99 (3) "Professional service" means the personal service rendered by:

100 (a) a physician, surgeon, or doctor of medicine holding a license under Title 58,
101 Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of
102 medicine;

103 (b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
104 Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;

105 (c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
106 Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of
107 osteopathy;

108 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
109 Practice Act, and any subsequent laws regulating the practice of chiropractic;

110 (e) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric
111 Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

112 (f) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
113 Practice Act, and any subsequent laws regulating the practice of optometry;

114 (g) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice
115 Act, and any subsequent laws regulating the practice of veterinary medicine;

116 (h) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
117 and any subsequent laws regulating the practice of architecture;

118 (i) a public accountant holding a license under Title 58, Chapter 26a, Certified Public
119 Accountant Licensing Act, and any subsequent laws regulating the practice of public
120 accounting;

121 (j) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
122 Practice Act, and any subsequent laws regulating the practice of naturopathy;

123 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice
124 Act, and any subsequent laws regulating the practice of pharmacy;

125 (l) an attorney granted the authority to practice law by:

126 (i) the Utah Supreme Court; or

127 (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that
128 licenses or regulates the authority to practice law in any state or territory of the United States
129 other than Utah;

130 (m) a professional engineer registered under Title 58, Chapter 22, Professional
131 Engineers and Professional Land Surveyors Licensing Act;

132 (n) a real estate broker or real estate agent holding a license under Title 61, Chapter 2,
133 Division of Real Estate, and any subsequent laws regulating the selling, exchanging,
134 purchasing, renting, or leasing of real estate;

135 (o) a psychologist holding a license under Title 58, Chapter 61, Psychologist
136 Licensing Act, and any subsequent laws regulating the practice of psychology;

137 (p) a clinical or certified social worker holding a license under Title 58, Chapter 60,
138 Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social
139 work;

140 (q) a physical therapist holding a license under Title 58, Chapter ~~[24a, Physical~~
141 ~~Therapist]~~ 24b, Physical Therapy Practice Act, and any subsequent laws regulating the

142 practice of physical therapy;

143 (r) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,
144 Chapter 44a, Nurse Midwife Practice Act; or

145 (s) a landscape architect licensed under Title 58, Chapter 53, Landscape Architects
146 Licensing Act, and any subsequent laws regulating landscape architects.

147 (4) "Regulating board" means the board that is charged with the licensing and
148 regulation of the practice of the profession which the professional corporation is organized to
149 render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act,
150 apply to this chapter unless the context clearly indicates that a different meaning is intended.

151 Section 2. Section **34A-2-111** is amended to read:

152 **34A-2-111. Managed health care programs -- Other safety programs.**

153 (1) As used in this section:

154 (a) (i) "Health care provider" means a person who furnishes treatment or care to
155 persons who have suffered bodily injury.

156 (ii) "Health care provider" includes:

157 (A) a hospital;

158 (B) a clinic;

159 (C) an emergency care center;

160 (D) a physician;

161 (E) a nurse;

162 (F) a nurse practitioner;

163 (G) a physician's assistant;

164 (H) a paramedic; or

165 (I) an emergency medical technician.

166 (b) "Physician" means any health care provider licensed under:

167 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

168 (ii) Title 58, Chapter ~~[24a, Physical Therapist]~~ 24b, Physical Therapy Practice Act;

169 (iii) Title 58, Chapter 67, Utah Medical Practice Act;

- 170 (iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 171 (v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
- 172 (vi) Title 58, Chapter 70a, Physician Assistant Act;
- 173 (vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;
- 174 (viii) Title 58, Chapter 72, Acupuncture Licensing Act; and
- 175 (ix) Title 58, Chapter 73, Chiropractic Physician Practice Act.
- 176 (c) "Preferred health care facility" means a facility:
 - 177 (i) that is a health care facility as defined in Section 26-21-2; and
 - 178 (ii) designated under a managed health care program.
- 179 (d) "Preferred provider physician" means a physician designated under a managed
- 180 health care program.
- 181 (e) "Self-insured employer" is as defined in Section 34A-2-201.5.
- 182 (2) (a) A self-insured employer and insurance carrier may adopt a managed health care
- 183 program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational
- 184 Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).
- 185 (b) (i) A preferred provider program may be developed if the preferred provider
- 186 program allows a selection by the employee of more than one physician in the health care
- 187 specialty required for treating the specific problem of an industrial patient.
- 188 (ii) (A) Subject to the requirements of this section, if a preferred provider program is
- 189 developed by an insurance carrier or self-insured employer, an employee is required to use:
 - 190 (I) preferred provider physicians; and
 - 191 (II) preferred health care facilities.
- 192 (B) If a preferred provider program is not developed, an employee may have free
- 193 choice of health care providers.
- 194 (iii) The failure to do the following may, if the employee has been notified of the
- 195 preferred provider program, result in the employee being obligated for any charges in excess of
- 196 the preferred provider allowances:
 - 197 (A) use a preferred health care facility; or

198 (B) initially receive treatment from a preferred provider physician.
199 (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a
200 self-insured employer or other employer may:
201 (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and
202 (Bb) continue to contract with other health care providers; or
203 (II) operate a health care facility; and
204 (B) require employees to first seek treatment at the provided health care or contracted
205 facility.
206 (v) An employee subject to a preferred provider program or employed by an employer
207 having its own health care facility may procure the services of any qualified health care
208 provider:
209 (A) for emergency treatment, if a physician employed in the preferred provider
210 program or at the health care facility is not available for any reason;
211 (B) for conditions the employee in good faith believes are nonindustrial; or
212 (C) when an employee living in a rural area would be unduly burdened by traveling to:
213 (I) a preferred provider physician; or
214 (II) preferred health care facility.
215 (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into
216 contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):
217 (I) health care providers;
218 (II) medical review organizations; or
219 (III) vendors of medical goods, services, and supplies including medicines.
220 (B) A contract described in Subsection (1)(c)(i)(A) may be made for the following
221 purposes:
222 (I) insurance carriers or self-insured employers may form groups in contracting for
223 managed health care services with health care providers;
224 (II) peer review;
225 (III) methods of utilization review;

226 (IV) use of case management;
227 (V) bill audit;
228 (VI) discounted purchasing; and
229 (VII) the establishment of a reasonable health care treatment protocol program
230 including the implementation of medical treatment and quality care guidelines that are:
231 (Aa) scientifically based;
232 (Bb) peer reviewed; and
233 (Cc) consistent with standards for health care treatment protocol programs that the
234 commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah
235 Administrative Rulemaking Act, including the authority of the commission to approve a health
236 care treatment protocol program before it is used or disapprove a health care treatment
237 protocol program that does not comply with this Subsection (2)(c)(i)(B)(VII).

238 (ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a
239 condition of insuring an entity in its insurance contract.

240 (3) (a) In addition to a managed health care program, an insurance carrier may require
241 an employer to establish a work place safety program if the employer:

242 (i) has an experience modification factor of 1.00 or higher, as determined by the
243 National Council on Compensation Insurance; or
244 (ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or
245 higher.

246 (b) A workplace safety program may include:

247 (i) a written workplace accident and injury reduction program that:

248 (A) promotes safe and healthful working conditions; and
249 (B) is based on clearly stated goals and objectives for meeting those goals; and
250 (ii) a documented review of the workplace accident and injury reduction program each
251 calendar year delineating how procedures set forth in the program are met.

252 (c) A written workplace accident and injury reduction program permitted under
253 Subsection (3)(b)(i) should describe:

254 (i) how managers, supervisors, and employees are responsible for implementing the
255 program;

256 (ii) how continued participation of management will be established, measured, and
257 maintained;

258 (iii) the methods used to identify, analyze, and control new or existing hazards,
259 conditions, and operations;

260 (iv) how the program will be communicated to all employees so that the employees are
261 informed of work-related hazards and controls;

262 (v) how workplace accidents will be investigated and corrective action implemented;
263 and

264 (vi) how safe work practices and rules will be enforced.

265 (d) For the purposes of a workplace accident and injury reduction program of an
266 eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury
267 reduction program shall:

268 (i) include the provisions described in Subsections (3)(b) and (c), except that the
269 employer shall conduct a documented review of the workplace accident and injury reduction
270 program at least semiannually delineating how procedures set forth in the workplace accident
271 and injury reduction program are met; and

272 (ii) require a written agreement between the employer and all contractors and
273 subcontractors on a project that states that:

274 (A) the employer has the right to control the manner or method by which the work is
275 executed;

276 (B) if a contractor, subcontractor, or any employee of a contractor or subcontractor
277 violates the workplace accident and injury reduction program, the employer maintains the
278 right to:

279 (I) terminate the contract with the contractor or subcontractor;

280 (II) remove the contractor or subcontractor from the work site; or

281 (III) require that the contractor or subcontractor not permit an employee that violates

282 the workplace accident and injury reduction program to work on the project for which the
283 employer is procuring work; and

284 (C) the contractor or subcontractor shall provide safe and appropriate equipment
285 subject to the right of the employer to:

286 (I) inspect on a regular basis the equipment of a contractor or subcontractor; and

287 (II) require that the contractor or subcontractor repair, replace, or remove equipment
288 the employer determines not to be safe or appropriate.

289 (4) The premiums charged to any employer who fails or refuses to establish a
290 workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over
291 any existing current rates and premium modifications charged that employer.

292 Section 3. Section **48-2c-1502** is amended to read:

293 **48-2c-1502. Definitions.**

294 As used in this part:

295 (1) "Professional services company" means a limited liability company organized
296 under this part to render professional services.

297 (2) "Professional services" means the personal services rendered by:

298 (a) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
299 and any subsequent laws regulating the practice of architecture;

300 (b) an attorney granted the authority to practice law by the:

301 (i) Supreme Court of Utah; or

302 (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that
303 licenses or regulates the authority to practice law in any state or territory of the United States
304 other than Utah;

305 (c) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
306 Practice Act, and any subsequent laws regulating the practice of chiropractic;

307 (d) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentists and
308 Dental Hygienists Practice Act, and any subsequent laws, regulating the practice of dentistry;

309 (e) a professional engineer registered under Title 58, Chapter 22, Professional

310 Engineers and Professional Land Surveyors Licensing Act;

311 (f) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician

312 Practice Act, and any subsequent laws regulating the practice of naturopathy;

313 (g) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,

314 Chapter 44a, Nurse Midwife Practice Act;

315 (h) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry

316 Practice Act, and any subsequent laws regulating the practice of optometry;

317 (i) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,

318 Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of

319 osteopathy;

320 (j) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,

321 and any subsequent laws regulating the practice of pharmacy;

322 (k) a physician, surgeon, or doctor of medicine holding a license under Title 58,

323 Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of

324 medicine;

325 (l) a physical therapist holding a license under Title 58, Chapter ~~24a, Physical~~

326 ~~Therapist~~ 24b, Physical Therapy Practice Act, and any subsequent laws regulating the

327 practice of physical therapy;

328 (m) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric

329 Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

330 (n) a psychologist holding a license under Title 58, Chapter 61, Psychologist

331 Licensing Act, and any subsequent laws regulating the practice of psychology;

332 (o) a public accountant holding a license under Title 58, Chapter 26a, Certified Public

333 Accountant Licensing Act, and any subsequent laws regulating the practice of public

334 accounting;

335 (p) a real estate broker or real estate agent holding a license under Title 61, Chapter 2,

336 Division of Real Estate, and any subsequent laws regulating the sale, exchange, purchase,

337 rental, or leasing of real estate;

338 (q) a clinical or certified social worker holding a license under Title 58, Chapter 60,
339 Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social
340 work;

341 (r) a mental health therapist holding a license under Title 58, Chapter 60, Mental
342 Health Professional Practice Act, and any subsequent laws regulating the practice of mental
343 health therapy; and

344 (s) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice
345 Act, and any subsequent laws regulating the practice of veterinary medicine.

346 (3) "Regulating board" means the board or agency organized pursuant to state law that
347 is charged with the licensing and regulation of the practice of the profession that a company is
348 organized to render.

349 Section 4. Section **58-24b-101** is enacted to read:

350 **CHAPTER 24b. PHYSICAL THERAPY PRACTICE ACT**

351 **Part 1. General Provisions**

352 **58-24b-101. Title.**

353 This chapter is known as the "Physical Therapy Practice Act."

354 Section 5. Section **58-24b-102** is enacted to read:

355 **58-24b-102. Definitions.**

356 As used in this chapter:

357 (1) "Animal physical therapy" means practicing physical therapy or physiotherapy on
358 an animal.

359 (2) "Board" means the Utah Physical Therapy Licensing Board, created in Section
360 58-24b-201.

361 (3) "Consultation by telecommunication" means the provision of expert or
362 professional advice by a physical therapist who is licensed outside of Utah to a licensed
363 physical therapist or a health care provider by telecommunication or electronic
364 communication.

365 (4) "General supervision" means supervision and oversight of a person by a licensed

366 physical therapist when the licensed physical therapist is immediately available in person, by
367 telephone, or by electronic communication to assist the person.

368 (5) "Licensed physical therapist" means a person licensed under this chapter to engage
369 in the practice of physical therapy.

370 (6) "Licensed physical therapist assistant" means a person licensed under this chapter
371 to engage in the practice of physical therapy, subject to the provisions of Subsection
372 58-24b-401(2)(a).

373 (7) "Licensing examination" means a nationally recognized physical therapy
374 examination that is approved by the division, in consultation with the board.

375 (8) "On-site supervision" means supervision and oversight of a person by a licensed
376 physical therapist or a licensed physical therapist assistant when the licensed physical therapist
377 or licensed physical therapist assistant is:

378 (a) continuously present at the facility where the person is providing services;

379 (b) immediately available to assist the person; and

380 (c) regularly involved in the services being provided by the person.

381 (9) "Physical impairment" means:

382 (a) a mechanical impairment;

383 (b) a physiological impairment;

384 (c) a developmental impairment;

385 (d) a functional limitation;

386 (e) a disability;

387 (f) a mobility impairment; or

388 (g) a bodily malfunction.

389 (10) "Physical therapy aide" means a person who:

390 (a) is trained, on-the-job, by a licensed physical therapist; and

391 (b) provides routine assistance to a licensed physical therapist or licensed physical
392 therapist assistant, while the licensed physical therapist or licensed physical therapist assistant
393 practices physical therapy, within the scope of the licensed physical therapist's or licensed

394 physical therapist assistant's license.
395 (11) (a) "Physical therapy" or "physiotherapy" means:
396 (i) examining, evaluating, and testing an individual who has a physical impairment or
397 injury;
398 (ii) identifying or labeling a physical impairment or injury;
399 (iii) formulating a therapeutic intervention plan for the treatment of a physical
400 impairment, injury, or pain;
401 (iv) assessing the ongoing effects of therapeutic intervention for the treatment of a
402 physical impairment or injury;
403 (v) treating or alleviating a physical impairment by designing, modifying, or
404 implementing a therapeutic intervention;
405 (vi) reducing the risk of an injury or physical impairment;
406 (vii) providing instruction on the use of physical measures, activities, or devices for
407 preventative and therapeutic purposes;
408 (viii) promoting and maintaining health and fitness;
409 (ix) the administration of a prescription drug pursuant to Section 58-24b-403;
410 (x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in
411 Subsections (11)(a)(i) through (ix) in relation to an animal, in accordance with the
412 requirements of Section 58-24b-405; and
413 (xi) engaging in administration, consultation, education, and research relating to the
414 practices described in this Subsection (11)(a).
415 (b) "Physical therapy" or "physiotherapy" does not include:
416 (i) diagnosing disease;
417 (ii) performing surgery;
418 (iii) performing acupuncture;
419 (iv) taking x-rays; or
420 (v) prescribing or dispensing a drug, as defined in Section 58-37-2.
421 (12) "Recognized accreditation agency" means an accreditation agency that:

422 (a) grants accreditation, nationally, in the United States of America; and

423 (b) is approved by the division, in consultation with the board.

424 (13) (a) "Testing" means a standard method or technique used to gather data regarding
425 a patient that is generally and nationally accepted by physical therapists for the practice of
426 physical therapy.

427 (b) "Testing" includes measurement or evaluation of:

428 (i) muscle strength, force, endurance, or tone;

429 (ii) cardiovascular fitness;

430 (iii) physical work capacity;

431 (iv) joint motion, mobility, or stability;

432 (v) reflexes or autonomic reactions;

433 (vi) movement skill or accuracy;

434 (vii) sensation;

435 (viii) perception;

436 (ix) peripheral nerve integrity;

437 (x) locomotor skills, stability, and endurance;

438 (xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;

439 (xii) posture;

440 (xiii) body mechanics;

441 (xiv) limb length, circumference, and volume;

442 (xv) biofeedback;

443 (xvi) thoracic excursion and breathing patterns;

444 (xvii) activities of daily living related to physical movement and mobility; and

445 (xviii) functioning in the physical environment at home or work, as it relates to
446 physical movement and mobility.

447 (14) "Therapeutic intervention" includes:

448 (a) therapeutic exercise, with or without the use of a device;

449 (b) functional training in self-care, as it relates to physical movement and mobility;

- 450 (c) community or work integration, as it relates to physical movement and mobility;
- 451 (d) manual therapy, including:
- 452 (i) soft tissue mobilization;
- 453 (ii) therapeutic massage; or
- 454 (iii) joint mobilization, as defined by the division, by rule;
- 455 (e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic,
- 456 protective, or supportive device;
- 457 (f) airway clearance techniques, including postural drainage;
- 458 (g) integumentary protection and repair techniques;
- 459 (h) wound debridement, cleansing, and dressing;
- 460 (i) the application of a physical agent, including:
- 461 (i) light;
- 462 (ii) heat;
- 463 (iii) cold;
- 464 (iv) water;
- 465 (v) air;
- 466 (vi) sound;
- 467 (vii) compression;
- 468 (viii) electricity; and
- 469 (ix) electromagnetic radiation;
- 470 (j) mechanical or electrotherapeutic modalities;
- 471 (k) positioning;
- 472 (l) instructing or training a patient in locomotion or other functional activities, with or
- 473 without an assistive device;
- 474 (m) manual or mechanical traction; and
- 475 (n) correction of posture, body mechanics, or gait.

476 Section 6. Section **58-24b-201** is enacted to read:

477 **Part 2. Physical Therapy Licensing Board**

478 **58-24b-201. Physical Therapy Licensing Board -- Creation -- Membership --**

479 **Duties.**

480 (1) There is created the Physical Therapy Licensing Board, consisting of three licensed
481 physical therapists, one physical therapist assistant, and one member of the general public.

482 (2) Members of the board shall be appointed and serve in accordance with Section
483 58-1-201.

484 (3) The duties and responsibilities of the board are described in Subsection (4) and
485 Sections 58-1-201 through 58-1-203.

486 (4) The board shall designate a member of the board, on a permanent or rotating basis,
487 to:

488 (a) assist the division in reviewing complaints of unlawful or unprofessional conduct
489 of a licensee; and

490 (b) advise the division during the division's investigation of the complaints described
491 in Subsection (4)(a).

492 (5) A board member who has reviewed a complaint or been involved in an
493 investigation under Subsection (4) is disqualified from participating in an adjudicative
494 proceeding relating to the complaint or investigation.

495 Section 7. Section **58-24b-301** is enacted to read:

496 **Part 3. Licensing**

497 **58-24b-301. Authority to practice physical therapy.**

498 A person may not engage in the practice of physical therapy, unless the person is:

499 (1) licensed under this chapter and practices within the scope of that license; or

500 (2) exempted from the licensing requirements of this chapter under Section
501 58-24b-304.

502 Section 8. Section **58-24b-302** is enacted to read:

503 **58-24b-302. Licensure.**

504 (1) An applicant for a license as a physical therapist shall:

505 (a) be of good moral character;

- 506 (b) complete the application process, including payment of fees;
- 507 (c) submit proof of graduation from a professional physical therapist education
- 508 program that is accredited by a recognized accreditation agency;
- 509 (d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;
- 510 (e) after complying with Subsection (1)(c), pass a licensing examination;
- 511 (f) be able to read, write, speak, understand, and be understood in the English
- 512 language and demonstrate proficiency to the satisfaction of the board if requested by the
- 513 board; and
- 514 (g) meet any other requirements established by the division, by rule.
- 515 (2) An applicant for a license as a physical therapist assistant shall:
- 516 (a) be of good moral character;
- 517 (b) complete the application process, including payment of fees set by the division, in
- 518 accordance with Section 63J-1-303, to recover the costs of administering the licensing
- 519 requirements relating to physical therapist assistants;
- 520 (c) submit proof of graduation from a physical therapist assistant education program
- 521 that is accredited by a recognized accreditation agency;
- 522 (d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;
- 523 (e) after complying with Subsection (2)(c), pass a licensing examination;
- 524 (f) be able to read, write, speak, understand, and be understood in the English
- 525 language and demonstrate proficiency to the satisfaction of the board if requested by the
- 526 board; and
- 527 (g) meet any other requirements established by the division, by rule.
- 528 (3) An applicant for a license as a physical therapist who is educated outside of the
- 529 United States shall:
- 530 (a) be of good moral character;
- 531 (b) complete the application process, including payment of fees; and
- 532 (c) (i) provide satisfactory evidence that the applicant graduated from a professional
- 533 physical therapist education program that is accredited by a recognized accreditation agency;

534 or

535 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical
536 therapist education program that prepares the applicant to engage in the practice of physical
537 therapy, without restriction;

538 (B) provide satisfactory evidence that the education program described in Subsection
539 (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical
540 therapist education program in the country where the program is located; and

541 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform
542 educational requirements;

543 (d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;

544 (e) after complying with Subsection (3)(c), pass a licensing examination;

545 (f) be able to read, write, speak, understand, and be understood in the English
546 language and demonstrate proficiency to the satisfaction of the board if requested by the
547 board; and

548 (g) meet any other requirements established by the division, by rule.

549 (4) The division shall issue a license to a person who holds a current unrestricted
550 license to practice physical therapy in a state, district, or territory of the United States of
551 America, other than Utah, if the person:

552 (a) is of good moral character;

553 (b) completes the application process, including payment of fees;

554 (c) passes an open-book, take-home Utah Physical Therapy Law and Rule
555 Examination; and

556 (d) is able to read, write, speak, understand, and be understood in the English
557 language and demonstrate proficiency to the satisfaction of the board if requested by the
558 board.

559 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in
560 an internship in physical therapy, unless the person is:

561 (i) certified by the division; or

562 (ii) exempt from licensure under Section 58-24b-304.

563 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is
564 participating in the supervised clinical training program for the purpose of becoming a
565 physical therapist or a physical therapist assistant.

566 Section 9. Section **58-24b-303** is enacted to read:

567 **58-24b-303. Term of license -- Renewal -- Temporary license for physical**
568 **therapist assistant.**

569 (1) A license issued under this chapter shall be issued in accordance with a two-year
570 renewal cycle established by rule. The division may, by rule, extend or shorten a license
571 renewal process by one year in order to stagger the renewal cycles that the division
572 administers.

573 (2) At the time of license renewal, the licensee shall provide satisfactory evidence that
574 the licensee completed continuing education competency requirements, established by the
575 division, by rule.

576 (3) If a license renewal cycle is shortened or extended under Subsection (1), the
577 division shall increase or reduce the required continuing education competency requirements
578 accordingly.

579 (4) A license issued under this chapter expires on the expiration date indicated on the
580 license, unless the license is renewed under this section.

581 (5) Notwithstanding any other provision of this chapter, the division may, by rule,
582 grant a temporary license, that expires on July 1, 2012, as a physical therapist assistant to an
583 individual who:

584 (a) was working as a physical therapist assistant in Utah before July 1, 2009; and

585 (b) complies with the requirements described in Subsections 58-24b-302(2)(a), (b),
586 (c), (f), and (g).

587 Section 10. Section **58-24b-304** is enacted to read:

588 **58-24b-304. Exemptions from licensure.**

589 (1) In addition to the exemptions from licensure described in Section 58-1-307, as

590 modified by Subsection 58-24b-302(5), a person may engage in acts that constitute the
591 practice of physical therapy without a license issued under this chapter if:

592 (a) the person is licensed under another law of the state to engage in acts that
593 constitute the practice of physical therapy if that person does not:

594 (i) claim to be a physical therapist;

595 (ii) claim to be a provider of any type of physical therapy that is outside of the scope
596 of practice of the license that is issued to the person; or

597 (iii) engage in any acts that constitute the practice of physical therapy that are outside
598 of the scope of practice of the license that is issued to the person;

599 (b) the person practices physical therapy, under federal law, in:

600 (i) the United States armed services;

601 (ii) the United States Public Health Service; or

602 (iii) the Veteran's Administration;

603 (c) the person is:

604 (i) licensed as a physical therapist in:

605 (A) a state, district, or territory of the United States, other than Utah; or

606 (B) a country other than the United States; and

607 (ii) (A) teaching, demonstrating, or providing physical therapy in connection with an
608 educational seminar, if the person engages in this conduct in Utah no more than 60 days per
609 calendar year;

610 (B) practicing physical therapy directly related to the person's employment with, or
611 contract with, an established athletic team, athletic organization, or performing arts company
612 that plays, practices, competes, or performs in Utah no more than 60 days per calendar year; or

613 (C) providing consultation by telecommunication to a physical therapist;

614 (d) the person:

615 (i) (A) is licensed as a physical therapist assistant under federal law; and

616 (B) practices within the scope of practice authorized by federal law for a physical
617 therapist assistant; or

618 (ii) (A) is licensed as a physical therapist assistant in:
619 (I) a state, district, or territory of the United States, other than Utah; or
620 (II) a country other than the United States; and
621 (B) (I) practices within the scope of practice authorized for a physical therapist
622 assistant by the jurisdiction described in Subsection (1)(d)(ii)(A); and
623 (II) within the limitations for the practice of physical therapy described in Subsection
624 (1)(c)(ii); or
625 (e) the person:
626 (i) is a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act;
627 (ii) is a physician, licensed under Title 58, Chapter 68, Utah Osteopathic Medical
628 Practice Act; or
629 (iii) is a chiropractic physician, licensed under Title 58, Chapter 73, Chiropractic
630 Physician Practice Act.
631 (2) A person who is exempted from licensure under Subsection (1)(b) may practice
632 animal physical therapy without a license under this section if the person:
633 (a) is authorized to practice animal physical therapy under federal law; and
634 (b) practices animal physical therapy within the scope of practice authorized by
635 federal law.
636 (3) A person who is exempted from licensure under Subsection (1)(c) may practice
637 animal physical therapy without a license under this section if the person:
638 (a) is authorized to practice animal physical therapy in:
639 (i) a state, district, or territory of the United States, other than Utah; or
640 (ii) a country other than the United States; and
641 (b) practices animal physical therapy:
642 (i) within the scope of practice for the jurisdiction described in Subsection (3)(a)
643 where the person is authorized to practice animal physical therapy; and
644 (ii) within the limitations for the practice of physical therapy described in Subsection
645 (1)(c)(ii).

646 Section 11. Section **58-24b-305** is enacted to read:

647 **58-24b-305. License denial -- Discipline -- Cease and desist order.**

648 In accordance with Section 58-1-401, the division may:

649 (1) refuse to issue a license to an applicant;

650 (2) refuse to renew a license;

651 (3) revoke, suspend, or restrict a license;

652 (4) place a license on probation;

653 (5) issue a public or private reprimand to a licensee; or

654 (6) issue a cease and desist order.

655 Section 12. Section **58-24b-401** is enacted to read:

656 **Part 4. Practice of Physical Therapy**

657 **58-24b-401. Authority and ethical standards of a licensed physical therapist and**
658 **licensed physical therapist assistant -- Function of a physical therapy aide.**

659 (1) A licensed physical therapist:

660 (a) is fully authorized to practice physical therapy; and

661 (b) shall adhere to the standards of ethics described in:

662 (i) the American Physical Therapy Association's Code of Ethics and Guide for
663 Professional Conduct; and

664 (ii) rule.

665 (2) A licensed physical therapist assistant:

666 (a) is authorized to practice physical therapy:

667 (i) under the on-site supervision or general supervision of a licensed physical therapist;

668 and

669 (ii) within the scope of practice of a licensed physical therapist assistant, as described
670 in this chapter and by rule;

671 (b) shall adhere to the standards of ethics described in:

672 (i) the American Physical Therapy Association's Code of Ethics and Guide for
673 Professional Conduct; and

674 (ii) rule; and
675 (c) may not be supervised by any person other than a licensed physical therapist.
676 (3) (a) A physical therapy aide may not engage in the practice of physical therapy.
677 (b) Notwithstanding Subsection (3)(a), a physical therapy aide may provide routine
678 assistance to:
679 (i) a licensed physical therapist while the licensed physical therapist engages in the
680 practice of physical therapy, if the physical therapy aide is under the on-site supervision of the
681 licensed physical therapist; or
682 (ii) a licensed physical therapist assistant while the licensed physical therapist
683 assistant engages in the practice of physical therapy, within the scope of the licensed physical
684 therapist assistant's license, if the physical therapy aide is:
685 (A) under the general or on-site supervision of a licensed physical therapist; and
686 (B) under the on-site supervision of the licensed physical therapist assistant.
687 Section 13. Section **58-24b-402** is enacted to read:
688 **58-24b-402. Patient care and management.**
689 (1) In practicing physical therapy, a licensed physical therapist shall:
690 (a) manage all aspects of the physical therapy of a patient under the licensed physical
691 therapist's care;
692 (b) perform the initial evaluation and documentation for each patient;
693 (c) perform periodic reevaluation and documentation for each patient;
694 (d) perform physical therapy interventions that require immediate and continuous
695 examination and evaluation throughout the intervention;
696 (e) perform all therapeutic intervention on a patient that is outside of the standard
697 scope of practice of a licensed physical therapist assistant or a physical therapy aide;
698 (f) determine the therapeutic intervention to be performed by a licensed physical
699 therapist assistant under the on-site supervision or general supervision of the licensed physical
700 therapist to ensure that the therapeutic intervention is safe, effective, efficient, and within the
701 scope of practice of the licensed physical therapist assistant;

702 (g) conduct the discharge of each patient and document for each patient, at the time of
703 discharge, the patient's response to therapeutic intervention; and

704 (h) provide accurate documentation of the billing and services provided.

705 (2) A physical therapist assistant or a physical therapy aide may not:

706 (a) perform a physical therapy evaluation or assessment;

707 (b) identify or label a physical impairment or injury;

708 (c) design a plan of care for a patient;

709 (d) perform the joint mobilization component of manual therapy; or

710 (e) perform the sharp selective debridement component of wound management.

711 (3) Subsection (2)(d) does not apply to:

712 (a) simple joint distraction techniques or stretching; or

713 (b) a stretch or mobilization that can be given as part of a home exercise program.

714 Section 14. Section **58-24b-403** is enacted to read:

715 **58-24b-403. Administration of a prescription drug.**

716 (1) A licensed physical therapist may purchase, store, and administer topical and
717 aerosol medications that require a prescription only as provided in this section.

718 (2) A licensed physical therapist may purchase, store, and administer:

719 (a) topically applied medicinal agents, including steroids and analgesics, for wound
720 care and for musculoskeletal treatment, using iontophoresis or phonophoresis; and

721 (b) aerosols for pulmonary hygiene in an institutional setting, if a licensed respiratory
722 therapist is not available in, or within a ten mile radius of, the institution.

723 (3) A licensed physical therapist may only purchase, store, or administer a medication
724 described in this section pursuant to a written prescription issued by a practitioner who is
725 licensed to prescribe that medication.

726 (4) This section does not authorize a licensed physical therapist to dispense a
727 prescription drug.

728 Section 15. Section **58-24b-404** is enacted to read:

729 **58-24b-404. Supervision of a licensed physical therapist assistant or a physical**

730 **therapy aide.**

731 The division shall make rules that describe the circumstances under which general
732 supervision or on-site supervision of a physical therapist assistant or a physical therapy aide is
733 required.

734 Section 16. Section **58-24b-405** is enacted to read:

735 **58-24b-405. Animal physical therapy.**

736 (1) Subject to Subsection 58-28-307(12)(b), a licensed physical therapist may practice
737 animal physical therapy if the licensed physical therapist completes at least 100 hours of
738 animal physical therapy training and education, which shall include:

739 (a) 50 hours of on-the-job training under the supervision of a licensed veterinarian;

740 (b) completion of a quadruped anatomy course; and

741 (c) continuing education for the required hours remaining.

742 (2) Subject to Subsection 58-28-307(12)(b), a licensed physical therapist assistant
743 may practice animal physical therapy, within the scope of the licensed physical therapist
744 assistant's practice, if the licensed physical therapist assistant:

745 (a) is under the on-site supervision or general supervision of a physical therapist who
746 has complied with the requirements of Subsection (1); and

747 (b) completes at least 100 hours of animal physical therapy training and education,
748 which shall include:

749 (i) 50 hours of on-the-job training under the supervision of a licensed veterinarian;

750 (ii) completion of a quadruped anatomy course; and

751 (iii) continuing education for the required hours remaining.

752 Section 17. Section **58-24b-501** is enacted to read:

753 **Part 5. Unlawful and Unprofessional Conduct**

754 **58-24b-501. Unlawful conduct.**

755 In addition to the conduct described in Subsection 58-1-501(1), "unlawful conduct"
756 includes:

757 (1) practicing physical therapy, unless the person:

758 (a) is licensed under this chapter to practice physical therapy and practices within the
759 scope of that license; or

760 (b) is exempt from licensure under Section 58-24b-304;

761 (2) practicing animal physical therapy, unless the person is:

762 (a) authorized to practice animal physical therapy under Section 58-24b-405; or
763 (b) authorized to practice animal physical therapy under Subsection 58-24b-304(1)(a),
764 (2), or (3);

765 (3) representing oneself as, or using the title of, a physical therapist, unless the person
766 is:

767 (a) a licensed physical therapist; or

768 (b) (i) licensed as a physical therapist in a jurisdiction other than Utah;
769 (ii) does not represent oneself as being a physical therapist licensed in Utah; and
770 (iii) exempt from licensure under Section 58-24b-304;

771 (4) representing oneself as, or using the title of, a physical therapist assistant, unless
772 the person:

773 (a) is a licensed physical therapist assistant; or

774 (b) (i) is licensed as a physical therapist assistant in a jurisdiction other than Utah;
775 (ii) does not represent oneself as being a physical therapist assistant licensed in Utah;
776 and

777 (iii) is exempt from licensure under Section 58-24b-304; and

778 (5) conduct designated as "unlawful conduct" by the division, by rule.

779 Section 18. Section **58-24b-502** is enacted to read:

780 **58-24b-502. Unprofessional conduct.**

781 In addition to the conduct described in Subsection 58-1-501(2), "unprofessional
782 conduct" includes:

783 (1) using or employing the services of an individual to assist a person licensed under
784 this chapter in a manner that is not in accordance with:

785 (a) generally recognized practices, standards, or ethics of the profession for which the

786 person is licensed; or

787 (b) the requirements of this chapter or rule;

788 (2) failure by a person licensed under this chapter to confine the person's conduct to
789 that which:

790 (a) the person is competent to perform, by education, training, and experience; and

791 (b) is within the scope of practice permitted under this chapter or rule;

792 (3) failure to supervise a licensed physical therapist assistant or a physical therapy aide
793 in accordance with the requirements of this chapter or rule; and

794 (4) other conduct defined as "unprofessional conduct" by the division, by rule.

795 Section 19. Section **58-24b-503** is enacted to read:

796 **58-24b-503. Lawful and unlawful use of titles and terms -- Unlawful advertising**
797 **or promotion.**

798 (1) A person who is a licensed physical therapist shall use the letters "PT" in
799 connection with the person's name or business in order to indicate that the person is a licensed
800 physical therapist.

801 (2) A person who is a licensed physical therapist assistant shall use the letters "PTA"
802 in connection with the person's name or business in order to indicate that the person is a
803 licensed physical therapist assistant.

804 (3) It is unlawful for a person who is not a licensed physical therapist, a licensed
805 physical therapist assistant, or a person described in Subsection 58-24b-304(1)(e) to:

806 (a) use, in connection with the person's name or business, any of the following words
807 or abbreviations:

808 (i) physical therapy, except to the extent that the word is used to describe conduct that
809 a person is licensed to engage in under another law of the state;

810 (ii) physiotherapy; or

811 (iii) any other word, abbreviation, or insignia, indicating or implying, directly or
812 indirectly, that the person practices physical therapy; or

813 (b) offer, provide, or bill a person for:

- 814 (i) physical therapy services or anything that is characterized as physical therapy
815 services; or
- 816 (ii) physiotherapy services or anything that is characterized as physiotherapy services.
- 817 (4) It is unlawful for a person who is not a licensed physical therapist to:
- 818 (a) except as provided in Subsection (6), use, in connection with the person's name or
819 business, any of the following words or abbreviations:
- 820 (i) physical therapist;
- 821 (ii) physiotherapist;
- 822 (iii) PT;
- 823 (iv) DPT;
- 824 (v) MPT; or
- 825 (vi) any other word, abbreviation, or insignia, indicating or implying, directly or
826 indirectly, that the person is a physical therapist or physiotherapist;
- 827 (b) advertise that a person who is not a licensed physical therapist is a physical
828 therapist or physiotherapist; or
- 829 (c) promote a person who is not a licensed physical therapist as a physical therapist or
830 physiotherapist.
- 831 (5) It is unlawful for a person who is not a licensed physical therapist assistant to:
- 832 (a) use, in connection with the person's name or business, any of the following words
833 or abbreviations:
- 834 (i) physical therapist assistant;
- 835 (ii) physiotherapist assistant;
- 836 (iii) PTA; or
- 837 (iv) any other word, abbreviation, or insignia, indicating or implying, directly or
838 indirectly, that the person is a physical therapist assistant or a physiotherapist assistant;
- 839 (b) advertise that a person who is not a licensed physical therapist assistant is a
840 physical therapist assistant or a physiotherapist assistant; or
- 841 (c) promote a person who is not a licensed physical therapist assistant as a physical

842 therapist assistant or physiotherapist assistant.

843 (6) Subsection (4)(a) does not prohibit a person from using a word or abbreviation
844 described in Subsection (4)(a) in connection with the person's business, if the person employs
845 a physical therapist at the person's business.

846 Section 20. Section **58-24b-504** is enacted to read:

847 **58-24b-504. Reporting unlawful or unprofessional conduct -- Immunity --**
848 **Confidentiality.**

849 (1) A person who is aware that a person who is licensed under this chapter has
850 violated a provision of this chapter, or a rule made pursuant to this chapter, shall report the
851 violation to the division.

852 (2) A person who makes a good faith report under Subsection (1) is immune from
853 direct or derivative civil liability for making the report.

854 (3) The division, the board, or a member of the division or the board, may not disclose
855 the identity of a person who makes a report under this section, unless the disclosure is:

856 (a) essential to the conduct of an investigation or hearing; or

857 (b) ordered by a court of competent jurisdiction.

858 Section 21. Section **58-28-307** is amended to read:

859 **58-28-307. Exemptions from chapter.**

860 In addition to the exemptions from licensure in Section 58-1-307 this chapter does not
861 apply to:

862 (1) any person who practices veterinary medicine, surgery, or dentistry upon any
863 animal owned by him, and the employee of that person when the practice is upon an animal
864 owned by his employer, and incidental to his employment, except:

865 (a) this exemption does not apply to any person, or his employee, when the ownership
866 of an animal was acquired for the purpose of circumventing this chapter; and

867 (b) this exemption does not apply to the administration, dispensing, or prescribing of a
868 prescription drug, or nonprescription drug intended for off label use, unless the administration,
869 dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient

870 relationship;

871 (2) any person who as a student at a veterinary college approved by the board engages
872 in the practice of veterinary medicine, surgery, and dentistry as part of his academic training
873 and under the direct supervision and control of a licensed veterinarian, if that practice is
874 during the last two years of the college course of instruction and does not exceed an 18-month
875 duration;

876 (3) a veterinarian who is an officer or employee of the government of the United
877 States, or the state, or its political subdivisions, and technicians under his supervision, while
878 engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

879 (4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid
880 testing of poultry, and related poultry disease control activity;

881 (5) any person who is engaged in bona fide and legitimate medical, dental,
882 pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or
883 dentistry is directly related to, and a necessary part of, that research;

884 (6) veterinarians licensed under the laws of another state rendering professional
885 services in association with licensed veterinarians of this state for a period not to exceed 90
886 days;

887 (7) registered pharmacists of this state engaged in the sale of veterinary supplies,
888 instruments, and medicines, if the sale is at his regular place of business;

889 (8) any person in this state engaged in the sale of veterinary supplies, instruments, and
890 medicines, except prescription drugs which must be sold in compliance with state and federal
891 regulations, if the supplies, instruments, and medicines are sold in original packages bearing
892 adequate identification and directions for application and administration and the sale is made
893 in the regular course of, and at the regular place of business;

894 (9) any person rendering emergency first aid to animals in those areas where a licensed
895 veterinarian is not available, and if suspicious reportable diseases are reported immediately to
896 the state veterinarian;

897 (10) any person performing or teaching nonsurgical bovine artificial insemination;

898 (11) any person affiliated with an institution of higher education who teaches
899 nonsurgical bovine embryo transfer or any technician trained by or approved by an institution
900 of higher education who performs nonsurgical bovine embryo transfer, but only if any
901 prescription drug used in the procedure is prescribed and administered under the direction of a
902 veterinarian licensed to practice in Utah;

903 (12) (a) upon written referral by a licensed veterinarian, the practice of animal
904 chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician
905 Practice Act, who has completed an animal chiropractic course approved by the American
906 Veterinary Chiropractic Association or the division;

907 (b) upon written referral by a licensed veterinarian, the practice of animal physical
908 therapy by a physical therapist licensed under Chapter ~~[24a, Physical Therapist]~~ 24b, Physical
909 Therapy Practice Act, who has completed at least 100 hours of animal physical therapy
910 training, including quadruped anatomy and hands-on training, approved by the division;

911 (c) upon written referral by a licensed veterinarian, the practice of animal massage
912 therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act,
913 who has completed at least 60 hours of animal massage therapy training, including quadruped
914 anatomy and hands-on training, approved by the division; and

915 (d) upon written referral by a licensed veterinarian, the practice of acupuncture by an
916 acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a
917 course of study on animal acupuncture approved by the division;

918 (13) unlicensed assistive personnel performing duties appropriately delegated to the
919 unlicensed assistive personnel in accordance with Section 58-28-502;

920 (14) an animal shelter employee who is:

921 (a) acting under the indirect supervision of a licensed veterinarian; and

922 (b) performing animal euthanasia in the course and scope of employment; and

923 (15) an individual providing appropriate training for animals, however, this exception
924 does not include diagnosing any medical condition, or prescribing or dispensing any
925 prescription drugs or therapeutics.

926 Section 22. Section **58-47b-304** is amended to read:

927 **58-47b-304. Exemptions from licensure.**

928 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
929 individuals may engage in the practice of massage therapy as defined under this chapter,
930 subject to the stated circumstances and limitations, without being licensed, but may not
931 represent themselves as a massage therapist or massage apprentice:

932 (a) physicians and surgeons licensed under Title 58, Chapter 67, Utah Medical
933 Practice Act;

934 (b) nurses licensed under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58,
935 Chapter 44a, Nurse Midwife Practice Act;

936 (c) physical therapists licensed under Title 58, Chapter [~~24a, Physical Therapist~~] 24b,
937 Physical Therapy Practice Act;

938 (d) physical therapist assistants licensed under Title 58, Chapter 24b, Physical
939 Therapy Practice Act, while under the general supervision of a physical therapist;

940 [~~(d)~~] (e) osteopathic physicians and surgeons licensed under Title 58, Chapter 68, Utah
941 Osteopathic Medical Practice Act;

942 [~~(e)~~] (f) chiropractic physicians licensed under Title 58, Chapter 73, Chiropractic
943 Physician Practice Act;

944 [~~(f)~~] (g) hospital staff members employed by a hospital who practice massage as part
945 of their responsibilities;

946 [~~(g)~~] (h) athletic trainers who practice massage as part of their responsibilities while
947 employed by an educational institution or an athletic team that participates in organized sports
948 competition;

949 [~~(h)~~] (i) students in training enrolled in a massage therapy school approved by the
950 division;

951 [~~(i)~~] (j) naturopathic physicians licensed under Title 58, Chapter 71, Naturopathic
952 Physician Practice Act;

953 [~~(j)~~] (k) occupational therapist licensed under Title 58, Chapter 42a, Occupational

954 Therapy Practice Act; and

955 [~~(k)~~] (l) persons performing gratuitous massage.

956 (2) This chapter may not be construed to authorize any individual licensed under this
957 chapter to engage in any manner in the practice of medicine as defined by the laws of this
958 state.

959 (3) This chapter may not be construed to:

960 (a) create or require insurance coverage or reimbursement for massage therapy from
961 third party payors if this type of coverage did not exist on or before February 15, 1990; or

962 (b) prevent any insurance carrier from offering coverage for massage therapy.

963 Section 23. Section **78B-3-403** is amended to read:

964 **78B-3-403. Definitions.**

965 As used in this part:

966 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
967 Chapter 41, Speech-language Pathology and Audiology Licensing Act.

968 (2) "Certified social worker" means a person licensed to practice as a certified social
969 worker under Section 58-60-205.

970 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
971 Title 58, Chapter 73, Chiropractic Physician Practice Act.

972 (4) "Clinical social worker" means a person licensed to practice as a clinical social
973 worker under Section 58-60-205.

974 (5) "Commissioner" means the commissioner of insurance as provided in Section
975 31A-2-102.

976 (6) "Dental hygienist" means a person licensed to engage in the practice of dental
977 hygiene as defined in Section 58-69-102.

978 (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined
979 in Section 58-69-102.

980 (8) "Division" means the Division of Occupational and Professional Licensing created
981 in Section 58-1-103.

982 (9) "Future damages" includes a judgment creditor's damages for future medical
983 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
984 suffering.

985 (10) "Health care" means any act or treatment performed or furnished, or which should
986 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
987 during the patient's medical care, treatment, or confinement.

988 (11) "Health care facility" means general acute hospitals, specialty hospitals, home
989 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
990 ambulatory surgical facilities, small health care facilities, health care facilities owned or
991 operated by health maintenance organizations, and end stage renal disease facilities.

992 (12) "Health care provider" includes any person, partnership, association, corporation,
993 or other facility or institution who causes to be rendered or who renders health care or
994 professional services as a hospital, health care facility, physician, registered nurse, licensed
995 practical nurse, nurse-midwife, licensed Direct-entry midwife, dentist, dental hygienist,
996 optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist
997 assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician,
998 osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language
999 pathologist, clinical social worker, certified social worker, social service worker, marriage and
1000 family counselor, practitioner of obstetrics, or others rendering similar care and services
1001 relating to or arising out of the health needs of persons or groups of persons and officers,
1002 employees, or agents of any of the above acting in the course and scope of their employment.

1003 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter
1004 21, Health Care Facility Licensing and Inspection Act.

1005 (14) "Licensed Direct-entry midwife" means a person licensed under the Direct-entry
1006 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section
1007 58-77-102.

1008 (15) "Licensed practical nurse" means a person licensed to practice as a licensed
1009 practical nurse as provided in Section 58-31b-301.

1010 (16) "Malpractice action against a health care provider" means any action against a
1011 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
1012 otherwise, based upon alleged personal injuries relating to or arising out of health care
1013 rendered or which should have been rendered by the health care provider.

1014 (17) "Marriage and family therapist" means a person licensed to practice as a marriage
1015 therapist or family therapist under Sections 58-60-305 and 58-60-405.

1016 (18) "Naturopathic physician" means a person licensed to engage in the practice
1017 [naturopathy] of naturopathic medicine as defined in Section 58-71-102.

1018 (19) "Nurse-midwife" means a person licensed to engage in practice as a nurse
1019 midwife under Section 58-44a-301.

1020 (20) "Optometrist" means a person licensed to practice optometry under Title 58,
1021 Chapter 16a, Utah Optometry Practice Act.

1022 (21) "Osteopathic physician" means a person licensed to practice osteopathy under
1023 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1024 (22) "Patient" means a person who is under the care of a health care provider, under a
1025 contract, express or implied.

1026 (23) "Periodic payments" means the payment of money or delivery of other property to
1027 a judgment creditor at intervals ordered by the court.

1028 (24) "Pharmacist" means a person licensed to practice pharmacy as provided in
1029 Section 58-17b-301.

1030 (25) "Physical therapist" means a person licensed to practice physical therapy under
1031 Title 58, Chapter ~~[24a, Physical Therapist]~~ 24b, Physical Therapy Practice Act.

1032 (26) "Physical therapist assistant" means a person licensed to practice physical
1033 therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b,
1034 Physical Therapy Practice Act.

1035 ~~[(26)]~~ (27) "Physician" means a person licensed to practice medicine and surgery
1036 under Title 58, Chapter 67, Utah Medical Practice Act.

1037 ~~[(27)]~~ (28) "Podiatric physician" means a person licensed to practice podiatry under

1038 Title 58, Chapter 5a, Podiatric Physician Licensing Act.

1039 ~~[(28)]~~ (29) "Practitioner of obstetrics" means a person licensed to practice as a
1040 physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title
1041 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1042 ~~[(29)]~~ (30) "Psychologist" means a person licensed under Title 58, Chapter 61,
1043 Psychologist Licensing Act, to engage in the practice of psychology as defined in Section
1044 58-61-102.

1045 ~~[(30)]~~ (31) "Registered nurse" means a person licensed to practice professional
1046 nursing as provided in Section 58-31b-301.

1047 ~~[(31)]~~ (32) "Relative" means a patient's spouse, parent, grandparent, stepfather,
1048 stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The
1049 term includes relationships that are created as a result of adoption.

1050 ~~[(32)]~~ (33) "Representative" means the spouse, parent, guardian, trustee,
1051 attorney-in-fact, person designated to make decisions on behalf of a patient under a medical
1052 power of attorney, or other legal agent of the patient.

1053 ~~[(33)]~~ (34) "Social service worker" means a person licensed to practice as a social
1054 service worker under Section 58-60-205.

1055 ~~[(34)]~~ (35) "Speech-language pathologist" means a person licensed to practice
1056 speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and
1057 Audiology Licensing Act.

1058 ~~[(35)]~~ (36) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act
1059 or omission proximately causing injury or damage to another.

1060 ~~[(36)]~~ (37) "Unanticipated outcome" means the outcome of a medical treatment or
1061 procedure that differs from an expected result.

1062 Section 24. **Repealer.**

1063 This bill repeals:

1064 Section **58-24a-101, Short title.**

1065 Section **58-24a-102, Definitions.**

- 1066 Section **58-24a-103, Tests performed by physical therapists.**
- 1067 Section **58-24a-104, Physical agents and physical activities.**
- 1068 Section **58-24a-105, Administration of agents -- Limitation.**
- 1069 Section **58-24a-106, Examinations and evaluations.**
- 1070 Section **58-24a-107, Prohibitions.**
- 1071 Section **58-24a-108, Licensing board.**
- 1072 Section **58-24a-109, Authority to practice physical therapy -- Licensure.**
- 1073 Section **58-24a-110, Exemption from licensure.**
- 1074 Section **58-24a-111, Term of license -- Renewal expiration.**
- 1075 Section **58-24a-112, Physical therapist supervisory authority and responsibility.**
- 1076 Section **58-24a-114, Grounds for denial of license -- Disciplinary proceedings.**
- 1077 Section 25. **Effective date.**
- 1078 This bill takes effect on July 1, 2009.