

§322.4. Practicing in a Manner Detrimental to the Public Health and Welfare.

(a) The board may deny a license to or discipline an applicant/respondent who is found to be practicing in a manner detrimental to the public health and welfare. The board may deny a registration for a physical therapy facility to an applicant or discipline a physical therapy facility required to be registered by the act which is found to be practicing in a manner detrimental to the public health and welfare.

(b) Practicing in a manner detrimental to the public health and welfare may include, but is not limited to, the following:

- (1) inaccurately recording, falsifying, or otherwise altering patient/client records;
- (2) obtaining or attempting to obtain or deliver medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge;
- (3) failing to supervise and maintain the supervision of supportive personnel, licensed or unlicensed, in compliance with the Act and rule requirements;
- (4) aiding, abetting, authorizing, condoning, or allowing the practice of physical therapy by any person not licensed to practice physical therapy;
- (5) permitting another person to use an individual's physical therapist's or physical therapist assistant's license for any purpose;
- (6) failing to cooperate with the agency by not furnishing papers or documents requested or by not responding to subpoenas issued by the agency;
- (7) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the board, or by the use of threats or harassment against any patient/client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;
- (8) engaging in sexual contact with a patient/client as the result of the patient/client relationship;
- (9) practicing or having practiced with an expired temporary or permanent license;
- (10) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including, but not limited to:
 - (A) failing to assess and evaluate a patient's/client's status;
 - (B) performing or attempting to perform techniques or procedures or both in which the physical therapist or physical therapist assistant is untrained by education or experience;

(C) delegating physical therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibility in question; or

(D) causing, permitting, or allowing physical or emotional injury or impairment of dignity or safety to the patient/client;

(11) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code §1320a-7b(b) or its regulations;

(12) advertising in a manner which is false, misleading, or deceptive;

(13) knowingly falsifying and/or forging a referring practitioner's referral for physical therapy;

(14) failing to register a physical therapy facility which is not exempt or failing to renew the registration of a physical therapy facility which is not exempt;

(15) practicing in an unregistered physical therapy facility which is not exempt.

Source Note: The provisions of this §322.4 adopted to be effective April 15, 1999, 24 TexReg 2935.
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