

# **COLORADO PHYSICAL THERAPY LICENSURE**

## **Policies of the Director**

### **POLICY 30-3 – Director’s Policy on the Corporate Practice of Physician-Owned Physical Therapy Clinics [AMENDED].**

On April 22, 2005, Governor Bill Owens signed House Bill 05-1016 amending the corporate practice provisions in section 12-41-124, C.R.S., of the Physical Therapists Practice Act (the Act).

Section 12-41-124 of the Act governs the corporate practice of physical therapy. In section 12-41-124(5), it states that corporations shall not practice physical therapy unless specifically permitted by the Act. The Act permits the corporate practice of physical therapy so long as the organization is a professional corporation, limited liability company, or registered limited liability partnership owned by licensed physical therapists and organized for the sole purpose of conducting the practice of physical therapy. This is commonly known as the “corporate practice doctrine” that has existed for many years in numerous states and has been relied on to prohibit corporations, including hospitals and physician-owned clinics, from employing physicians, physical therapists, and other healthcare providers subject to the corporate practice restrictions. The primary rationale for the prohibition was the concern that employment of physical therapists by corporations would create a conflict of loyalty for the therapist and would impair the therapist’s ability to exercise independent medical judgment in the best interest of the patient.

HB05-1016 amended the Act to now permit the employment of physical therapists by a certified or licensed hospital, licensed skilled nursing facility, certified home health agency, licensed hospice, certified comprehensive outpatient rehabilitation facility, certified rehabilitation agency, authorized health maintenance organization, accredited educational entity, or other entity wholly owned and operated by any government unit or agency. However, the amendment does not recognize the employment of physical therapists at physician-owned physical therapy clinics. Such employment practices are in violation of the Act. The only recognized exemption to such clinics is the provider network provisions found in §6-18-303(2), C.R.S.

Section 6-18-303(2) of the Colorado Revised Statutes specifically exempts provider networks from the corporate practice doctrine. The exemption applies if three conditions are met: (1) there is a written agreement which contains language to the effect that the relationship created by the agreement will not affect the exercise of the licensed or certified professional’s independent judgment in the practice of the profession; (2) the professional’s judgment is, in fact, unaffected; and (3) the professional is not required to exclusively refer any patient to a particular provider or supplier or to take any other action that the professional determines is not in the patient’s best interest. See §6-18-303(2), C.R.S.

Therefore, if a physician-owned physical therapy clinic meets the definition of a provider network, and there is a written agreement between the hospital and physical therapist, then the corporate practice of physical therapy is acceptable. The Director encourages physical therapists to consult with a licensed attorney when creating such networks.

It is the policy of the Director to investigate complaints against physical therapists in Colorado for violations of section 12-41-124, C.R.S. only if the complaint specifically alleges a violation of one of the three exemption criteria listed in section 6-18-303(2), C.R.S.

Complaints regarding corporate practice violations are public record. In order to effectively investigate the complaint there needs to be complete information on the violation and anonymous complaints are discouraged as it may impede the Division's ability to fully investigate the matter.

This policy does not apply to veterinary offices or physical therapists working with animals.

Adopted on October 19, 2005. Amended on October 28, 2009