

# Regulatory Analysis Form

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(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Physical Therapy

REPLACEMENT OF 120-DAY  
REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

16A-6510

IRRC Number: 2369

(3) Short Title

Certificate of Authorization

(4) PA Code Cite

49 Pa. Code, Chapter 40

(5) Agency Contacts & Telephone Numbers

Primary Contact: Beth Sender Michlovitz, Counsel  
State Board of Physical Therapy (717) 783-7200  
Secondary Contact: Joyce McKeever, Deputy Chief  
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking  
 Final Order Adopting Regulation  
 Policy Statement

(7) Is a 120-Day Emergency Certification Attached?

No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

These regulations would implement Act 6 of February 21, 2002 which authorizes a physical therapist to practice physical therapy without obtaining a referral from a physician if the physical therapist qualifies and obtains a certificate of authorization to practice physical therapy without a referral.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulation is proposed under the authority of Act 6 of February 21, 2002 and Section 3 of the Physical Therapy Practice Act (63 P.S. §1303) and Section 812.1 of the Administrative Code of 1929 (71 P.S. §279.3(a)).

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

**The regulation is mandated by Act 6 of February 21, 2002 authorizing a physical therapist to practice physical therapy without obtaining a referral from a physician. There is no deadline for action.**

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

**Act 6 of February 21, 2002 authorizes the Board to issue to physical therapists who meet the standards set forth in the Act a certificate of authorization to practice physical therapy without the required referral of a physician if a physical therapist qualifies for and obtains a certificate of authorization to practice physical therapy without a referral. The Act requires that regulations be adopted to implement these statutory provisions. There is a compelling public interest in issuing certificates of authorization to physical therapists so that patients can be seen directly by a physical therapist rather than being referred first by a physician.**

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

**Nonregulation would result in the failure by the Board to provide efficient physical therapy services to the public in that certificates of authorization to practice physical therapy without obtaining a referral from a physician would not be available to licensees.**

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

**Members of the public who receive physical therapy care will benefit from the regulations by permitting licensees who meet the standards and qualifications of Act 6 and these regulations to provide direct access of physical therapy services without requiring a physician referral. Licensees will benefit from the regulation by being authorized to practice independently.**

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

**No identifiable groups would be adversely affected by the regulation.**

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

**Licensed physical therapists applying for certificates of authorization would be required to comply with the regulation. It is expected that approximately 5500 licensees will initially apply for certificates of authorization.**

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

**In December, 2002, the Board sent draft proposals to professional associations, educational institutions and interested individuals who the Board identified as being interested in regulatory measures and asked for public input. The Board received approximately eight responses. The Board considered these responses in the final drafting of these regulations. The following is a list of all individuals, organizations, educational institutions and professional associations that were contacted:**

**Pennsylvania Physical Therapy Association, Hospital Association of Pennsylvania, Pennsylvania Association of Rehabilitation Facilities, Beaver College, Chatham College, College Misericordia, Duquesne University, Gannon University, Medical College of Pennsylvania and Hahnemann University, Philadelphia College of Pharmacy and Science, Slippery Rock University, Temple University, Thomas Jefferson University, University of Pittsburgh, University of Scranton, Alvernia College, Central Pennsylvania Business School, Community College of Allegheny County Boyce Campus, Harcum College, Lehigh Carbon Community College, Medical College of Pennsylvania and Hahnemann Hospital, Mercyhurst College, Mount Aloysius College, Penn State University, Penn State University Mount Alto Campus, East Stroudsburg University, Lock Haven University, Pennsylvania State University, California University of Pennsylvania, University of Pittsburgh, Slippery Rock University, West Chester University, Temple University, Messiah College, Waynesburg College, Mercyhurst College, Cheri Rinehart, Richard Dumaresq, Ed.D., Pennsylvania Medical Society, Pennsylvania Osteopathic Society and Widener University.**

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

**Licensed physical therapists who apply for a certificate of authorization to practice physical therapy without a referral from the physician would be required to pay an application fee of \$30 and a \$37 fee for biennial renewal of the certificate. Certificate holders would be required to pay costs associated with taking continuing education courses. Also, applicants for approval of continuing education as a provider or program would be required to pay a fee of \$40 for each course approved by the Board.**

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

**The regulation will not result in costs and/or savings to local government.**

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

**The regulation would result in costs related to the processing of applications for certificates and the auditing of the continuing education requirements.**

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>		\$				
Regulated Community	\$165,000	\$22,000	\$247,000	\$22,000	\$292,100	\$22,000
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The cost estimates are based upon the number of applicants which the Board estimates will avail themselves of the specified service over a fiscal year period.

- |  |                              |
|--|------------------------------|
| a) Application for Certificate of Authorization to Practice without a physician's referral.                | \$30 (c) x 5,500 = \$165,000 |
| b) Initial application during renewal periods  | \$30 (c) x 600 = \$18,000    |
| c) Renewal application fees for FY+2   | \$37 (c) x 6,100 = \$225,700 |
| d) Renewal application fees for FY+4   | \$37 (c) x 7,300 = \$270,100 |
| e) Application for approval as a Continuing Education Provider or Program Approval during each fiscal year | \$40 (c) x 100 = \$4,000     |

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
State Board of Physical Therapy	\$268,110.98	\$259,358.51	\$206,679.59	\$287,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

**The benefits of allowing physical therapists to practice without a referral from a physician outweighs the costs involved because the public will be better served by having direct access to a physical therapist for most types of care.**

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

**Nonregulatory alternatives were not considered because the only way to implement Act 6 is through regulations.**

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

**No other regulatory schemes were considered.**

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

**There are no federal standards applicable to the practice of physical therapy.**

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

**These regulations are in accordance with the practice of other state boards of physical therapy and will not put Pennsylvania at a competitive disadvantage with other states. In particular, 48 states have some form of direct access regulations. Twenty nine of those states permit direct access to a physical therapist but the authority is limited by the time in which a physical therapist may treat a patient before referring the patient to a physician. Pennsylvania is one of these 29 states. Eighteen states permit unlimited direct access to a physical therapist. Fifteen states permit direct access of evaluations only.**

**The following neighboring states have some type of direct access provisions:**

**New York – direct access only for evaluations**

**Connecticut – direct access only for evaluations**

**New Jersey – direct access only for evaluations**

**Maryland – limited direct access**

**Delaware – direct access limited to number of days of treatment before referring to doctor**

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**No.**

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

**The Board has already entertained comments from the public on draft regulations. No further public hearings or informational meetings are scheduled. The board is continually discussing these regulations at regularly scheduled board meetings held bi-monthly at 124 Pine Street in Harrisburg, PA. The Board holds bi-monthly public meetings at which information relative to all rulemaking is discussed. Meetings are held in the Board's offices at 116-124 Pine Street, Harrisburg, Pennsylvania. A schedule of Board meeting dates is available on the Department of State's website at [www.dos.state.pa.us/bpoa](http://www.dos.state.pa.us/bpoa).**

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

**New application forms would be required to be developed for applicants desiring a certificate of authorization. Also, there would be paperwork associated with the auditing of the continuing education requirement.**

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**Because the Board has identified no special needs of any subset or groups, no special provisions have been developed to meet particular needs of affected groups or persons.**

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

**The regulation will be effective upon publication of final rulemaking in the Pennsylvania Bulletin. Compliance will be required as of that date.**

(31) Provide the schedule for continual review of the regulation.

**The Board continually reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.**



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT AGENCIES  
REVIEW COMMISSION

# 2369

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Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated by:

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Executive or Independent  
Agencies.

BY: Amy M. Elliott  
(DEPUTY ATTORNEY GENERAL)

State Board of Physical Therapy  
(AGENCY)

BY: John V. Turner

DOCUMENT/FISCAL NOTE NO. 16A-6510

10/14/03  
DATE OF APPROVAL

NOV 07 2003  
DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

BY: James D. Irigoien

(Deputy General Counsel  
~~(Chief Counsel;~~  
Independent Agency  
Strike inapplicable  
title)

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable  
Copy not approved.  
Objections attached.
- Check if applicable. No Attorney  
General approval or  
objection within 30 day  
after submission.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PHYSICAL THERAPY  
49 PA. CODE, CHAPTER 40  
CERTIFICATE OF AUTHORIZATION

The State Board of Physical Therapy (Board) proposes to amend its regulations at 49 Pa. Code, Chapter 40 by amending §40.5 (relating to fees) and by adding §§40.61, 40.62, and 40.63 relating to practice without physician referral.

#### Effective Date

The amendments will be effective upon publication of final form regulations in the Pennsylvania Bulletin.

#### Statutory Authority

The amendments are authorized under Section 3 of the Physical Therapy Practice Act (Act), (63 P.S. §1303), as well as Section 812.1 of the Administrative Code of 1929 (71 P.S. 279.3(a)). The Act of February 21, 2002 (P.L. 234, No. 6)(Act 6), 63 P.S. §1309 (effective April 16, 2002), amended the Act to permit a physical therapist to practice physical therapy without obtaining a referral from a physician if the physical therapist qualifies for and obtains from the Board a certificate of authorization to practice physical therapy without a referral. These regulations would implement Act 6.

#### Background and Purpose

These regulations provide for the issuance of a certificate of authorization by the Board pursuant to Act 6. The proposed regulations would establish a fee for the issuance of a certificate and otherwise establish the requirements and conditions for obtaining and practicing under a certificate. The following is a description of the proposed amendments.

#### Section 40.5 Fees

Section 8(b) of the Act (63 P.S. §1308(b)) requires the Board to set all fees by regulation. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from revenues and are funded through fees. The cost of providing the service forms the basis for the fee.

It was determined that upon the implementation of Act 6, approximately 5500 applications would be submitted to the Board for initial certificates of authorization to practice physical therapy without a physician's referral with approximately 1300 new applications being submitted each biennial cycle thereafter. The analysis undertaken by the Budget Office of the Department of State establishes a fee of \$30 for the initial certificate. It was also estimated that approximately 6800 biennial renewal applications would be submitted each biennium and that a biennial renewal fee of \$37 should be established. The Board plans on monitoring the numbers of applications received and adjusting these fees by further regulation as necessary.

#### Section 40.61. Certificate of authorization to practice physical therapy without a referral

Section 40.61 reflects the requirements and language of Act 6 pertaining to the eligibility of a licensee to obtain a certificate. Act 6 requires that an applicant must be licensed in the

Commonwealth as a physical therapist. Therefore, this requirement is set forth in §40.61(a)(1). Also, Act 6 requires that the licensee must have either passed an examination for licensure which included testing on the appropriate evaluative procedures to treat a person without a referral or have passed an examination for licensure prior to 1990 and successfully completed a course approved by the board on the appropriate evaluative procedures to treat a person without a referral. In implementing these statutory provisions, the Board notes that its recognized examination is the National Physical Therapy Examination (NPTE). After January 1, 1990 the NPTE included testing on the appropriate evaluative procedures to treat a patient without a referral. Prior to January 1, 1990 the NPTE did not include such testing. Therefore, the Board requires at §40.61(a)(2)(ii) that a licensee who passed the NPTE prior to January 1, 1990 must have successfully completed within the 2 years preceding application, a board approved course consisting of at least 10 hours on the appropriate evaluative and screening procedures to determine the need for further examination or consultation by a physician, dentist or podiatrist prior to initiating treatment without a referral. This subsection would require the Board to maintain a list of currently approved courses meeting the Board's criteria. The Board believes that requiring at least 10 hours within 2 years preceding application is the minimum number of hours acceptable to assure that licensees are fresh and knowledgeable in this area to practice safely.

In addition to the educational requirement of Act 6, the statute requires that the licensees have practiced physical therapy in this Commonwealth or in a reciprocal state in the delivery of patient care on a continuous basis for at least 2 years immediately preceding application for the certificate, or through the combination of 2 years practice in this Commonwealth and a reciprocal state. These requirements are reflected in §40.61(a)(3) of the regulations.

Subsection (b) would define "continuous practice" as a minimum of 200 hours each year in the delivery of direct patient care. The Board has determined that 200 hours each year represents approximately 10% of a physical therapist's annual practice time. Subsection (c) reflects the requirement in the Act that certificates of authorization be displayed in a conspicuous manner to the public.

Act 6 requires that only a licensee holding a certificate of authorization may practice without the required referral from a physician. The Board has included subsection (d) to clarify that a physical therapist who holds a certificate cannot delegate the care of a patient to another physical therapist who does not have such a certificate.

#### Section 40.62. Liability insurance

Section 9(b)(4) of the Act was amended by Act 6 to require that a certificate holder have professional liability insurance in the minimum amounts required to be maintained by physicians under the Health Care Services Malpractice Act. The Board notes, in implementing this statutory provision, that the Health Care Services Malpractice Act was subsequently replaced by the Medical Care Availability and Reduction of Error (Mcare) Act (40 P.S. §§1303.101-1303.5108). Specifically, §711 of the Mcare Act sets forth the insurance requirements. See 40 P.S. §1303.711. Accordingly, the Board references §711 of the Mcare Act at §40.62(a).

Act 6 sets forth the requirement that a licensee must notify the Board within 30 days of the licensee's failure to be covered by the required insurance. Also Act 6 provides for the automatic suspension of a certificate upon the failure to be covered by the required insurance and that the certificate not be restored until submission to the Board of satisfactory evidence that the licensee has the required professional liability insurance. Section 40.62(b) and (c) mirror these statutory provisions.

Act 6 amended Section 9(b)(iii) of the Act to set forth the kinds of insurance satisfactory for compliance with this requirement. Section 40.62(c) of the amendments reflect these options. With respect to self-insurance, Section 9(b)(iv) of the Act requires that the Board adopt by regulation standards and procedures established by the Insurance Commissioner for self-insurance. This has been accomplished through Section 40.62(c)(1) of the amendments.

#### Section 40.63. Continuing education

Act 6 requires that in order for a licensee to biennially renew a certificate, the licensee must complete, within the biennial period, at least 20 hours of continuing education related to keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least 10 of the 20 hours are required to be in appropriate evaluative procedures to treat a person without a referral. Act 6 further requires that the Board approve continuing education programs and program providers in accordance with standards and criteria approved by the Board by regulation including any fees necessary to implement these provisions.

Section 40.63 of these amendments would implement these provisions of Act 6. First, the Board defines appropriate terms used in this section. In particular, the term "contact hour" would be defined as "a unit of measure equaling 60 minutes of participation in an approved continuing education course or program."

Subsections (b) and (c) of this amendment mirror the continuing education requirements of Act 6. Subsection (c) further provides for the keeping of continuing education records for 4 years and for the auditing of continuing education records by the Board.

Subsection (d) of this section would establish sponsors and acceptable courses and programs. Section 40.63(d)(1) would clarify that it is the responsibility of the certificate holder to ascertain the approval status of the sponsor before taking a course. Subsection (2) would provide that even if a sponsor is approved, a course may be rejected by the Board if the course is outside the scope of practice of physical therapy. Also, this provision mirrors the Act in that credit will not be given for courses in office management or practice building. Subsection (2) would provide that a certificate holder will be notified of a rejected course in writing along with the reason for the rejection.

Subsection (3) of 40.63(d) sets forth the process for applying for approval as a sponsor of continuing education and the criteria for approval. Under Section 40.63(e), home study courses would be authorized if given by approved sponsors. Subsection (f) reflects the statutory

provision that the continuing education requirements do not apply until after the first renewal of the certificate of authorization.

Subsection (g) of this section would require that in order for a certificate to be reinstated or reactivated, continuing education compliance must be substantiated. Subsection (h) provides for waivers of the continuing education requirement due to illness or hardship as set forth in §9(c)(2) of the Act as amended.

#### Fiscal Impact and Paperwork Requirements

The proposed amendments should have no fiscal impact and will not impose additional paperwork on the private sector, the general public and the Commonwealth and its political subdivisions.

#### Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The proposed regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

#### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on November 12, 2003 to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will notify the Board within 30 days of the close of the public comment period. The notification will specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly, and the Governor prior to publication of the regulations.

#### Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-651, Practice of Physical Therapy without Referral, when submitting comments.

James J. Irrgang, Chairperson

**§40.5. Fees**

The following fees are charged by the Board:

*Physical therapist:*

\* \* \*

Application for Certificate to Practice Physical Therapy without a referral.....\$30

Biennial renewal of Certificate to Practice Physical Therapy without a referral.....\$37

Application for approval of continuing education provider or program (per each course offered).....\$40

\* \* \*

**§ 40.61. Certificate of authorization to practice physical therapy without a referral.**

(a) An applicant for certification of authorization to practice physical therapy without the referral of a licensed physician shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following requirements:

(1) Holds a current license to practice physical therapy in the Commonwealth.

(2) Has done one of the following:

(i) Passed the National Physical Therapy Examination (NPTE) after January 1, 1990.

(ii) Passed the NPTE prior to January 1, 1990 and successfully completed, within 2 years prior to application, a Board approved course consisting of at least 10 hours on the appropriate evaluative and screening procedures to determine the need for further examination or consultation by a physician, dentist or podiatrist prior to initiating treatment without a referral. The Board will maintain a list of currently approved courses.

- (3) Has done one of the following:
- (i) Practiced physical therapy in the delivery of patient care on a continuous basis for at least 2 years immediately preceding the application for certificate of authorization.
  - (ii) Been licensed by endorsement and practiced physical therapy in the delivery of patient care as a licensed physical therapist in the other state on a continuous basis for at least 2 years immediately preceding the application for certificate of authorization.
  - (iii) Provided proof of meeting these practice requirements through any combination of (i) and (ii).
- (4) Has obtained professional liability insurance under the requirements of §40.62 (relating to liability insurance).
- (5) For purposes of this section, continuous practice is defined as a minimum of 200 hours each year in the delivery of direct patient care.
- (b) A certificate holder shall display the certificate of authorization in a manner conspicuous to the public.
- (c) A certificate holder may not delegate the care of a patient being treated without a referral to a physical therapist who is not a certificate holder.
- (d) A certificate holder may treat a person without a referral as provided herein for up to 30 calendar days from the date of the first treatment. A physical therapist shall not treat a person beyond 30 days from the date of the first treatment unless the person has obtained a referral from a licensed physician, dentist or podiatrist. The date of the first treatment

for purposes of this subsection is the date the person is treated by any physical therapist treating without a referral.

**§ 40.62. Professional Liability insurance**

- (a) Beginning January 1, 2005, or upon applying for a certificate of authorization, whichever occurs earlier, a licensee who applies for and obtains a certificate of authorization shall obtain and maintain professional liability insurance coverage in the minimum amount required to be maintained by physicians under Section 711 of the Medical Care Availability and Reduction of Error (Mcare) Act, (40 P.S. §1303.711).
- (b) A certificate holder shall notify the Board within 30 days of the holder's lapse in coverage of the required insurance.
- (c) The certificate of authorization shall automatically be suspended upon failure to be covered by the required insurance and shall not be restored until submission to the Board of satisfactory evidence that the licensee has the required professional liability insurance.
- (d) Satisfactory evidence of insurance coverage is any one of the following:
- (1) Self-insurance plan that meets the standards and procedures established by the Insurance Commission at 31 Pa. Code Chapter 243.
  - (2) Personally purchased professional liability insurance.
  - (3) Professional liability insurance, coverage provided by the licensee's employer.
  - (4) A similar type of coverage.

**§40.63. Continuing education**

- (a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:



Certificate holder—A licensed physical therapist who holds a certificate of authorization to practice physical therapy without a referral.

Contact hour—A unit of measure equaling 60 minutes of participation in an approved continuing education course or program.

- (b) Continuing education requirement for renewal of certificate of authorization. Beginning after the first renewal of the certificate of authorization, as a condition of certificate renewal, a physical therapist shall have completed during the preceding biennium a minimum of 20 contact hours of physical therapy continuing education related to keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least 10 of the 20 contact hours shall be in evaluative procedures to treat a person without a referral.
- (c) Reports to the Board. A certificate holder shall certify compliance with the continuing education hours requirement at the time of biennial renewal of the certificate. A certificate holder shall retain for at least 4 years, certificates, transcripts or other documentation showing completion of the prescribed number of hours. These records are subject to audit by the Board.
- (d) Approved sponsors; acceptable courses and programs.
- (1) Courses and programs provided by Board-approved sponsors will be accepted as satisfying the continuing education requirement. It is the responsibility of the certificate holder to ascertain the approval status of the sponsor before undertaking a continuing education activity.
- (2) Irrespective of the sponsor, the Board reserves the right to reject a continuing education course or program submitted by a certificate holder if it is outside the

scope of practice of physical therapy. The Board will not accept courses or programs which are unrelated to the actual practice of physical therapy—for example, instruction in office management or practice building. A certificate holder will be notified of a rejected course or program in writing, along with the reason for the rejection.

(3) Sponsors of physical therapy continuing education seeking Board approval shall submit an application on forms provided by the Board and pay the required fee. The applicant will be notified of approval or disapproval in writing. Notifications of disapproval will set forth reasons. The Board will not approve a sponsor unless it:

(i) Offers courses or programs or both with specific learning objectives geared to improve the professional competence of the participant.

(ii) Verifies attendance of the course.

(iii) Provides each attendee with a certificate which includes participant's name, date, place, course title, presenter or presenters and number of contact hours.

(4) The Board may withdraw approval of a sponsor for cause. The sponsor will be notified in writing of the reasons for withdrawal of approval.

(e) Distance education. A certificate holder may accrue all required hours in distance education courses offered by approved sponsors of continuing education as long as the course sponsor evaluates and assesses the extent of learning that has taken place.

(f) Reinstatement of certificate. Reinstatement of certificate shall be subject to the following conditions:

- (1) A person whose certificate has lapsed or been inactive shall show compliance with the continuing education requirement during the biennium immediately preceding the request for reinstatement.
- (2) A person whose certificate has been suspended or restricted shall show compliance with the continuing education requirement during the entire period of suspension or restriction.
- (g) Waivers; exemptions for continuing education. The Board may, in individual cases involving physical disability or illness, or undue hardship, grant a waiver of the continuing education requirements or grant an extension of time to complete the requirements. No waiver or extension of time will be granted unless a written request is submitted by the licensee; or in cases of physical disability or illness, by a physician licensed in this state or another state or territory of the United States or the District of Columbia and whose license is in good standing, or both. All necessary documentation must be received by the Board no later than 90 days preceding the biennial renewal. In the event that the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The Board may, as a condition of any waiver granted require the applicant to make up all or part of the continuing education waived.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PHYSICAL THERAPY  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7134

November 12, 2003

The Honorable John R. McGinley, Jr., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harrisstown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Physical Therapy  
16A-6510: Certificate of Authorization

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Physical Therapy pertaining to certificate of authorization.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,  
A handwritten signature in black ink, appearing to read "James J. Irrgang".

James J. Irrgang, Chairperson  
State Board of Physical Therapy

JJI/BSM:kp

Enclosure

c: Andrew Sislo, Chief Counsel  
Department of State  
Scott J. Messing, Deputy Commissioner  
Bureau of Professional and Occupational Affairs  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Department of State  
Beth Sender Michlovitz, Counsel  
State Board of Physical Therapy  
State Board of Physical Therapy

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-6510  
SUBJECT: Certificate of Authorization  
AGENCY: DEPARTMENT OF STATE

**TYPE OF REGULATION**

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions                      b. Without Revisions

RECEIVED  
2003 NOV 12 PM 12:04  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
<u>11/12/03</u>	<u>Sandra Harper</u>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
<u>11/12/03</u>	<u>Mary Walmer</u>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
<u>11/12/03</u>	<u>Eleana Page</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
<u>11/12/03</u>	<u>C. L. ...</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

November 7, 2003