

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



- 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

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 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, testing, and diagnosing an individual who has a physical
396 impairment or injury;

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

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

- 400 physical impairment or injury;
- 401 (iv) treating or alleviating a physical impairment by designing, modifying, or
- 402 implementing a therapeutic intervention;
- 403 (v) reducing the risk of an injury or physical impairment;
- 404 (vi) providing instruction on the use of physical measures, activities, or devices for
- 405 preventative and therapeutic purposes;
- 406 (vii) promoting and maintaining health and fitness;
- 407 (viii) the administration of a prescription drug pursuant to Section 58-24b-403;
- 408 (ix) engaging in the functions described in Subsections (11)(a)(i) through (viii) in
- 409 relation to an animal, in accordance with the requirements of Section 58-24b-405; and
- 410 (x) 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; and
442 (xviii) functioning in the physical environment at home or work.
443 (14) "Therapeutic intervention" includes:
444 (a) therapeutic exercise, with or without the use of a device;
445 (b) functional training in self-care;
446 (c) community or work integration;
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.

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

Part 2. Physical Therapy Licensing Board

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

Duties.

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

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

(3) The duties and responsibilities of the board are described in Subsection (4) and Sections 58-21b-201 through 58-21b-203.

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

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

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

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

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

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; or

496 (2) exempted from the licensing requirements of this chapter under Section

497 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 education

504 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 language

508 and demonstrate proficiency to the satisfaction of the board if requested by the board; and

509 (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;

513 (c) submit proof of graduation from a physical therapist assistant education program

514 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 language

518 and demonstrate proficiency to the satisfaction of the board if requested by the board; and

519 (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 the

521 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.**

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.

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 claim to be a physical therapist or a
575 provider of physical therapy;

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).

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, assessment, or diagnoses;

678 (b) design a plan of care for a patient;

679 (c) perform the joint mobilization component of manual therapy; or
680 (d) perform the sharp selective debridement component of wound management.

681 (3) Subsection (2)(c) 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 licensed physical therapist may 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 licensed physical therapist 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 licensed
775 physical therapist assistant 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;

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) use, in connection with the person's 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.

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 or physical therapist assistants licensed under Title 58, Chapter
907 [~~24a, Physical Therapist~~] 24b, Physical Therapy Practice Act;

908 (d) osteopathic physicians and surgeons licensed under Title 58, Chapter 68, Utah
909 Osteopathic Medical Practice Act;

910 (e) chiropractic physicians licensed under Title 58, Chapter 73, Chiropractic Physician
911 Practice Act;

912 (f) hospital staff members employed by a hospital who practice massage as part of their
913 responsibilities;

914 (g) 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) students in training enrolled in a massage therapy school approved by the division;

918 (i) naturopathic physicians licensed under Title 58, Chapter 71, Naturopathic Physician
919 Practice Act;

920 (j) occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy
921 Practice Act; and

922 (k) 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.

1028 Section 24. **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

S.B. 137 - Physical Therapy Practice Act

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill will require an additional appropriation from the Commerce Service Fund of \$30,700 in FY 2010 and approximately \$28,800 every other year after that. It is anticipated that this change in statute will generate additional revenue to the Commerce Service Fund of \$21,000 in FY 2010 and subsequent even numbered years and \$4,200 in FY 2011 and subsequent odd numbered years. 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>
General Fund	\$0	\$0	\$0	\$0	(\$7,800)	\$4,200
Commerce Service Fund	\$0	\$28,800	\$0	\$0	\$0	\$0
Commerce Service, One-time	\$0	\$1,900	\$0	\$0	\$0	\$0
Total	\$0	\$30,700	\$0	\$0	(\$7,800)	\$4,200

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.
