

259 CMR 6.00: PHYSICAL THERAPY FACILITIES

Section

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6.01: Scope and Purpose

259 CMR 6.00 establishes the standards for applying for and operating a licensed Physical Therapy Facility pursuant to M.G.L. c. 112 § 23M½. The purpose of 259 CMR 6.00 is to prevent insurance fraud and protect the health, safety, and welfare of the public by promoting minimum standards for Physical Therapy Facilities throughout the Commonwealth.

6.02: Facility Standards

(1) Delivery of Physical Therapy. Physical Therapy may only be delivered at a place, office, clinic or establishment holding a current, valid Physical Therapy Facility license issued by the Board or in practices or facilities that are exempted from licensure under 259 CMR 6.02(3).

(2) License Required. Each Physical Therapy Facility within the Commonwealth shall be licensed by the Board before providing Physical Therapy and shall annually renew its license using an application provided by the Board.

The Board will consider the following in determining whether two or more places, offices, clinics or establishments (establishments) delivering Physical Therapy Treatment at the same address constitute one or more Physical Therapy Facilities:

- (a) The business structure of each establishment, including but not limited to overlap in areas of financing, management, or ownership;
- (b) The resources shared by the establishments, including but not limited to office space, staff, record storage and maintenance facilities; and
- (c) The overall impression created by advertising, signage, stationery, and office layouts.

(3) Exemptions.

- (a) Solo Practices are exempted from the Physical Therapy Facility requirements but are held to all standards, rules and regulations of individual Physical Therapists.
- (b) Physical Therapy Facility licenses are not required for healthcare facilities licensed by the Massachusetts Department of Public Health including but not limited to hospitals, clinics, and home health care agencies, or institutions regulated by the Department of Education;
- (c) Physical Therapy Facilities providing services at multiple locations may operate under a single license if all of the following conditions are met:
 - 1. Services are provided at locations not within the control and custody of the Physical Therapy Facility;
 - 2. Services are not provided on a predictable or regular basis at anyone location;
 - 3. Healthcare delivery is not the primary purpose, activity or business of the site(s) where the services are provided; and
 - 4. No business or patient records are stored at a site where the services are provided.
- (d) The Board may require any place, office, clinic or establishment at which Physical Therapy is delivered to provide satisfactory evidence why it is eligible for the exemption of Physical Therapy Facility licensure requirements. The burden of proving eligibility shall rest with the establishment.

(4) Required Displays. Current true copies of the following must be conspicuously displayed for the benefit of the public at each Physical Therapy Facility.

- (a) The Physical Therapy Facility's license;

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- (b) The license of each licensed health care provider who provides any clinical services at the Physical Therapy Facility, whether licensed by this Board or any other licensing Board or licensing entity; and
 - (c) The most recent inspection report completed by the Board or its agents.
- (5) PT Compliance Officer. Each Physical Therapy Facility must have a PT Compliance Officer.
 - (a) A Physical Therapy Facility shall designate a PT Compliance Officer, and such designation is subject to Board approval.
 - (b) A Physical Therapy Facility must notify the Board in writing within five business days of any change in its designation of a PT Compliance Officer.
- (6) Employee Record. A Physical Therapy Facility shall provide a copy of its Employee Record to the Board upon application for licensure, annually upon renewal, and upon request by the Board or its designee(s).
- (7) Record Retention. Patient Records and Business Records shall be maintained in a manner that protects them from foreseeable damage or destruction.
 - (a) A Physical Therapy Facility shall maintain Patient Records on the premises for each active patient.
 - (b) Business Records shall be maintained for a minimum of seven years.
 - (c) For a patient who is under the age of two when he or she receives Physical Therapy, Patient Records shall be maintained at least until the patient reaches the age of nine.
 - (d) For patients who receive Physical Therapy on or after the patient reaches the age of two, Patient Records shall be maintained for a minimum of seven years from the date of the last patient encounter.
 - (e) Patient or Business Records maintained electronically shall have an established system of weekly back-up. Copies of the back-up records shall be maintained safely and securely at an off-site location, and back-ups shall be delivered weekly to the off-site location.
- (8) Compliance Plan. The Physical Therapy Facility shall implement and maintain a business compliance plan, which shall include but not be limited to standards, procedures, and policies that address the Physical Therapy Facility's administrative and clinical protocols. The standards, procedures, and policies shall include but not be limited to addressing the following issues:
 - (a) A plan for ascertaining that all Physical Therapy Facility health care providers have current, valid licenses;
 - (b) The methods for training personnel regarding the Physical Therapy Facility's standards, procedures, and policies, including hazardous waste disposal, medical coding, proper documentation, patient's rights and proper billing on an ongoing basis;
 - (c) The methods of maintaining and encouraging open lines of communication among the Physical Therapy Facility's personnel;
 - (d) The methods of maintaining and ensuring that equipment is inspected on an annual basis, and is in safe operating condition;
 - (e) The mechanisms used to report and respond to violations or complaints in an appropriate manner;
 - (f) The implementation and maintenance of a schedule of practice compliance audits; and
 - (g) In the event of the dissolution of the Physical Therapy Facility, a plan for storage and retrieval of patient records for the dissolution of a Physical Therapy Facility or when a treating Physical Therapist leaves the facility.
- (9) Sanitary Conditions. The Physical Therapy Facility shall be equipped with proper and adequate lighting and ventilation and kept in clean, orderly, and sanitary condition.
- (10) Change in Physical Therapy Facility Ownership. A change in Physical Therapy Facility Ownership warrants a new Physical Therapy Facility license.

When there is a transfer of a controlling interest in a Physical Therapy Facility, the Physical Therapy Facility license expires and the new owner must apply for a new license within 30 days.

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(11) Change in Location. A facility license is valid only for the location stated on the license and is not transferable or assignable.

(a) The Board must be notified in writing at least 60 days prior to a change in location of a Physical Therapy Facility.

(b) The license for the previous location will be cancelled and the PT Compliance Officer shall request a new facility license for the new location, that is subject to Board approval.

(12) Good Moral Character. Individuals engaged in the operation of the Physical Therapy Facility, including but not limited to, a person having more than ten percent ownership interest, company officers, principals in the Physical Therapy Facility, and the PT Compliance Officer must not engage in any activities that raise a question of his or her good moral character.

(13) Insurance Requirement. A Physical Therapy Facility must maintain general liability insurance in the amount of at least \$500,000.

6.03: Duties of the PT Compliance Officer

(1) The PT Compliance Officer must be of good moral character.

(2) The PT Compliance Officer is responsible for the Physical Therapy Facility's compliance with the laws of the Commonwealth and 259 CMR 1.00 through 6.00.

(3) The PT Compliance Officer shall cooperate with inspections or investigations conducted by the Board or its agents.

(4) Upon the request of the Board or its agents, the PT Compliance Officer shall provide immediate access to and, if requested, copies of Patient and Business Records.

(5) The PT Compliance Officer must notify the Board within five business days of ceasing to serve as a PT Compliance Officer for any Physical Therapy Facility.

(6) The PT Compliance Officer must notify the Board of any known disciplinary actions or criminal convictions against any person having more than ten percent ownership interest, company officers, principals, employees, the PT Compliance Officer, or any person that renders healthcare services through the Physical Therapy Facility. Such notice must be made to the Board within five business days of such conviction or disciplinary action, or if relevant to a new hire, within five business days of start date.

6.04: Application

(1) Application for a Physical Therapy Facility License may be made by a sole proprietorship, partnership, corporation, limited liability company, or limited liability partnership.

(2) An applicant for a Physical Therapy Facility License shall:

(a) submit to the Board an application as prescribed by the Board;

(b) pay the required nonrefundable fees; and

(c) arrange for the premises to be inspected and approved by the Board.

(3) The application must be attested to by the owner, if a sole proprietorship, or by an authorized agent of record, if a partnership, corporation, limited liability company or limited liability partnership.

(4) Unless a waiver is granted by the Board, the PT Compliance Officer must have a minimum of four years of verifiable experience as a Physical Therapist licensed in the Commonwealth or another jurisdiction, where the person's responsibilities included but were not limited to patient care, record keeping, and billing.

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(5) To determine eligibility for a Physical Therapy Facility license, the Board may require and consider evidence of good moral character, financial background, and licensing history, including but not limited to, the following individuals:

- (a) PT Compliance Officer;
- (b) company officers;
- (c) principals; and
- (d) owners having a 10% or greater ownership interest in the Physical Therapy Facility.

(6) The Board may require and consider supplemental application information and materials reasonably necessary to prevent insurance fraud, protect the health, safety, or welfare of the public, or for other regulatory purposes.

(7) The Board will not issue a facility license based on an incomplete submission.

(8) The Board may not issue a facility license if required local permits and certificates have not been obtained or if the Board's inspection reveals any violation of 259 CMR 1.00 through 6.00.

6.05: Renewal/Reinstatement

(1) A Physical Therapy Facility shall renew its license annually on or before the anniversary of the date of issue by submitting:

- (a) a Physical Therapy Facility renewal form as prescribed by the Board;
- (b) complete information as required on the form, including changes in information since the original application or last renewal; and
- (c) the nonrefundable renewal fee.

(2) If a Physical Therapy Facility's license has Expired, the Physical Therapy Facility may request that the Board reinstate its license. The owner and the PT Compliance Officer may be required to personally appear before the Board to discuss the request for reinstatement. All requests for reinstatement must be in writing and shall include the following submissions:

- (a) all of the items required by 259 CMR 6.05(1);
- (b) a nonrefundable late fee; and
- (c) any other pertinent information as required by the Board.

6.06: Inspections

The Board or its agent may inspect any Physical Therapy Facility at any time during regular business hours, and without prior notice, for the purpose of verifying that the Physical Therapy Facility, and its agents or employees are in compliance with all applicable requirements of M.G.L. c. 112, §§ 61 through 65, M.G.L. c. 112, §§ 23A through 23Q, and 259 CMR 6.00, and all other applicable federal, state and local laws or regulations.

6.07: Grounds for Disciplinary Action

(1) The Board may, through the processes set out in M.G.L. c. 30A, M.G.L. c. 112, §§ 61 through 65, and 801 CMR 1.00 *et seq.*, take disciplinary action against any Physical Therapy Facility. Grounds for disciplinary action shall include, but shall not be limited to:

- (a) Violation of any provision of 259 CMR 6.00 *et seq.*;
- (b) Unlicensed practice at the Physical Therapy Facility or arranged through the Physical Therapy Facility. Unlicensed practice includes practice by an individual who:
 1. Has never held a license to render care within the discipline in which he or she is acting;
 2. Has let his or her license to practice lapse, Expire, or become inactive;
 3. Has had her or his license to practice suspended or revoked; or
 4. Has voluntarily surrendered his or her license.

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(c) Where a person having more than ten percent ownership interest, company officer, principal, PT Compliance Officer, or any employee of the Physical Therapy Facility:

1. Violates or permits the violation of any of the Grounds for Disciplinary Action under 259 CMR;
2. Interferes with or obstructs the Board or its agent in the performance of the Board's duties;
3. Is sanctioned for violations of state or federal laws regarding insurance fraud; or
4. Solicits, facilitates, or otherwise permits illicit behavior.

REGULATORY AUTHORITY

259 CMR 5.00: M.G.L. c. 112, § 23M½ and 23P½.

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