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Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	Board of Physical Therapy
Division:	
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Statement of Necessity:

The Tennessee Board of Physical Therapy seeks to amend Rule 1150-01-.02 through the emergency rulemaking process, pursuant to Tenn. Code Ann. § 4-5-208(a)(1) and Tenn. Code Ann. § 4-5-208(a)(5), to comply with recent changes to Tenn. Code Ann. § 63-13-104(b)(1) and Tenn. Code Ann. § 63-13-303 which became effective on April 4, 2023. Tenn. Code Ann. § 4-5-208 allows rules to be adopted via the emergency rulemaking process if the agency finds that the agency is required by enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in Chapter 5 for the promulgation of rules.

Rule 1150-01-.02 defines the scope of practice of physical therapists. The proposed changes to this rule permit physical therapy referrals by nurse practitioners and physician assistants in accordance with the statutory change. These rules also effectuate statutory amendments governing when a physical therapy referral is not required. These rules fall squarely within the provisions of Tenn. Code Ann. § 4-5-208(a)(1) inasmuch as emergency rules are necessary because there is an immediate danger to the public health, safety or welfare, because nurse practitioners and physician assistants would not be able to make physical therapy referrals otherwise. This rule enables the Board to meet its mission to safeguard the health, safety, and welfare of people in Tennessee by expanding the type of providers who can make physical therapy referrals; thus, affording more flexibility to patients in obtaining physical therapy treatment. It is imperative that the Board set forth these rules in order to expand the ability for physical therapists to provide treatment to patients in a manner that complies with the applicable statute. The proposed rules implement and strengthen the new statutory structure intended by the Tennessee General Assembly in a manner that will better protect the public health, safety, and welfare.

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1150-01	General Rules Governing the Practice of Physical Therapy
Rule Number	Rule Title
1150-01-.02	Scope of Practice and Supervision

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1150-01
General Rules Governing the Practice of Physical Therapy

Amendments

Rule 1150-01-.02 Scope of Practice and Supervision is amended by deleting subparagraphs (1)(a), (1)(e), (2)(e), (2)(f), and item (1)(b)2(iii)(IV) in their entirety and substituting instead the following language, and is further amended by adding items (1)(b)2(iii)(V) and (1)(b)2(iii)(VI), so that as amended, the new paragraph and items shall read:

(1) Scope of Practice

(a) The scope of practice of physical therapy must be under the written or oral referral of a licensed doctor of medicine, chiropractic, dentistry, podiatry, osteopathy, nurse practitioner or physician assistant, with the following exceptions, as provided in T.C.A. § 63-13-303.

1. A licensed physical therapist may conduct an initial patient visit without the referral of a referring practitioner;
2. A licensed physical therapist may provide physical assessments or instructions, including a recommendation of exercise to an asymptomatic person, without the referral of a referring practitioner;
3. In emergency circumstances, including minor emergencies, a licensed physical therapist may provide assistance to a person to the best of a physical therapist's ability without the referral of a referring practitioner. Except as provided in paragraph 4, the physical therapist shall refer the person to the appropriate healthcare practitioner, as indicated, immediately after providing assistance; and
4. A licensed physical therapist may treat a patient without a referral, within the scope of practice of physical therapy, when the following are met:
 - (i) The patient's physician, as defined in § 63-6-204(f)(7), has been notified by the physical therapist;
 - (ii) If the physical therapist determines, based on clinical evidence, that no progress has been made with respect to that patient's condition within thirty (30) days, immediately following the date of the patient's initial visit with the physical therapist, then the physical therapist does not provide additional physical therapy services and refers the patient to a healthcare practitioner who qualifies as a referring practitioner;
 - (iii) The physical therapist does not continue physical therapy services for the patient beyond ninety (90) days without consulting with the patient's appropriate healthcare practitioner;
 - (iv) If the patient was previously diagnosed by a licensed physician with chronic, neuromuscular, or developmental conditions, and the evaluation, treatment, or services are being provided for problems or symptoms associated with one (1) or more of those previously diagnosed conditions, then 4(ii) and 4(iii) do not apply; and
 - (v) A physical therapist refers patients under the physical therapist's care to appropriate healthcare practitioners, if, at any time, the physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice of a physical therapist, reasonable therapeutic progress is not being achieved for the patient, or physical therapy treatment is contraindicated.

5. For the purposes of this part of this rule, emergency circumstances means instances where emergency medical care is required. Notified means to give notice to or inform a patient's physician, as defined in § 63-6-204(f)(7), when a licensed physical therapist treats a patient pursuant to part 4. Emergency medical care means bona fide emergency services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(b) 2. (iii) (IV) A doctor of podiatry licensed under T.C.A. §§ 63-3; or

(V) A nurse practitioner licensed under T.C.A. §§ 63-7; or

(VI) Physician Assistant pursuant to Tenn. Code Ann. § 63-19; and

(e) Nothing in this rule shall be construed as authorizing a physical therapist, or physical therapist assistant, or any other person, to practice medicine, chiropractic, osteopathy, podiatry, nursing, or practice as a physician assistant.

(2) (e) A physical therapist shall provide on-site supervision, as defined in part (b)3. of paragraph (2) of this rule, to physical therapy clinical students at all times, and will be in accordance with the APTA guidelines for clinical education which suggest a minimum of one (1) year of licensed clinical experience prior to functioning as a clinical instructor for physical therapist students.

(f) A physical therapist assistant shall provide on-site supervision, as defined in part (b)3. of paragraph (2) of this rule, to physical therapist assistant clinical students at all times, and will be in accordance with the APTA guidelines for clinical education which suggest a minimum of one (1) year of licensed clinical experience prior to functioning as a clinical instructor for physical therapist assistant students.

Authority: T.C.A. §§ 4-5-208, 63-13-102, 63-13-103, 63-13-104, 63-13-301, 63-13-303 through 63-13-307, and 63-13-311.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 03/15/2024

Signature: Michael Varnell


Name of Officer: Michael Varnell

Title of Officer: Associate Counsel, Department of Health

Agency/Board/Commission: Board of Physical Therapy

Rule Chapter Number(s): 1150-01

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


 Jonathan Skrmetti
 Attorney General and Reporter
April 9, 2024
 Date

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Filed with the Department of State on: 4/10/2024

Effective for: 180 *days

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* Emergency rule(s) may be effective for up to 180 days from the date of filing.

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Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The proposed rule should not have any financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

1. A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule defines the scope of practice for physical therapists and permits physical therapy referrals by nurse practitioners and physician assistants. This rule is an emergency rule change pursuant to Tenn. Code Ann. § 4-5-208(a)(5). This rule would comport with the recent statutory changes to Tenn. Code Ann. § 63-13-104(b)(1) and Tenn. Code Ann. § 63-13-303 which became effective on April 4, 2023.

2. A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 63-13-104(b)(1) outlines the scope of practice of physical therapy and permits physical therapy referrals by nurse practitioners and physician assistants.

3. Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule affects licensed physical therapists, nurse practitioners and physician assistants.

4. Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

5. An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should not impact revenues or expenditures.

6. Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Michael Varnell, Associate Counsel, Department of Health

7. Identification of the appropriate agency representative or representatives who will explain the rule at scheduled meeting of the committees;

Michael Varnell, Associate Counsel, Department of Health
Holt Whitt, Assistant Commissioner for Legislative Affairs

8. Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Department of Health, Office of General Counsel, 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243, 615-741-1611, Michael.Varnell@tn.gov, 710 James Robertson Parkway, 5th Floor, Nashville, TN 37243, (615) 741-0948, Holt.Whitt@tn.gov

9. Any additional information relevant to the rule proposed for continuation that the committee requests;

None.

**RULES
OF
THE TENNESSEE BOARD OF PHYSICAL THERAPY**

**CHAPTER 1150-01
GENERAL RULES GOVERNING THE PRACTICE OF PHYSICAL THERAPY**

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1150-01-.02 SCOPE OF PRACTICE AND SUPERVISION.

(1) Scope of Practice

(a) The scope of practice of physical therapy ~~must~~shall be under the written or oral referral of a licensed doctor of medicine, chiropractic, dentistry, podiatry, ~~or~~ osteopathy, nurse practitioner or physician assistant, with the following exceptions, as provided in T.C.A. § 63-13-303.

1. A licensed physical therapist may conduct an initial patient visit~~The initial evaluation which may be conducted~~ without ~~the~~such referral of a referring practitioner;
2. A licensed physical therapist may provide physical assessments or instructions, including a recommendation of exercise to an asymptomatic person, without the referral of a referring practitioner~~treat a patient for an injury or condition that was the subject of a prior referral if all of the following conditions are met:~~
 - (i) ~~The physical therapist, within four (4) business days of the commencement of therapy, consults with the referring licensed physician, osteopathic physician, dentist, chiropractor, podiatrist, or other referring practitioner;~~
 - (ii) ~~For all episodes of physical therapy subsequent to that which was initiated by the referral, the physical therapist treats the patient for not more than ten (10) treatment sessions or fifteen (15) consecutive calendar days, whichever occurs first, whereupon the physical therapist must confer with~~

~~the referring practitioner in order to continue the current episode of treatment; and~~

~~(iii) The physical therapist commences any episode of treatment provided pursuant to part (1) (a) 2. of this rule within one (1) year of the referral by the referring practitioner.~~

3. In emergency circumstances, including minor emergencies, a licensed physical therapist may provide assistance to a person to the best of a physical therapist's ability without the referral of a referring practitioner. Except as provided in paragraph 4, the physical therapist shall refer the person to the appropriate healthcare practitioner, as indicated, immediately after providing assistance; and~~No physical therapist may provide treatment pursuant to part two (2) of this subparagraph without having been licensed to practice physical therapy for at least one (1) year and without satisfying other requirements set by the Board.~~

4. A licensed physical therapist may treat a patient without a referral, within the scope of practice of physical therapy, when the following are met:~~provide physical assessments or instructions including recommendation of exercise to an asymptomatic person without the referral of a referring practitioner.~~

(i) The patient's physician, as defined in § 63-6-204(f)(7), has been notified by the physical therapist;

(ii) If the physical therapist determines, based on clinical evidence, that no progress has been made with respect to that patient's condition within thirty (30) days, immediately following the date of the patient's initial visit with the physical therapist, then the physical therapist does not provide additional physical therapy services and refers the patient to a healthcare practitioner who qualifies as a referring practitioner;

(iii) The physical therapist does not continue physical therapy services for the patient beyond ninety (90) days without consulting with the patient's appropriate healthcare practitioner;

(iv) If the patient was previously diagnosed by a licensed physician with chronic, neuromuscular, or developmental conditions, and the evaluation, treatment, or services are being provided for problems or symptoms associated with one (1) or more of those previously diagnosed conditions, then 4(ii) and 4(iii) do not apply; and

(v) A physical therapist refers patients under the physical therapist's care to appropriate healthcare practitioners, if, at any time, the physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice of a physical therapist, reasonable therapeutic progress is not being achieved for the patient, or physical therapy treatment is contraindicated.

5. ~~In emergency circumstances, including minor emergencies, a licensed physical therapist may provide assistance to a person to the best of a therapist's ability without the referral of a referring practitioner, provided the physical therapist shall refer to the appropriate health care practitioner, as indicated, immediately~~

~~thereafter.~~ For the purposes of this part of this ~~rule~~subparagraph, emergency circumstances means instances where emergency medical care is ~~required~~called for. Notified means to give notice to or inform a patient's physician, as defined in § 63-6-204(f)(7), when a licensed physical therapist treats a patient pursuant to part 4. Emergency medical care means bona fide emergency services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

(b) Practice of Physical Therapy

1. Examining, evaluating and testing individuals with mechanical physiological and developmental impairments, functional limitations, and disability or other health and movement-related conditions in order to determine a physical therapy treatment diagnosis, prognosis, a plan of therapeutic intervention, and to assess the ongoing effect of intervention; and
2. Alleviating impairments and functional limitations by designing, implementing, and modifying therapeutic interventions that include, but are not limited to: therapeutic exercise; functional training; manual therapy; therapeutic massage; assistive and adaptive orthotic, prosthetic, protective and supportive equipment; airway clearance techniques; debridement and wound care, physical agents or modalities, mechanical and electrotherapeutic modalities including patient-related instruction and electrophysiologic studies (motor and sensory nerve conduction, and somatosensory evoked potentials)
 - (i) Invasive kinesiological electromyography may be performed only in a university academic setting as part of a research project that has been

approved by the educational institution's Internal Review Board without a referral or;

(ii) Notwithstanding the provisions of subpart (i), diagnostic electromyography must be performed by a licensed physical therapist who has complied with the requirements of paragraph 1150-01-.04 (4) and;

(iii) Notwithstanding the provisions of subpart (i), diagnostic and invasive electromyography may only be performed when there is a referral for such service from:

(I) An allopathic physician licensed under T.C.A. §§ 63-6; or

(II) An osteopathic physician licensed under T.C.A. §§ 63-9; or

(III) A doctor of dentistry licensed under T.C.A. §§ 63-5; or

(IV) A doctor of podiatry licensed under T.C.A. §§ 63-3; or and

(V) A nurse practitioner licensed under T.C.A. §§ 63-7; or

(VI) Physician Assistant pursuant to Tenn. Code Ann. § 63-19; and

3. Reducing the risk of injury, impairments, functional limitation and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations; and

4. Engaging in administration, consultation, education and research; and

5. Manual Therapy Techniques - Consist of a broad group of passive interventions in which physical therapists use their hands to administer skilled movements designed to modulate pain; increase joint range of motion; reduce or eliminate soft tissue swelling, inflammation, or restriction; induce relaxation; improve contractile and noncontractile tissue extensibility; and improve pulmonary functions. These interventions involve a variety of techniques, such as the application of graded

forces, which are not performed beyond the joint's normal range of motion. These interventions may be applied to all joints of the body as deemed appropriate.

- (c) Substandard Care
 - 1. Over-utilization of appropriate physical therapy services or the lack thereof.
 - 2. Providing treatment intervention that is unwarranted by the condition of the patient.
 - 3. Providing treatment that is beyond the point of reasonable benefit.
 - 4. Abandoning the care of a patient without informing the patient of further care options.
 - 5. Failing to practice in accordance with the standards set forth in the "Guide to Physical Therapist Practice," pursuant to rule 1150-01-.02 (1) (f).
 - (d) "Physical therapy" or "physiotherapy" are identical and interchangeable terms. "Practice of physical therapy" and "physical therapy assistive personnel" are defined in rule 1150-01-.01.
 - (e) Nothing in this rule shall be construed as authorizing a physical therapist, or physical therapist assistant, or any other person to practice medicine, chiropractic, osteopathy, ~~or~~ podiatry, nursing, or practice as a physician assistant.
 - (f) The board adopts, as if fully set out herein, and as it may from time to time be amended, the current "Guide to Physical Therapist Practice" issued by the American Physical Therapy Association. Information to acquire a copy may be obtained by contacting either of the following:
 - 1. American Physical Therapy Association 1111 North Fairfax Street Alexandria, VA 22314-1488 Telephone: (703) 684-2782 Telephone: (800) 999-2782 Fax: (703) 684-7343 T.D.D: (703) 683-6748 Internet: www.apta.org
 - 2. Board of Physical Therapy 665 Mainstream Drive Nashville, TN 37243 Telephone: (615) 532-3202 ext. 25135 Telephone: (888) 310-4650 ext. 25135 Fax: (615) 532-5164 Internet: www.state.tn.us/health
 - (g) Universal Precautions for the Prevention of HIV Transmission - The board adopts, as if fully set out herein, rules 1200-14-03-.01 through 1200-14-03-.03 inclusive, of the Department of Health and as they may from time to time be amended, as its rule governing the process for implementing universal precautions for the prevention of HIV transmission for health care workers under its jurisdiction.
- (2) Supervision.
- (a) Supervision of licensed physical therapist assistants - Supervision, as applied to the licensed physical therapist assistant, means that all services must be performed under the

supervision of a physical therapist licensed and practicing in Tennessee. Guidance for the rendering of such services is as follows:

1. The licensed physical therapist shall perform the initial evaluation of the patient with the development of a written treatment plan, including therapeutic goals, frequency and time period of services.
2. The licensed physical therapist shall perform and document re-evaluations, assessments, and modifications in the treatment plan at least every thirty (30) days. For patients seen longer than sixty (60) days, the licensed physical therapist shall inspect the actual act of therapy services rendered at least every sixty (60) days.
3. The licensed physical therapist may not supervise a physical therapist assistant that is delivering services at a site further than sixty (60) miles or one (1) hour from the licensed physical therapist. The supervising licensed physical therapist must be available to communicate by telephone or other means whenever the physical therapist assistant is delivering services.
4. The discharge evaluation must be performed and the resulting discharge summary must be written by the licensed physical therapist.
5. The licensed physical therapist and the physical therapist assistant shall be equally responsible and accountable for carrying out the provisions of this subparagraph.

(b) Supervision of physical therapy assistive personnel (See rule 1150-01-.01).

1. A physical therapist may use physical therapy aides for designated tasks that do not require clinical decision making by the licensed physical therapist or clinical problem solving by the licensed physical therapist assistant. Direct supervision must apply to physical therapy aides and is interpreted to mean that services are provided under the supervision of an on-site physical therapist or physical therapist assistant licensed and practicing in Tennessee.
2. A physical therapist may use other assistive personnel for selected physical therapy designated tasks consistent with the training, education, or regulatory authority of such personnel. Other assistive personnel (nationally certified exercise physiologists or certified athletic trainer and massage therapists, etc) must perform the delegated task under the on-site supervision of a physical therapist. The

physical therapist shall then co-sign all related documentation in the patient records.

3. "On-site supervision" means the supervising physical therapist or physical therapist assistant must:
 - (i) Be continuously on-site and present in the department or facility where assistive personnel are performing services; and
 - (ii) Be immediately available to assist the person being supervised in the services being performed; and
 - (iii) Maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.
- (c) A physical therapist may concurrently supervise no more than the equivalent of three (3) full-time physical therapist assistants. A physical therapist may concurrently supervise no more than the equivalent of two (2) full-time assistive personnel or physical therapy aides. A physical therapist assistant may concurrently supervise no more than the equivalent of two (2) full-time physical therapy aides.
- (d) Pursuant to rule 1150-01-.01, physical therapists and physical therapist assistants shall provide direct onsite supervision of volunteers. Volunteers may not provide physical therapy to patients.
- (e) A physical therapist shall provide on-site supervision, as defined in part (b)-3. of paragraph (2) of this rule, to physical therapy clinical students at all times, and will be in accordance with the APTA guidelines for clinical education which suggest a minimum of one (1) year of licensed clinical experience prior to functioning as a clinical instructor for physical therapist students.
- (f) A physical therapist assistant shall provide on-site supervision, as defined in part (b)-3. of paragraph (2) of this rule, to physical therapist assistant clinical students at all times, and will be in accordance with the APTA guidelines for clinical education which suggest a minimum of one (1) year of licensed clinical experience prior to functioning as a clinical instructor for physical therapist assistant students.

Authority: T.C.A. §§ ~~4-5-208, 4-5-202, 4-5-204~~, 63-13-102, 63-13-103, 63-13-104, ~~63-13-108, 63-13-109~~, 63-13-301, 63-13-303 through 63-13-307, and 63-13-311, ~~and Public Chapter 264 of the Public Acts of 1993.~~