

**PHYSICAL THERAPY PRACTICE ACT**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne L. Niederhauser**

House Sponsor: Gregory H. Hughes

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**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



- 28 therapist and a physical therapist assistant;
- 29       ▶ 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 certain
- 33 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       **§→ [None] 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

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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 Act,  
115 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 Act,  
124 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 Licensing  
136 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 practice  
142 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 protocol  
237 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 right  
278 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 practice  
327 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 Licensing  
331 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 Act,  
345 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 professional  
362 advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or  
363 a health care provider by telecommunication or electronic communication.

364 (4) "General supervision" means supervision and oversight of a person by a licensed  
365 physical therapist when the licensed physical therapist is immediately available in person, by  
366 telephone, or by electronic communication to assist the person.

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

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

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

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

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

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

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

380 (9) "Physical impairment" means:

381 (a) a mechanical impairment;

382 (b) a physiological impairment;

383 (c) a developmental impairment;

384 (d) a functional limitation;

385 (e) a disability;

386 (f) a mobility impairment; or

387 (g) a bodily malfunction.

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

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

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

394 (11) (a) "Physical therapy" or "physiotherapy" means:

395 (i) examining, evaluating, ~~and~~ testing ~~and diagnosing~~ an individual  
 395a who has a physical  
 396 impairment or injury;

397 (ii) ~~identifying or labeling a physical impairment or injury;~~

397a (iii) ~~formulating a therapeutic intervention plan for the treatment of a physical~~  
 398 impairment, injury, or pain;

399 ~~(iii)~~ (iv) ~~assessing the ongoing effects of therapeutic intervention for the treatment of a~~

400 physical impairment or injury;

401 ~~Ŝ~~→ [(iv)] (v) ←~~Ŝ~~ treating or alleviating a physical impairment by designing, modifying, or  
 402 implementing a therapeutic intervention;

403 ~~Ŝ~~→ [(v)] (vi) ←~~Ŝ~~ reducing the risk of an injury or physical impairment;

404 ~~Ŝ~~→ [(vi)] (vii) ←~~Ŝ~~ providing instruction on the use of physical measures, activities, or devices for  
 405 preventative and therapeutic purposes;

406 ~~Ŝ~~→ [(vii)] (viii) ←~~Ŝ~~ promoting and maintaining health and fitness;

407 ~~Ŝ~~→ [(viii)] (ix) ←~~Ŝ~~ the administration of a prescription drug pursuant to Section 58-24b-403;

408 ~~Ŝ~~→ [(ix)] (x) ~~subject to Subsection 58-28-307(12)(b),~~ ←~~Ŝ~~ engaging in the functions described in

408a Subsections (11)(a)(i) through ~~Ŝ~~→ [(viii)] (ix) ←~~Ŝ~~ in

409 relation to an animal, in accordance with the requirements of Section 58-24b-405; and

410 ~~Ŝ~~→ [(x)] (xi) ←~~Ŝ~~ engaging in administration, consultation, education, and research relating to the  
 411 practices described in this Subsection (11)(a).

412 (b) "Physical therapy" or "physiotherapy" does not include:

413 (i) diagnosing disease;

414 (ii) performing surgery;

415 (iii) performing acupuncture;

416 (iv) taking x-rays; or

417 (v) prescribing or dispensing a drug, as defined in Section 58-37-2.

418 (12) "Recognized accreditation agency" means an accreditation agency that:

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

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

421 (13) (a) "Testing" means a standard method or technique used to gather data regarding

422 a patient that is generally and nationally accepted by physical therapists for the practice of

423 physical therapy.

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

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

426 (ii) cardiovascular fitness;

427 (iii) physical work capacity;

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

429 (v) reflexes or autonomic reactions;

430 (vi) movement skill or accuracy;

- 431 (vii) sensation;
- 432 (viii) perception;
- 433 (ix) peripheral nerve integrity;
- 434 (x) locomotor skills, stability, and endurance;
- 435 (xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;
- 436 (xii) posture;
- 437 (xiii) body mechanics;
- 438 (xiv) limb length, circumference, and volume;
- 439 (xv) biofeedback;
- 440 (xvi) thoracic excursion and breathing patterns;
- 441 (xvii) activities of daily living  $\hat{H} \rightarrow$  **related to physical movement and mobility  $\leftarrow \hat{H}$**  ; and
- 442 (xviii) functioning in the physical environment at home or work  $\hat{H} \rightarrow$  , as it relates to
- 442a **physical movement and mobility  $\leftarrow \hat{H}$  .**
- 443 (14) "Therapeutic intervention" includes:
- 444 (a) therapeutic exercise, with or without the use of a device;
- 445 (b) functional training in self-care  $\hat{H} \rightarrow$  , as it relates to physical movement and
- 445a **mobility  $\leftarrow \hat{H}$  ;**
- 446 (c) community or work integration  $\hat{H} \rightarrow$  , as it relates to physical movement and
- 446a **mobility  $\leftarrow \hat{H}$  ;**
- 447 (d) manual therapy, including:
- 448 (i) soft tissue mobilization;
- 449 (ii) therapeutic massage; or
- 450 (iii) joint mobilization, as defined by the division, by rule;
- 451 (e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic,
- 452 protective, or supportive device;
- 453 (f) airway clearance techniques, including postural drainage;
- 454 (g) integumentary protection and repair techniques;
- 455 (h) wound debridement, cleansing, and dressing;
- 456 (i) the application of a physical agent, including:
- 457 (i) light;
- 458 (ii) heat;
- 459 (iii) cold;
- 460 (iv) water;
- 461 (v) air;

- 462 (vi) sound;
- 463 (vii) compression;
- 464 (viii) electricity; and
- 465 (ix) electromagnetic radiation;
- 466 (j) mechanical or electrotherapeutic modalities;
- 467 (k) positioning;
- 468 (l) instructing or training a patient in locomotion or other functional activities, with or
- 469 without an assistive device;
- 470 (m) manual or mechanical traction; and
- 471 (n) correction of posture, body mechanics, or gait.

471a ~~H→ [S→ (15) (a) — "Wound debridement" means:~~

471b ~~———— (i) — cleaning a wound; or~~

471c ~~———— (ii) — removing dead tissue from a wound.~~

471d ~~———— (b) — "Wound debridement" does not include surgery of any kind. ←S] ←H~~

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

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

474 **58-24b-201. Physical Therapy Licensing Board -- Creation -- Membership --**

475 **Duties.**

476 (1) There is created the Physical Therapy Licensing Board, consisting of three licensed

477 physical therapists, one physical therapist assistant, and one member of the general public.

478 (2) Members of the board shall be appointed and serve in accordance with Section

479 58-1-201.

480 (3) The duties and responsibilities of the board are described in Subsection (4) and

481 Sections 58- ~~S→ [21b] 1 ←S~~ -201 through 58- ~~S→ [21b] 1 ←S~~ -203.

482 (4) The board shall designate a member of the board, on a permanent or rotating basis,

483 to:

484 (a) assist the division in reviewing complaints of unlawful or unprofessional conduct of

485 a licensee; and

486 (b) advise the division during the division's investigation of the complaints described in

487 Subsection (4)(a).

488 (5) A board member who has reviewed a complaint or been involved in an

489 investigation under Subsection (4) is disqualified from participating in an adjudicative

490 proceeding relating to the complaint or investigation.

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

492 **Part 3. Licensing**



493 **58-24b-301. Authority to practice physical therapy.**494 A person may not engage in the practice of physical therapy, unless the person is:495 (1) licensed under this chapter and practices within the scope of that license; or496 (2) exempted from the licensing requirements of this chapter under Section497 58-24b-304.498 Section 8. Section **58-24b-302** is enacted to read:499 **58-24b-302. Licensure.**500 (1) An applicant for a license as a physical therapist shall:501 (a) be of good moral character;502 (b) complete the application process, including payment of fees;503 (c) submit proof of graduation from a professional physical therapist education504 program that is accredited by a recognized accreditation agency;505 (d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;506 (e) after complying with Subsection (1)(c), pass a licensing examination;507 (f) be able to read, write, speak, understand, and be understood in the English language508 and demonstrate proficiency to the satisfaction of the board if requested by the board; and509 (g) meet any other requirements established by the division, by rule.510 (2) An applicant for a license as a physical therapist assistant shall:511 (a) be of good moral character;512 (b) complete the application process, including payment of fees ~~§~~ → **set by the division, in**512a **accordance with Section 63J-1-303, to recover the costs of administering the licensing**512b **requirements relating to physical therapist assistants** ← ~~§~~ ;513 (c) submit proof of graduation from a physical therapist assistant education program514 that is accredited by a recognized accreditation agency;515 (d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;516 (e) after complying with Subsection (2)(c), pass a licensing examination;517 (f) be able to read, write, speak, understand, and be understood in the English language518 and demonstrate proficiency to the satisfaction of the board if requested by the board; and519 (g) meet any other requirements established by the division, by rule.520 (3) An applicant for a license as a physical therapist who is educated outside of the521 United States shall:522 (a) be of good moral character;523 (b) complete the application process, including payment of fees; and

524 (c) (i) provide satisfactory evidence that the applicant graduated from a professional  
525 physical therapist education program that is accredited by a recognized accreditation agency; or  
526 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical  
527 therapist education program that prepares the applicant to engage in the practice of physical  
528 therapy, without restriction;  
529 (B) provide satisfactory evidence that the education program described in Subsection  
530 (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical  
531 therapist education program in the country where the program is located; and  
532 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform  
533 educational requirements;  
534 (d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;  
535 (e) after complying with Subsection (3)(c), pass a licensing examination;  
536 (f) be able to read, write, speak, understand, and be understood in the English language  
537 and demonstrate proficiency to the satisfaction of the board if requested by the board; and  
538 (g) meet any other requirements established by the division, by rule.  
539 (4) The division shall issue a license to a person who holds a current unrestricted  
540 license to practice physical therapy in a state, district, or territory of the United States of  
541 America, other than Utah, if the person:  
542 (a) is of good moral character;  
543 (b) completes the application process, including payment of fees;  
544 (c) passes an open-book, take-home Utah Physical Therapy Law and Rule  
545 Examination; and  
546 (d) is able to read, write, speak, understand, and be understood in the English language  
547 and demonstrate proficiency to the satisfaction of the board if requested by the board.  
548 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an  
549 internship in physical therapy, unless the person is:  
550 (i) certified by the division; or  
551 (ii) exempt from licensure under Section 58-24b-304.  
552 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is  
553 participating in the supervised clinical training program for the purpose of becoming a physical  
554 therapist or a physical therapist assistant.

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

556 **58-24b-303. Term of license -- Renewal ~~§~~ -- Temporary license for physical therapist**  
 556a **assistant ~~§~~** .

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

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

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

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

567a **~~§~~ (5) Notwithstanding any other provision of this chapter, the division may, by rule,**  
 567b **grant a temporary license, that expires on July 1, 2012, as a physical therapist assistant to an**  
 567c **individual who:**

567d **(a) was working as a physical therapist assistant in Utah before July 1, 2009; and**  
 567e **(b) complies with the requirements described in Subsections 58-24b-302(2)(a), (b),**  
 567f **(c), (f), and (g). ~~§~~**

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

569 **58-24b-304. Exemptions from licensure.**

570 (1) In addition to the exemptions from licensure described in Section 58-1-307, as  
 571 modified by Subsection 58-24b-302(5), a person may engage in acts that constitute the practice  
 572 of physical therapy without a license issued under this chapter if:

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

574a **(i) ~~§~~ claim to be a physical therapist ~~§~~ [or] ;**

574b **(ii) claim to be ~~§~~ a**

575 **provider of ~~§~~ any type of ~~§~~ physical therapy ~~§~~ [;] that is outside of the scope of practice**  
 575a **of the license that is issued to the person; or**

575b **(iii) engage in any acts that constitute the practice of physical therapy that are outside**  
 575c **of the scope of practice of the license that is issued to the person; ~~§~~**

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

577 (i) the United States armed services;

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

579 (iii) the Veteran's Administration;

580 (c) the person is:

581            (i) licensed as a physical therapist in:  
582            (A) a state, district, or territory of the United States, other than Utah; or  
583            (B) a country other than the United States; and  
584            (ii) (A) teaching, demonstrating, or providing physical therapy in connection with an  
585 educational seminar, if the person engages in this conduct in Utah no more than 60 days per

586 calendar year:

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

590 (C) providing consultation by telecommunication to a physical therapist; ~~§~~ → [or] ← ~~§~~

591 (d) the person:

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

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

595 (ii) (A) is licensed as a physical therapist assistant in:

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

597 (II) a country other than the United States; and

598 (B) (I) practices within the scope of practice authorized for a physical therapist  
 599 assistant by the jurisdiction described in Subsection (1)(d)(ii)(A); and

600 (II) within the limitations for the practice of physical therapy described in Subsection

601 (1)(c)(ii) ~~§~~ → ; or

601a (e) **the person:**

601b (i) **is a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act;**

601c (ii) **is a physician, licensed under Title 58, Chapter 68, Utah Osteopathic**

601d **Medical Practice Act; or**

601e (iii) **is a chiropractic physician, licensed under Title 58, Chapter 73,**

601f **Chiropractic Physician Practice Act** ← ~~§~~ .

602 (2) A person who is exempted from licensure under Subsection (1)(b) may practice  
 603 animal physical therapy without a license under this section if the person:

604 (a) is authorized to practice animal physical therapy under federal law; and

605 (b) practices animal physical therapy within the scope of practice authorized by federal  
 606 law.

607 (3) A person who is exempted from licensure under Subsection (1)(c) may practice  
 608 animal physical therapy without a license under this section if the person:

609 (a) is authorized to practice animal physical therapy in:

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

611 (ii) a country other than the United States; and

612 (b) practices animal physical therapy:

613 (i) within the scope of practice for the jurisdiction described in Subsection (3)(a) where  
 614 the person is authorized to practice animal physical therapy; and

615 (ii) within the limitations for the practice of physical therapy described in Subsection

616 (1)(c)(ii).

617 Section 11. Section **58-24b-305** is enacted to read:  
618 **58-24b-305. License denial -- Discipline -- Cease and desist order.**

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

- 620 (1) refuse to issue a license to an applicant;
- 621 (2) refuse to renew a license;
- 622 (3) revoke, suspend, or restrict a license;
- 623 (4) place a license on probation;
- 624 (5) issue a public or private reprimand to a licensee; or
- 625 (6) issue a cease and desist order.

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

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

628 **58-24b-401. Authority and ethical standards of a licensed physical therapist and**  
629 **licensed physical therapist assistant -- Function of a physical therapy aide.**

630 (1) A licensed physical therapist:

- 631 (a) is fully authorized to practice physical therapy; and
- 632 (b) shall adhere to the standards of ethics described in:

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

635 (ii) rule.

636 (2) A licensed physical therapist assistant:

637 (a) is authorized to practice physical therapy:

- 638 (i) under the on-site supervision or general supervision of a licensed physical therapist;
- 639 and
- 640 (ii) within the scope of practice of a licensed physical therapist assistant, as described  
641 in this chapter and by rule;

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

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

645 (ii) rule; and

646 (c) may not be supervised by any person other than a licensed physical therapist.

647 (3) (a) A physical therapy aide may not engage in the practice of physical therapy.

648 (b) Notwithstanding Subsection (3)(a), a physical therapy aide may provide routine  
 649 assistance to:

650 (i) a licensed physical therapist while the licensed physical therapist engages in the  
 651 practice of physical therapy, if the physical therapy aide is under the on-site supervision of the  
 652 licensed physical therapist; or

653 (ii) a licensed physical therapist assistant while the licensed physical therapist assistant  
 654 engages in the practice of physical therapy, within the scope of the licensed physical therapist  
 655 assistant's license, if the physical therapy aide is:

656 (A) under the general or on-site supervision of a licensed physical therapist; and

657 (B) under the on-site supervision of the licensed physical therapist assistant.

658 Section 13. Section **58-24b-402** is enacted to read:

659 **58-24b-402. Patient care and management.**

660 (1) In practicing physical therapy, a licensed physical therapist shall:

661 (a) manage all aspects of the physical therapy of a patient under the licensed physical  
 662 therapist's care;

663 (b) perform the initial evaluation and documentation for each patient;

664 (c) perform periodic reevaluation and documentation for each patient;

665 (d) perform physical therapy interventions that require immediate and continuous  
 666 examination and evaluation throughout the intervention;

667 (e) perform all therapeutic intervention on a patient that is outside of the standard  
 668 scope of practice of a licensed physical therapist assistant or a physical therapy aide;

669 (f) determine the therapeutic intervention to be performed by a licensed physical  
 670 therapist assistant under the on-site supervision or general supervision of the licensed physical  
 671 therapist to ensure that the therapeutic intervention is safe, effective, efficient, and within the  
 672 scope of practice of the licensed physical therapist assistant.

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

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

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

677 (a) perform a physical therapy evaluation ~~§~~→ [ ] or ←~~§~~ assessment ~~§~~→ [ ,or diagnoses; ] ;

677a (b) identify or label a physical impairment or injury;

678 ~~(b)~~ (c) ←~~§~~ design a plan of care for a patient;

679 ~~§~~ → [(c)] (d) ← ~~§~~ perform the joint mobilization component of manual therapy; or  
 680 ~~§~~ → [(d)] (e) ← ~~§~~ perform the sharp selective debridement component of wound management.

681 (3) Subsection (2) ~~§~~ → [(c)] (d) ← ~~§~~ does not apply to:

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

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

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

685 **58-24b-403. Administration of a prescription drug.**

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

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

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

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

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

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

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

699 **58-24b-404. Supervision of a licensed physical therapist assistant or a physical**  
 700 **therapy aide.**

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

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

705 **58-24b-405. Animal physical therapy.**

706 (1) ~~§~~ → [A] **Subject to Subsection 58-28-307(12)(b), a** ← ~~§~~ licensed physical therapist may  
 706a practice animal physical therapy if the licensed  
 707 physical therapist completes at least 100 hours of animal physical therapy training and  
 708 education, which shall include:

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



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

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

712 (2) ~~§~~ → [A] Subject to Subsection 58-28-307(12)(b), a ← ~~§~~ licensed physical therapist  
 712a assistant may practice animal physical therapy, within

713 the scope of the licensed physical therapist assistant's practice, if the licensed physical therapist  
 714 assistant:

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

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

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

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

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

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

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

724 **58-24b-501. Unlawful conduct.**

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

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

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

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

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

732 (a) authorized to practice animal physical therapy under Section 58-24b-405; or

733 (b) authorized to practice animal physical therapy under Subsection 58-24b-304(1)(a),

734 (2), or (3);

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

737 (a) a licensed physical therapist; or

738 (b) (i) licensed as a physical therapist in a jurisdiction other than Utah;

739 (ii) does not represent oneself as being a physical therapist licensed in Utah; and

740 (iii) exempt from licensure under Section 58-24b-304;

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

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

744 (b) (i) is licensed as a physical therapist assistant in a jurisdiction other than Utah;

745 (ii) does not represent oneself as being a physical therapist assistant licensed in Utah;

746 and

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

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

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

750 **58-24b-502. Unprofessional conduct.**

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

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

755 (a) generally recognized practices, standards, or ethics of the profession for which the  
756 person is licensed; or

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

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

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

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

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

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

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

766 **58-24b-503. Lawful and unlawful use of titles and terms -- Unlawful advertising**  
767 **or promotion.**

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

771 (2) A person who is a licensed physical therapist assistant shall use the letters "PTA" in

772 connection with the person's name or business in order to indicate that the person is a licensed  
 773 physical therapist assistant.

774 (3) It is unlawful for a person who is not a licensed physical therapist ~~§→~~ [or] , a ~~←§~~  
 774a licensed

775 physical therapist assistant ~~§→~~ , or a person described in Subsection 58-24b-304(1)(e) ~~←§~~ to:

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

778 (i) physical therapy ~~§→~~ , except to the extent that the word is used to describe conduct  
 778a that a person is licensed to engage in under another law of the state ~~←§~~ :

779 (ii) physiotherapy; or

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

782 (b) ~~§→~~ [except as provided in Subsection (6);] ~~←§~~ offer, provide, or bill a person for:

783 (i) physical therapy services or anything that is characterized as physical therapy  
 784 services; or

785 (ii) physiotherapy services or anything that is characterized as physiotherapy services.

786 (4) It is unlawful for a person who is not a licensed physical therapist to:

787 (a) ~~§→~~ except as provided in Subsection (6), ~~←§~~ use, in connection with the person's  
 787a name or business, any of the following words

788 or abbreviations:

789 (i) physical therapist;

790 (ii) physiotherapist;

791 (iii) PT;

792 (iv) DPT;

793 (v) MPT; or

794 (vi) any other word, abbreviation, or insignia, indicating or implying, directly or  
 795 indirectly, that the person is a physical therapist or physiotherapist;

796 (b) advertise that a person who is not a licensed physical therapist is a physical  
 797 therapist or physiotherapist; or

798 (c) promote a person who is not a licensed physical therapist as a physical therapist or  
 799 physiotherapist.

800 (5) It is unlawful for a person who is not a licensed physical therapist assistant to:

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

- 803 (i) physical therapist assistant;  
 804 (ii) physiotherapist assistant;  
 805 (iii) PTA; or  
 806 (iv) any other word, abbreviation, or insignia, indicating or implying, directly or  
 807 indirectly, that the person is a physical therapist assistant or a physiotherapist assistant;  
 808 (b) advertise that a person who is not a licensed physical therapist assistant is a  
 809 physical therapist assistant or a physiotherapist assistant; or  
 810 (c) promote a person who is not a licensed physical therapist assistant as a physical  
 811 therapist assistant or physiotherapist assistant.

812 ~~§→ [(6) A person who is licensed under this title to provide a service that constitutes the~~  
 813 ~~practice of physical therapy may offer, provide, or bill a person for that service, but may not~~  
 814 ~~characterize that service as a physical therapy service or a physiotherapy service, unless the~~  
 815 ~~person is a licensed physical therapist or a licensed physical therapist assistant.] ←§~~

815a ~~§→ (6) Subsection (4)(a) does not prohibit a person from using a word or abbreviation~~  
 815b ~~described in Subsection (4)(a) in connection with the person's business, if the person employs a~~  
 815c ~~physical therapist at the person's business. ←§~~

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

817 **58-24b-504. Reporting unlawful or unprofessional conduct -- Immunity --**  
 818 **Confidentiality.**

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

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

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

- 826 (a) essential to the conduct of an investigation or hearing; or  
 827 (b) ordered by a court of competent jurisdiction.

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

829 **58-28-307. Exemptions from chapter.**

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

- 832 (1) any person who practices veterinary medicine, surgery, or dentistry upon any  
 833 animal owned by him, and the employee of that person when the practice is upon an animal

834 owned by his employer, and incidental to his employment, except:

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

837 (b) this exemption does not apply to the administration, dispensing, or prescribing of a  
838 prescription drug, or nonprescription drug intended for off label use, unless the administration,  
839 dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient  
840 relationship;

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

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

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

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

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

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

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

864 (9) any person rendering emergency first aid to animals in those areas where a licensed

865 veterinarian is not available, and if suspicious reportable diseases are reported immediately to  
866 the state veterinarian;

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

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

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

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

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

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

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

890 (14) an animal shelter employee who is:

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

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

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

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

897 **58-47b-304. Exemptions from licensure.**

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

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

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

906 (c) physical therapists ~~H→~~ [or physical therapist assistants] ~~←H~~ licensed under Title 58,  
906a Chapter

907 ~~[24a, Physical Therapist]~~ 24b, Physical Therapy Practice Act;

907a ~~H→~~ **(d) physical therapist assistants licensed under Title 58, Chapter 24b, Physical**  
907b **Therapy Practice Act, while under the general supervision of a physical therapist;**

908 ~~[(t)]~~ **(e)** ~~←H~~ osteopathic physicians and surgeons licensed under Title 58, Chapter 68, Utah  
909 Osteopathic Medical Practice Act;

910 ~~H→~~ **[(r)]** **(f)** ~~←H~~ chiropractic physicians licensed under Title 58, Chapter 73, Chiropractic  
910a Physician

911 Practice Act;

912 ~~H→~~ **[(f)]** **(g)** ~~←H~~ hospital staff members employed by a hospital who practice massage as  
912a part of their  
913 responsibilities;

914 ~~H→~~ **[(g)]** **(h)** ~~←H~~ athletic trainers who practice massage as part of their responsibilities while  
915 employed by an educational institution or an athletic team that participates in organized sports  
916 competition;

917 ~~H→~~ **[(t)]** **(i)** ~~←H~~ students in training enrolled in a massage therapy school approved by the  
917a division;

918 ~~H→~~ **[(t)]** **(j)** ~~←H~~ naturopathic physicians licensed under Title 58, Chapter 71, Naturopathic  
918a Physician

919 Practice Act;

920 ~~H→~~ **[(j)]** **(k)** ~~←H~~ occupational therapist licensed under Title 58, Chapter 42a, Occupational  
920a Therapy

921 Practice Act; and

922 ~~H→~~ **[(t)]** **(l)** ~~←H~~ persons performing gratuitous massage.

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

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

926 (a) create or require insurance coverage or reimbursement for massage therapy from

927 third party payors if this type of coverage did not exist on or before February 15, 1990; or  
928 (b) prevent any insurance carrier from offering coverage for massage therapy.

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

930 **78B-3-403. Definitions.**

931 As used in this part:

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

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

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

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

940 (5) "Commissioner" means the commissioner of insurance as provided in Section  
941 31A-2-102.

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

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

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

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

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

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



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

969 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter  
970 21, Health Care Facility Licensing and Inspection Act.

971 (14) "Licensed Direct-entry midwife" means a person licensed under the Direct-entry  
972 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section  
973 58-77-102.

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

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

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

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

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

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

988 (21) "Osteopathic physician" means a person licensed to practice osteopathy under

989 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

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

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

994 (24) "Pharmacist" means a person licensed to practice pharmacy as provided in Section  
995 58-17b-301.

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

998 (26) "Physical therapist assistant" means a person licensed to practice physical therapy,  
999 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical  
1000 Therapy Practice Act.

1001 [~~26~~] (27) "Physician" means a person licensed to practice medicine and surgery under  
1002 Title 58, Chapter 67, Utah Medical Practice Act.

1003 [~~27~~] (28) "Podiatric physician" means a person licensed to practice podiatry under  
1004 Title 58, Chapter 5a, Podiatric Physician Licensing Act.

1005 [~~28~~] (29) "Practitioner of obstetrics" means a person licensed to practice as a  
1006 physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58,  
1007 Chapter 68, Utah Osteopathic Medical Practice Act.

1008 [~~29~~] (30) "Psychologist" means a person licensed under Title 58, Chapter 61,  
1009 Psychologist Licensing Act, to engage in the practice of psychology as defined in Section  
1010 58-61-102.

1011 [~~30~~] (31) "Registered nurse" means a person licensed to practice professional nursing  
1012 as provided in Section 58-31b-301.

1013 [~~31~~] (32) "Relative" means a patient's spouse, parent, grandparent, stepfather,  
1014 stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The  
1015 term includes relationships that are created as a result of adoption.

1016 [~~32~~] (33) "Representative" means the spouse, parent, guardian, trustee,  
1017 attorney-in-fact, person designated to make decisions on behalf of a patient under a medical  
1018 power of attorney, or other legal agent of the patient.

1019 [~~33~~] (34) "Social service worker" means a person licensed to practice as a social

1020 service worker under Section 58-60-205.

1021 [~~(34)~~] (35) "Speech-language pathologist" means a person licensed to practice  
 1022 speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and  
 1023 Audiology Licensing Act.

1024 [~~(35)~~] (36) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act  
 1025 or omission proximately causing injury or damage to another.

1026 [~~(36)~~] (37) "Unanticipated outcome" means the outcome of a medical treatment or  
 1027 procedure that differs from an expected result.

1027a **§→ Section 24. Effective date.**

1027b **This bill takes effect on July 1, 2009.←§**

1028 Section **§→ [24] 25 ←§ . Repealer.**

1029 This bill repeals:

1030 Section **58-24a-101, Short title.**

1031 Section **58-24a-102, Definitions.**

1032 Section **58-24a-103, Tests performed by physical therapists.**

1033 Section **58-24a-104, Physical agents and physical activities.**

1034 Section **58-24a-105, Administration of agents -- Limitation.**

1035 Section **58-24a-106, Examinations and evaluations.**

1036 Section **58-24a-107, Prohibitions.**

1037 Section **58-24a-108, Licensing board.**

1038 Section **58-24a-109, Authority to practice physical therapy -- Licensure.**

1039 Section **58-24a-110, Exemption from licensure.**

1040 Section **58-24a-111, Term of license -- Renewal expiration.**

1041 Section **58-24a-112, Physical therapist supervisory authority and responsibility.**

1042 Section **58-24a-114, Grounds for denial of license -- Disciplinary proceedings.**

**Legislative Review Note**  
 as of 1-28-09 6:27 AM

**Office of Legislative Research and General Counsel**

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**S.B. 137 - Physical Therapy Practice Act - As Amended**

**Fiscal Note**

2009 General Session  
State of Utah

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**State Impact**

Enacting this bill will require an appropriation from the Commerce Service Fund of \$30,700 in FY 2010 and approximately \$28,800 every year after that. The bill will generate annual revenues of \$30,700 beginning in FY 2010. Commerce Service Fund spending affects the annual transfer to the General Fund.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Commerce Service Fund	\$0	\$28,800	\$28,800	\$0	\$28,800	\$28,800
Commerce Service, One-time	\$0	\$1,900	\$0	\$0	\$1,900	\$0
<b>Total</b>	<b>\$0</b>	<b>\$30,700</b>	<b>\$28,800</b>	<b>\$0</b>	<b>\$30,700</b>	<b>\$28,800</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and businesses may be impacted due to changes in the proposed statute.

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