

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

2012 OCT 11 AM 10:31

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IRRC

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:
Department of State, Bureau of Professional and Occupational Affairs, State Board of Physical Therapy

(2) Agency Number: **16A**
Identification Number: **6514**

IRRC Number: **2910**

(3) PA Code Cite:
49 Pa. Code Ch. 40

(4) Short Title:
Act 38 of 2008 amendments

(5) Agency Contacts (List Telephone Number and Email Address):
Primary Contact: **Thomas A. Blackburn, Regulatory Unit counsel, Department of State; (717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tblackburn@pa.gov**
Secondary Contact: **Cynthia K. Montgomery, Regulatory Counsel, Department of State (717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; cymontgome@pa.gov**

(6) Type of Rulemaking (check applicable box):

<input type="checkbox"/> Proposed Regulation	<input type="checkbox"/> Emergency Certification Regulation;
<input checked="" type="checkbox"/> Final Regulation	<input type="checkbox"/> Certification by the Governor
<input type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This rulemaking implements the act of July 4, 2008 (P.L. 293, No. 38) (Act 38). It sets standards for required continuing education for all physical therapists and physical therapist assistants, not solely those physical therapists who are certified for direct access. The rulemaking sets standards for required professional liability insurance for all physical therapists, not solely those who are certified for direct access. The rulemaking also implements the relaxed standards for supervision of a physical therapist assistant by a physical therapist, including identifying the required level of supervision for practice settings not clearly specified in section 9.1(c)(3) of the act. Further, the rulemaking revises the language throughout the regulations to refer to certification, rather than registration, of physical therapist assistants. Additionally, the rulemaking deletes all references to athletic trainers.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The rulemaking is adopted under section 3(a) of the Physical Therapy Practice Act (63 P.S. § 1303(a)) and section 16 of Act 38.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The rulemaking implements the changes to the act as amended by Act 38. The rulemaking is not otherwise mandated by any federal or state law or court order.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

See the response to question (9). The General Assembly has determined that there is a compelling public interest in requiring continuing education for all physical therapists and physical therapist assistants; and for all physical therapists to maintain professional liability insurance.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies, or references.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

As required by the Act 38 amendments to the act, all licensed physical therapists (not just those certified for direct access) will be required to complete mandatory continuing education and maintain professional liability insurance, and all physical therapist assistants will be required to complete mandatory continuing education. The Board does not foresee any groups being otherwise adversely affected by the rulemaking.

(13) 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.

All physical therapists and physical therapist assistants and providers of continuing education will be required to comply with the proposed rulemaking. The Board currently has approximately 13,091 licensed physical therapists (including 2,070 certified for direct access) and 4,867 certified physical therapist assistants (including 3,227 authorized to provide services under indirect supervision).

(14) 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. Explain how the dollar estimates were derived.

The regulated community will experience an increase in costs with all licensed physical therapists now being required to obtain and maintain professional liability insurance. In addition, all licensed physical therapists and all certified physical therapist assistants are now required to complete continuing education. These obligations are mandated by the Act 38 amendments to the act, and the costs of meeting those obligations are not associated with compliance with the rulemaking. However, the Board has determined that the average annual cost to comply with the statutorily mandated continuing education to be approximately \$400, but could be substantially less. As for the costs associated with meeting the professional liability insurance requirements imposed by the act, the Board notes that many physical therapists already maintain professional liability insurance, either personally or through an employer, so the fiscal impact may actually be very small. In addition, the exact premium depends on each individual physical therapist's exposure and claims history. However, the estimated costs of professional liability insurance in the amount of \$1 million per occurrence or claims made for a full-time physical therapist is estimated at \$500 per year. The Board does not maintain information regarding how many physical therapists work full-time as opposed to part-time. Therefore, the approximate costs to the regulated community related to continuing education is estimated as follows:

11,021 physical therapists who will now need to complete CE x \$400 annual cost = \$4,408,400
4,867 physical therapist assistants who will now need to complete CE x \$400 annual cost = \$1,946,800
Total annual costs associated with the CE requirements of Act 38 = \$6,355,200.

Approximate annual costs for all PTs to maintain the required professional liability insurance could be as much as \$6,545,500 assuming all currently licensed PTs work full-time, calculated as follows: 13,091 physical therapists x \$500 average annual premium = \$6,545,500.

Except for those who are preapproved, continuing education providers will have costs associated with compliance. The vast majority of continuing education is provided by preapproved providers. The Board estimates approximately 900 applications for CE course approval per year. Therefore, the Board anticipates that the aggregate cost to applicants of continuing education program approval (at the current fee of \$40 per course offered) to be approximately \$36,000.

There are no other costs or savings to the regulated community associated with compliance with the rulemaking.

(15) 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. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with the rulemaking.

(16) 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. Explain how the dollar estimates were derived.

The Board will experience an increase in costs in approving additional continuing education programs. This cost should be exactly offset by the fees charged to continuing education providers for review and approval of those programs. The Board will also experience an increase in costs necessary to audit licensees and certificateholders for compliance with the continuing education requirement. There are no other costs or savings to state government associated with compliance with the rulemaking.

(17) 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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	\$12,936,700	\$12,936,700	\$12,936,700	\$12,936,700	\$12,936,700	\$12,936,700
Local Government						
State Government						
Total Costs	\$12,936,700	\$12,936,700	\$12,936,700	\$12,936,700	\$12,936,700	\$12,936,700
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Pa. State Board of Physical Therapy	actual \$432,691	projected \$356,943	budget \$480,500	budget \$472,000

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The General Assembly has determined that there is a compelling public interest in requiring all physical therapists to maintain professional liability insurance to assure that there are funds to compensate injured parties; and for all physical therapists and physical therapist assistants to maintain a level of competence through continuing education. All consumers of physical therapy services benefit from professionals who maintain their knowledge, skills and abilities through continuing education; and who maintain professional liability insurance in the event of an injury to a patient. Therefore, the benefits to the general public outweigh the costs to the regulated community in complying with the rulemaking.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

In order to implement these statutory amendments, the Board assigned a committee to review and recommend proposed rulemaking. At its monthly meetings, the committee included representatives of the regulated community in forming recommendations. Additionally, the proposed rulemaking was extensively discussed at bi-monthly public meetings of the Board, which are routinely attended by members of the regulated community and their professional associations. The Board again appointed a committee to consider the comments on the proposed rulemaking from the public, the HPLC and IRRC. The committee met in January, February and March, 2012, discussed the comments on the proposed rulemaking in public session, and reported to the Board at public session during its meetings in January and March, 2012.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Board considered an alternate regulatory scheme to assure continued competence of physical therapists and physical therapy assistants, but abandoned it in the final-form rulemaking over concerns that it was not consistent with the mandate of Act 38. The Board believes these regulations constitute the least burdensome acceptable alternative available.

(21) 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 regulations.

The rulemaking does not overlap or conflict with any federal requirements.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

In Maryland, as a condition of biennial renewal each licensed physical therapist must complete 30 hours of continuing education from APTA or in courses specifically approved by the board and each licensed physical therapist assistant must complete 20 hours. In New Jersey, each licensed physical therapist or physical therapist assistant must complete 30 hours of continuing education in board-approved courses as a condition of biennial renewal. In New York, during each triennial renewal period each licensed physical therapist or certified physical therapist assistant must complete 36 hours of continuing education in acceptable courses from board-approved providers. In Ohio, each licensed physical therapist must complete 24 hours of board-approved continuing education and each licensed physical therapist assistant must complete 12 hours of board-approved continuing education as a condition of biennial renewal. In West Virginia, as a condition of annual renewal each licensed physical therapist must complete 10 hours of continuing education from APTA, the West Virginia PT Association, a school accredited by CAPTE or in courses specifically approved by the board.

Maryland, New Jersey, New York, Ohio and West Virginia do not require physical therapists to maintain professional liability insurance.

In Maryland, a licensed physical therapist assistant may practice only under the direction of a licensed physical therapist who gives ongoing supervision and instruction that is adequate to ensure the safety and welfare of the patient; the physical therapist must be personally present and immediately available in the treatment area to give aid, direction or instruction. In New Jersey, a physical therapist assistant may work only under the direct supervision of a licensed physical therapist who is in the same building and constantly available for consultation or for recall to the area. In New York, a physical therapist assistant must be under the general supervision of a licensed physical therapist who is physically present in the same facility and readily available. In Ohio, a physical therapist assistant may practice only under the supervision of a licensed physical therapist who, though not on-site, must be available by telecommunication and able to respond appropriately. In West Virginia, a physical therapist assistant generally may practice only under the supervision of a licensed physical therapist who is on-site in the building where services are provided, is immediately available, and maintains continued involvement in appropriate aspects of treatment; the supervision requirement is relaxed in nursing facilities, school settings, home healthcare and distinct nursing units in hospitals such that the physical therapist is available by telecommunication and makes the initial visit and jointly visits at least once during each 10 visits or 21 days.

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states. The additional professional liability insurance, continuing education and physical therapist assistant supervision are all required by the Act 38 amendments; the rulemaking implements these requirements in the most cost-effective means possible.

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

This rulemaking will have no effect on other regulations of the Board or other state agencies.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

As required by the Act 38 amendments to the act, all licensed physical therapist and certified physical therapist assistants are required to complete continuing education and keep records. All licensed physical therapists are required to maintain professional liability insurance. The rulemaking will not require any other additional recordkeeping or other paperwork.

(25) 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.

The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(26) Include a schedule for review of the regulation including:

- | | |
|---|-----------------------------------|
| A. The date by which the agency must receive public comments: | <u>October 17, 2011</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>By October 17, 2013</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>Upon publication</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the third Thursday of each odd-numbered month. More information can be found on the Board's website (www.dos.state.pa.us/physther).

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

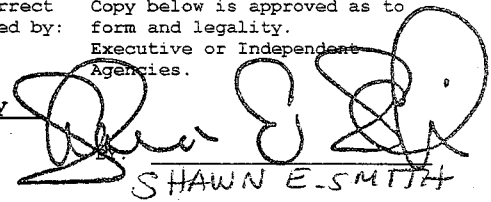
Copy below is hereby approved as to form and legality. Attorney General

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

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State Board of Physical Therapy

(AGENCY)



SHAWN E. SMITH

OCT 02 2012

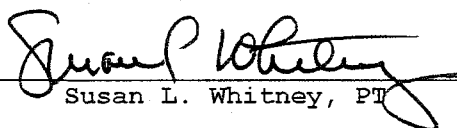
BY: _____
(DEPUTY ATTORNEY GENERAL)

DOCUMENT/FISCAL NOTE NO. 16A-6514

DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:

BY: 
Susan L. Whitney, PT

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

[] Check if applicable. Copy not approved. Objections attached.

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable. No Attorney General approval or objection within 30 day after submission.

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY

49 Pa. Code Ch. 40

ACT 38 OF 2008 AMENDMENTS

The State Board of Physical Therapy (Board) hereby amends §§ 40.1, 40.5, 40.11, 40.12, 40.14, 40.17, 40.53, 40.61, 40.63, 40.152, 40.161-40.164, 40.171, 40.181, 40.191, 40.202-40.205 and 40.207; deletes § 40.62; and adds §§ 40.19, 40.20, 40.67, 40.69, 40.165, 40.166, 40.173, and 40.192, to read as set forth in Annex A.

Description and Need for the Rulemaking

The act of July 4, 2008 (P.L. 293, No. 38) (Act 38) substantially amended the Physical Therapy Practice Act (act) (63 P.S. §§ 1301 – 1313), including qualifications for licensure as a physical therapist, continuing education for physical therapists and physical therapist assistants, professional liability insurance for physical therapists, physician referral and supervision of physical therapist assistants by physical therapists on a basis that may be less than direct on-premises supervision. The extensive nature and breadth of these amendments requires that the Board amend its regulations to implement Act 38. The Board is revising its regulations to implement the changes from Act 38 as well as to conform its regulations to current practice.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 41 Pa.B. 4962 (September 17, 2011) with a 30-day public comment period. The Board received comments from the following members of the public: the Pennsylvania Physical Therapy Association (PPTA); the Pennsylvania Health Care Association; the Neuman University Physical Therapy Program; the Philadelphia Consortium of Academic Coordinators of Clinical Education; James Baniewicz, PT; Colleen Chanler, PT; Kevin M. Cooney, PT; Thomas Glumac, PT; Cheryl L. Kramer, PT; Alicia Moran, PTA; Barbara Potena, PT; LaVerne Russell, PT; Terri Russell, PT; and Antoinette Amodi, PT, and others including a large group from the Reading Hospital. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

HPLC first noted that, although Act 38 was effective October 2, 2008, the proposed rulemaking was published on September 17, 2011. IRRC indicated that it would review the Board's response to this comment as part of its determination as to whether the final-form regulation is in the public interest. The Board recognizes that section 16 of Act 38 directed the Board to promulgate regulations to implement the amendments to the act within 18 months of the effective date of Act 38 (or by April 2, 2010), and that the Board failed to do so. However, because these types of time frames have been held by the courts of this Commonwealth to be directory, and not mandatory, the Board believes that the fact that it was unable to complete the regulatory process within 18 months as directed should not be controlling in deciding whether the regulation is in the public interest. See, e.g., *Commonwealth ex rel. Fortney v. Wozney*, 326 Pa. 494, 497 (1937) ("The provisions of a statute requiring public officers to act within a specified time are generally regarded as directory, unless time is of the essence of the thing to be done, or the statute indicates that the provision is to be regarded as mandatory."); *Delaware County v. Department of Public Welfare*, 383 A.2d 240 (Pa. Commonwealth Ct. 1978). The Board began the task of drafting these regulations as soon as Act 38 was passed. The

Regulations Committee of the Board met monthly with interested parties and stakeholders for over a year to craft the regulations. Once the Board was satisfied with the draft of the proposed rulemaking it proceeded through internal departmental/administrative review, but the agency was unable to complete the process before the General Assembly adjourned the 2009-2010 session. Early in 2011, the Board was contacted by the Executive Director of the House Professional Licensure Committee who identified some policy issues with the proposed regulations and asked the Board to consider those issues before publishing as proposed rulemaking. As a result, the Board voted to make some additional revisions at its meeting in March of 2011. The regulation then continued to be reviewed by the new administration. Ultimately, the proposed regulations were delivered and published in September 2011. Much of the delay was not under the Board's control, and for these reasons, the Board believes that the delay should not be considered in evaluating the final regulations.

HPLC also questioned the Board's statutory authority to include physical therapy assistant students in the physical therapist to physical therapist assistant supervision ratio of § 40.171(c) (relating to functions of physical therapist assistants), as section 9.1(c)(6) of the act (amended by Act 38) specifically limits a physical therapist to supervising no more than three physical therapist assistants. IRRC also joined the question. The Board believes that it retains the authority to limit the number of students seeking to become certified as physical therapy assistants that a physical therapist may supervise at a given time. However, upon further consideration of the comments, the Board has concluded that it is not necessary to include physical therapist assistant students in the ratio. IRRC suggested that the Board also make clear that the physical therapist providing supervision is licensed. The Board has revised § 40.171(c) to refer specifically to a "licensed physical therapist."

After noting its interest in the Board's responses to the two comments from HPLC, IRRC raised the economic impact of the rulemaking. IRRC recommended that the Board amend its responses to questions 17, 19, 20 and 21 of the regulatory analysis form to provide cost estimates associated with implementation and compliance with the rulemaking, specifically the continuing education and professional liability insurance requirements and the Board's review of additional continuing education programs. The obligations to complete continuing education and to maintain professional liability insurance are required by the statute. The Board is merely implementing the statutory mandate. The regulated community will incur costs in participating in continuing education and purchasing professional liability insurance. Those costs were not included in evaluating the impact of this rulemaking, and should not be considered as a factor in determining whether the regulation is in the public interest, as it is not the Board's action in promulgating regulations to implement those requirements that imposes those costs on the regulated community. Notwithstanding, the Board has determined that the average annual cost to comply with the statutorily mandated continuing education to be approximately \$400, but could be substantially less. Some continuing education activities, such as authoring publications, have no direct costs. Often, professional associations offer continuing education at a reduced rate to members. As for the costs associated with meeting the professional liability insurance requirements imposed by the act, the Board notes that many physical therapists already maintain professional liability insurance, either personally or through an employer, so the fiscal impact may actually be very small. However, the estimated costs of professional liability insurance in the amount of \$1 million per occurrence or claims made for a physical therapist is estimated at

\$500 per year for a full-time physical therapist. The regulatory analysis has been revised to reflect these costs.

The only cost to be imposed as a result of the Board's regulations is the cost to continuing education providers to obtain approval of continuing education programs and courses. However, the vast majority of continuing education will be provided by preapproved providers who will not have to incur that cost. As a result, the aggregate cost of continuing education course approval to providers will be minimal. Because the Board will recover its costs of approving continuing education programs and courses through its already set fee, there is no additional cost to the Board.

IRRC next noted that section 9(c) of the act (63 P.S. § 1309(c)) requires a physical therapist certified to treat without a referral to complete continuing education as a condition of certificate renewal. Existing § 40.63(b) (relating to continuing education for direct access certificate holder) explicitly provides that completion of required continuing education is a condition of certificate renewal for a physical therapist certified to treat without a referral. IRRC also noted that section 7.2 of the act (63 P.S. § 1307.2) requires a licensed physical therapist to complete continuing education as a condition of license renewal and that section 9.1(j) of the act (63 P.S. § 1309.1(j)) requires a certified physical therapist assistant to complete continuing education as a condition of certificate renewal. By contrast, however, proposed §§ 40.19 and 40.191 (relating to renewal of physical therapist license; and renewal of physical therapist assistant certificate) do not have such explicit requirements. Because it is concerned that these sections do not provide direct notice that would increase clarity and help avoid licensee failures, IRRC recommended that these sections be amended to clearly state that the Board will not renew without completion of continuing education. The Board has revised § 40.19(c)(5) to provide that the Board will not renew a license if the physical therapist has not completed the required continuing education and § 40.191(c)(5) to provide that the Board will not renew the certificate if the physical therapist assistant has not completed the required continuing education.

The Board proposed amending § 40.11 (relating to educational requirements for licensure by examination) to require an applicant to have graduated from a physical therapy program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or "another National organization recognized by the Board that accredits physical therapy programs." IRRC questioned what is meant by this phrase and how an applicant would be able to identify such an organization. Currently, CAPTE is the only accreditation agency recognized by the United States Department of Education (USDE) and the Council for Higher Education Accreditation (CHEA) to accredit entry-level physical therapist and physical therapist assistant education programs. The Board included the additional language to allow for development of other accrediting organizations. Should there be such organizations and the Board recognizes them, it will identify those organizations on its website and in its application instructions.

Because § 40.12(b) (relating to application for licensure) requires an applicant to "apply on forms supplied by the Board," IRRC next questioned whether those forms are available on-line and, if so, suggested that the web address be included in the regulation. The forms are available on the Boards website at www.dos.state.pa.us/physther. Because the web address has changed in the past and may very likely be changed again, the Board did not include that address

is its regulation.

IRRC noted that section 6(i)(2) of the act (63 P.S. § 1306(i)(2)) requires an applicant who has been educated outside the United States to “provide proof of holding an unrestricted license in the country where the applicant was educated” and questioned whether the deletion of § 40.17(3) (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience) is consistent with the statute. Section 40.17(3) provides that an applicant shall provide written documentation of authorization to practice as a physical therapist without limitations in the country where the professional education took place. In drafting the proposed rulemaking, the Board wanted to allow for applicants who fully completed training in a foreign country and then came to the United States prior to becoming licensed or otherwise authorized to practice in that country. In doing so, the Board overlooked section 6(i)(2) of the act. It has now revised § 40.17 not to delete paragraph (3) and to restore the paragraph numbering that would have been altered by that deletion. IRRC further noted that section 6(i)(3) of the act requires an applicant who has been educated outside of the United States to provide satisfactory evidence that the applicant’s education is substantially equivalent to the education of physical therapists educated in an accredited program approved by the Board. This section further provides that, as an alternative to graduation from a program accredited by the same accrediting agency approved by the Board, the applicant must (i) show graduation from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy; (ii) provide written proof that the applicant’s school of physical therapy is recognized by its own ministry of education; (iii) undergo a credentials evaluation as directed by the Board to determine that the candidate has met uniform criteria for education requirements; and (iv) complete any additional education as required by the Board. IRRC suggested that the Board review § 40.17 for consistency with section 6(i)(3) of the act. The regulations address substantially equivalent foreign education in § 40.17(5). The Board has revised this paragraph to provide that the applicant must show substantial equivalence by either showing that the education program is accredited as provided in § 40.11(a) or securing a credentials evaluation. Without satisfying the requirements of § 40.17(2) that the program prepares the applicant to engage without restriction in the practice of physical therapy and is recognized by the authorizing agency or entity of the jurisdiction, the program cannot be accredited by CAPTE. With the above revision, § 40.17 is consistent with section 6(i) of the act. Notwithstanding this revision, very few applicants will be able to take advantage of it. CAPTE currently accredits no physical therapist education programs outside the United States except for two programs in Ontario and one program in Scotland.

IRRC next noted that § 40.191(j) provides that a physical therapist assistant who provides services after the certificate has expired but before it has been reactivated is subject to disciplinary action under section 9.1(d) and (f) of the act (63 P.S. § 1309.1(d) and (f)). It suggested that a similar provision be included for physical therapists. The Board has added § 40.20(f) (relation to inactive status of physical therapist license) to provide analogously that a licensed physical therapist who has not renewed the license may not practice until the license is reactivated and that one who does so is subject to disciplinary action under sections 4(a) and 11(6) of the act (63 P.S. §§ 1304(a) and 1311(6)). In considering this comment, the Board also realized that § 40.20(d), which imposes a late fee upon reactivation for a licensee who has practiced while the license was inactive, is not sufficiently clear regarding those who did not

practice. The Board has amended this subsection to provide that an applicant for reactivation will not be assessed a late fee for prior renewal periods during which the licensee did not practice. An analogous provision for physical therapist assistants is already contained in § 40.191(h). In reviewing this comment, the Board also reconsidered its proposed § 40.20(e) pertaining to reactivation of a license that has been inactive for more than 5 years. Upon further consideration, the Board has concluded that requiring practice in another jurisdiction throughout the entire 5-year period immediately preceding application for reactivation, as the only alternative to passing the licensure examination anew, is excessively onerous. Instead, the Board has reduced that requirement to practice for 36 months of the prior 5 years. The Board has also added § 40.191(k) to provide an analogous standard for a physical therapist assistant seeking to reactivate after 5 years.

Previously, those physical therapists who were certified to treat patients without a referral had been required to complete at least 20 hours of continuing education during each renewal cycle. Act 38 amended the act to require all licensed physical therapists to complete at least 30 hours of continuing education during each renewal cycle. The Board proposed first requiring all physical therapists to complete continuing education during the January 1, 2011, through December 31, 2012, renewal cycle and would have amended § 40.63(b) to reflect this increased number of hours. However, to provide greater clarity, the Board provided that during renewal periods prior to January 1, 2013, a direct access holder would only need to complete 20, not 30, hours. Because the rulemaking was not published as proposed until September, 2011, IRRC suggested revising this date. The Board has revised § 40.63(b) to provide that the increased number of hours of continuing education does not apply to direct access certificate-holders prior to January 1, 2013, and has revised § 40.67(a) (relating to continuing education for licensed physical therapist) to provide that the continuing education requirement for all physical therapists begins January 1, 2013. This means that licensed physical therapists and certified physical therapist assistants will need to complete required continuing education during the January 1, 2013, through December 31, 2014, renewal cycle as a condition for renewal for the January 1, 2015, through December 31, 2016, renewal cycle.

In discussing this provision, the Board noticed that, although § 40.63(b) exempts new direct access certificate-holders from the continuing education requirement prior to the first renewal of the certificate of authorization, the Board had not previously considered when the continuing education requirement begins for new licensed physical therapists or new certified physical therapist assistants. Because a licensee has adequately demonstrated competence to practice by passing the licensure examination and becoming licensed and that competence is generally not lost during the period (of up to two years) prior to first renewal, licensing boards in the Bureau of Professional and Occupational Affairs have typically exempted licensees from the continuing education requirement during the biennial renewal cycle in which the licensee was first licensed. Accordingly, the Board has added §§ 40.67(a)(5) and 40.192(a)(5) (relating to continuing education for certified physical therapist assistants) to exempt newly licensed physical therapists and newly certified physical therapist assistants, respectively, from the continuing education requirement during the biennium in which first licensed or certified.

Proposed § 40.67(a)(4) addresses a request for a waiver of the continuing education requirement based upon physical disability or illness or undue hardship. IRRC noted that this

paragraph provides that a waiver “will not be granted unless a written request is submitted by the licensee; or in case of physical disability or illness, by a physician ..., or both,” and questioned under what circumstances the physician would submit the request for waiver. This provision and its analog for physical therapist assistants at § 40.192(a)(4) were poorly drafted. Although it recognizes that a request for a waiver might be made by someone else (such as a family member or person with power of attorney), the Board intended that a physician provide only the documentation to support the physical disability or illness. Accordingly, the Board has revised these paragraphs to provide that a waiver will not be granted “unless a written request is submitted by or on behalf of the [applicant for waiver]; in the case of physical disability or illness, the request shall include supporting documentation provided by a physician” and to delete the references to “or both.” The Board has also similarly revised § 40.63(g) for waiver requests from direct access certificate-holders.

IRRC pointed to a commenter who expressed concern with the requirement of § 40.67(b)(1) that proof of completion of continuing education consist of a certificate of completion, because at a recent program the American Physical Therapy Association (APTA) did not issue a certificate of completion. The Board first notes that APTA, a preapproved provider, will later issue a certificate of completion upon request. Notwithstanding, in order to make the requirements clearer, in addition to beginning this provision with the phrase “in general,” the Board has revised § 40.67(b)(1) and the analogous § 40.191(b)(1) for physical therapist assistants to provide that the proof completion must consist of a certificate of completion “or other documentation” issued by the course or program provider.

IRRC expressed concern about the waiver provisions of §§ 40.67(d)(2) and 40.192(d)(2) that permit a continuing education provider to apply for approval less than 60 days before the course or program is presented. The Board notes that this is the existing practice for continuing education providers for direct access certificate-holders and that it has not experienced complaints of certificate-holders who have said that they were not treated fairly by providers who advertised the course prior to receiving approval. Notwithstanding this history, the Board does not want to unnecessarily encourage providers to wait until the last minute to apply for approval. Therefore, the Board has deleted the waiver provision from these sections. In further considering the continuing education provider approval process, the Board realized that §§ 40.67(d)(2)(ii) and 40.192(d)(2)(ii) each contain redundancies for multiple offering and multiple locations of a course and has revised them accordingly.

In addressing IRRC’s comment about an applicant trained in a foreign educational program accredited by CAPTE, the Board also reviewed its provisions for preapproved providers of continuing education who are accredited by CAPTE. During this discussion, the Board noted that the correct term used by CAPTE is a “physical therapist educational program” and not a “physical therapy program” and has revised §§ 40.67(d)(1)(i)(C) and 40.192(d)(1)(i)(C) accordingly. The Board has revised these provisions to make clear that both physical therapists and physical therapist assistants may obtain continuing education provided by either physical therapist or physical therapist assistant educational programs. While reviewing the preapproved providers and comparing requirements for physical therapists in § 40.67 and for physical therapist assistants in § 40.192, the Board noted that it had preapproved the American Heart Association and the Red Cross only in § 40.192(a)(1)(i)(D) for the purpose of providing their

educational programs in identifying and responding to emergency health conditions, because the Board requires this continuing education for physical therapist assistants only. However, although not required, this type of continuing education is also appropriate for physical therapists. Therefore, the Board has added § 40.67(d)(1)(i)(D) to include these organizations for this purpose.

IRRC questioned the Board's inclusion of continuing competence activities to complete the continuing education requirement. Section 7.2 of the act (63 P.S. § 1307.2) requires licensed physical therapist to complete "continuing education as approved by the board" as a condition of renewal, and section 9.1(j) of the act (63 P.S. § 1309.1(j)) requires certified physical therapist assistants to complete "continuing education as approved by the board in accordance with standards and criteria established by the board by regulation." Except for the prohibition against credit for courses in office management or practice building for licensed physical therapists, the act provides no further indication of what is acceptable continuing education. As noted in proposed §§ 40.67(e) and 40.192(e), continuing education is a structured process of education beyond professional entry-level education that is applicable to the practice of physical therapy and is designed or intended to support the continuous development of physical therapists and to maintain and enhance their professional competence. Because the purpose of mandatory continuing education is to assure that licensees remain competent to practice, the Board views continuing competence activity as a form of continuing education. As proposed in §§ 40.68(a)(3) and 40.193(a)(3) (relating to continuing competence for licensed physical therapist; and continuing competence for certified physical therapist assistant), the Board would be guided in approving continuing competence activities by, among other principles, the belief that a physical therapist or physical therapist assistant should have a wide variety of activities available to demonstrate competence. Allowing licensed physical therapists and certified physical therapist assistants to satisfy the continuing education requirement in part in this manner serves the purpose of the act's continuing education requirement and is consistent with the language and other provisions of the act. Notwithstanding the Board's view that it does have authority to do so, the Board has concluded that it should not, at this time, promulgate regulations authorizing continuing education credit for continuing competence activities. Accordingly, the Board has deleted proposed §§ 40.68 and 40.193.

In proposing to allow for continuing education credit through continuing competence, the Board consolidated under that topic all continuing education activities that were not traditional courses or programs of continuing education. Although obviously of longer term than traditional continuing education programs or courses, residencies, fellowships and advanced specialty credentialing programs are provided through specific providers and have traditionally been considered as continuing education. Because these programs are by definition credentialed by APTA and the Board has preapproved continuing education programs provided by APTA, the Board has determined that these APTA-credentialed programs should be included as preapproved providers for those specific activities. The Board has added to its list of preapproved providers at § 40.67(d)(1)(e), (f) and (g) those organizations credentialed by APTA to confer a fellowship in a specialty area, those organization credentialed by APTA to offer a residency program, and those organizations credentialed by APTA for specialty certification, respectively. These activities were previously proposed in § 40.68(c)(1), (2) and (3) as continuing competence. Because these programs typically extend over a period of time, the

Board has generally considered how it should address continuing education courses and programs that extend beyond a single biennial renewal cycle. The Board determined that for consistency and ease of administration, it should follow the completion date of the course or program and award credit for the biennial renewal period in which the course or program was finally completed and has added §§ 40.67(c)(6) and 40.192(c)(6) to do so. Because credit will be available as continuing education from a preapproved provider, the Board has not provided for continuing education credit to be available for becoming an APTA-recognized credentialed clinical instructor or instructor trainer as provided in proposed §§ 40.68(c)(6) and 40.193(c)(6), or for a PTA receiving advanced proficiency designation from APTA as provided in proposed § 40.193(c)(1).

Continuing education credit has also traditionally been available for authoring various publications relevant to professional practice. Because it has deleted all continuing competence activities, the Board has revised proposed §§ 40.67(c) and 40.192(c) to allow continuing education credit for authoring publications and replaced proposed §§ 40.67(e) and 40.192(e) to set the appropriate standards. Sections 40.67(e)(1) and 40.192(e)(1) set up the process by providing that the physical therapist or physical therapist assistant must apply to the Board for credit before the end of the renewal period and provide all necessary supporting documentation. Under §§ 40.67(e)(2) and 40.192(e)(2), the amount of credit will be 1 contact hour for each hour spent in research or writing, subject to maximum credit limitations for specific types of authorship. Sections 40.67(e)(3) and 40.192(e)(3) authorize up to 15 contact hours of credit for authoring or editing a book, up to 10 contact hours for authoring or editing a chapter of a book, up to 10 contact hours for authoring or reviewing a peer-reviewed article and up to 5 contact hours for authoring a non-peer-reviewed article in a physical therapy publication. Finally, §§ 40.67(e)(4) and 40.192(e)(4) provide that credit will be awarded only for the biennial renewal period in which the publication was published.

Moving to the requirements for certification as a physical therapist assistant under § 40.162 (relating to application for certification), IRRC questioned why the Board would require an applicant over age 18 but not yet 20 to have proved the capability to accept and handle the responsibilities appurtenant to certification, when section 9.1(a)(4) of the act (63 P.S. § 1309.1(a)(4)) merely requires an applicant to be “at least 18 years of age unless otherwise determined by the Board.” Until reduced to 18 years-of age by Act 38, the act required an applicant to be at least 20 years of age unless otherwise determined by the Board. Existing § 40.162(a)(1) required an applicant to be “at least 20 years of age unless otherwise determined by the Board that the candidate has proved the capability to accept and handle the responsibilities appurtenant to registration.” Upon further consideration, the Board has concluded that, because only the exceptional applicant would complete the 2-year post-high school education prior to reaching age 20, much less 18, and to be consistent with the statute, the Board will amend existing § 40.162(1) to simply replace age 20 with 18.

Proposed §§ 40.165(b)(3) and 40.166(b)(5) (relating to authorization to provide services as physical therapist under indirect supervision; and temporary certificate to provide services as physical therapist assistant) both provide that the Board will grant the application if the applicant meets certain criteria and “otherwise complies with this subchapter.” Unless that standard is clarified, IRRC suggested deleting these paragraphs. The Board intended these provisions to

avoid being obliged to grant the application where there are grounds for denial separate from qualifications, such as a prior criminal or disciplinary record. To set this standard, the Board has deleted those paragraphs and revised the introductory language of subsections (b) to clarify that it will grant the application of an applicant meeting the criteria “unless there are grounds to deny the application under § 40.181 (relating to refusal, suspension or revocation of certification).”

In proposed § 40.19(b), the Board included the provision that the failure of the Board to send renewal notices does not relieve the licensed physical therapist of the obligation to renew. Although the Board had not proposed an analogous provision for a certified physical therapist assistant, IRRC recommended doing so in § 40.191(b). The Board has revised § 40.191(b) to additionally provide: “Failure of the board to send or of the certified physical therapist assistant to receive a biennial renewal application does not relieve the certified physical therapist assistant of the biennial renewal responsibility.”

IRRC further noted that the Board incorrectly referred to “license renewal” rather than “certificate renewal” in § 40.191(c), and the Board has corrected this. Because other jurisdictions may call the appropriate credential by a variety of names, IRRC suggested that the Board revise § 40.191(c)(2) so as not to be limited to licenses that must be disclosed upon renewal. The Board has revised this provision to require a physical therapist assistant applying for renewal of the certificate to disclose any license, “certificate, registration or other authorization” to provide services as a physical therapist assistant in another jurisdiction. In reviewing this comment, the Board realized that § 40.191(h) mistakenly refers to certificate renewal rather than reactivation and has now revised this subsection to correctly refer to an applicant for reactivation, rather than for renewal. Similarly, the Board realized that it had not corrected all references of a physical therapist assistant practicing, rather than providing services as a physical therapist assistant. The Board has revised § 40.191(c), (d), (e) and (i) to correct this oversight.

Some commenters objected to the required continuing education as imposing an unnecessary burden on healthcare costs. Because the requirement to complete continuing education is imposed by the act, the Board is obligated to implement it.

An individual commenter inquired how often the Board meets so as to be able to review and approve continuing education programs and courses in a more timely manner. As it has been doing with continuing education for direct access certificate-holders, the Board will utilize a committee of Board members to review applications for course approvals without regard to the Board meeting schedule. Any appeal taken from the committee’s decision would be considered by the full Board.

An individual commenter objected to the requirement of § 40.173(c)(1) (relating to supervision of physical therapist assistant by licensed physical therapist), which provides that when care is delivered in an inpatient rehabilitation center or long-term acute care hospital setting, the physical therapist assistant shall be under the direct on-premises supervision of a licensed physical therapist, because that setting has the greatest availability of other care when needed. By contrast, the least alternative care is available for home health care under § 40.173(c)(6), which provides that for home health care, a licensed physical therapist shall make

an onsite visit and actively participate in the treatment of the patient at least every 7 patient visits or every 14 days, whichever occurs first. (Note: The PPTA correctly pointed out a typographical error in the proposed preamble – but not the annex itself – mistakenly stating that physical therapist involvement was required every 17 days.) The Board notes that if a physical therapist assistant makes multiple visits with a patient in a single day, each of those visits will count as a separate visit under Medicare. However, the Board does not view that as sufficient reason to require the licensed physical therapist to make more frequent onsite visits to actively participate in the treatment of the patient. Accordingly, the Board has provided that multiple visits on a single day count only as a single patient visit for purposes of determining whether the licensed physical therapist is required to make an onsite visit. The commenter also objected to imposing the same level of required continuing education on physical therapist assistants as on physical therapists, despite the differential in pay. The commenter objected to the heightened number of hours of required continuing education compared to some other states, and the resultant financial impact on licensees. Finally, the commenter objected to excluding office management and practice building from continuing education. Because the General Assembly set these standards in the act, the Board is required to implement them.

Another individual commenter suggested that, in order to streamline the process, the Board should permit continuing education providers other than those identified as preapproved under proposed §§ 40.67(d)(1)(i) or 40.192(d)(1)(i) to be considered approved if separately approved in another jurisdiction. Because the standards in other jurisdictions vary so much, the Board is not able to rely upon such approval. Because the vast majority of continuing education will be provided by the identified pre-approved providers, the Board does not believe that the overall process would be substantially streamlined.

The PPTA noted that the Federation of State Boards of Physical Therapy (FSBPT), which administers the national licensure examination, is shifting to fixed-date testing administered approximately five times each year. As a result Pennsylvania applicants who fail will be disadvantaged by proposed § 40.14(a) (relating to examination; failure; reexamination), which provides that an applicant may retake the examination after 60 days but within 1 year, by not being able to sit for the next administration of the examination. Because the requirement to wait 60 days is set by section 6(c) of the act (63 P.S. § 1306(c)), the Board cannot reduce the waiting period. The Board notes that this is a reduction from the current waiting period of 6 months.

PPTA suggested that proposed § 40.67(a)(1) should require that the 30 contact hours of continuing education include at least 10 contact hours in evaluative procedures, as is required by § 40.63(b) for direct access certificate-holders. As part of standard physical therapy practice, all physical therapists perform patient evaluations and reevaluation on a regular basis. Evaluative procedures are taught as part of pre-licensure education programs and are included within the definition of physical therapy in section 2 of the act (63 P.S. § 1302). Because imposing this requirement would be overly prescriptive and effectively force many licensees into being direct access certificateholders, the Board has chosen not to do so. However, the Board has revised this paragraph and § 40.192(a)(1) to require at least 2 hours in law and ethics applicable to the profession.

PPTA noted that proposed § 40.173(d) construed the emergency situations for

supervision under section 9.1(i) of the act (63 P.S. § 1309.1(i)) to apply to all certified physical therapist assistants and not just to those who are authorized under section 9.1(c)(4) of the act and § 40.165 to provide services under less than direct on-premises supervision. PPTA objected that such a broad interpretation would permit even the most newly licensed physical therapist who is not authorized to provide services under indirect supervision to become the sole provider of physical therapy services with no supervision in those situations where the physical therapist is away due to an emergency. PPTA suggested that, in the interest of patient protection, the Board should reverse this construction. The Board agrees with PPTA and has revised § 40.173(d) to limit the application of section 9.1(i) of the act only to practice by a physical therapist assistant who is authorized to provide services under indirect supervision in those instances where the supervising physical therapist is absent due to an unanticipated emergency.

All other public comments have been subsumed within those addressed above.

Additionally, while reviewing the comments, the Board noted that, although it had proposed amending § 40.5 (relating to fees) to delete the fees for athletic trainers because athletic trainers are no longer regulated by the Board, it had not proposed amending subchapter D (relating to child abuse reporting requirements) to remove references to athletic trainers. In the final-form rulemaking, the Board has revised §§ 40.202-40.205 and 40.207 to delete the references to athletic trainers.

Fiscal Impact and Paperwork Requirements

The requirement to complete 30 hours of continuing education will result in increased costs and paperwork requirements for licensed physical therapists and physical therapist assistants. The requirement to maintain professional liability insurance will result in increased costs and paperwork requirements for those physical therapists that are not direct access certificate holders, who have been required to carry insurance since 2005. The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The final rulemaking is authorized under section 3(a) of the act (63 P.S. § 1303(a)) and section 16 of Act 38.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 6, 2011, the Board submitted a copy of the notice of proposed rulemaking, published at 41 Pa.B.

4962, to IRRC and the chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, 2012 the final-form rulemaking was approved by the HPLC. On _____, 2012, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2012, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-7134, or by e-mail at st-physical@pa.gov.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 41 Pa.B. 4962.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Physical Therapy Practice Act.

Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code, Chapter 40 are amended, by amending §§ 40.1, 40.5, 40.11, 40.12, 40.14, 40.17, 40.53, 40.61, 40.63, 40.152, 40.161-40.164, 40.171, 40.181, 40.191, 40.202-40.205 and 40.207; deleting § 40.62; and adding §§ 40.19, 40.20, 40.67, 40.69, 40.165, 40.166, 40.173, and 40.192, to read as set forth in Annex A.

- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Susan L. Whitney, PT, Chairperson
State Board of Physical Therapy

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS

GENERAL PROVISIONS

§ 40.1. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

APTA – The American Physical Therapy Association.

* * * * *

CAPTE – The Commission on Accreditation in Physical Therapy Education.

Contact hour – A unit of measure equaling 60 minutes of participation in an approved continuing education course or program. For courses taken through an academic institution, a semester credit is equal to 15 contact hours.

~~Continuing competence – A structured process of education beyond professional entry-level education that is applicable to the practice of physical therapy and is designed or intended to support the continuous development of physical therapists and to maintain and enhance their professional competence in accordance with the provisions of this chapter and the act.~~

Direct on-premises supervision – The physical presence of a licensed physical therapist [on the premises where the physical therapist assistant or the supportive personnel is providing

patient-care services, so that the physical therapist] in the facility, including affiliated buildings in immediate proximity, who is immediately available to [provide] exercise supervision, direction and control.

FSBPT – The Federation of State Boards of Physical Therapy.

* * * * *

§ 40.5. Fees.

The following fees are charged by the Board:

Physical therapist:

* * * * *

Application for reactivation of inactive license\$30

[Athletic trainer:

Application for certification\$20

Biennial renewal\$37

Certification of examination scores or certification\$25

Verification of certification..... \$15]

Physical therapist assistant:

Initial application for [registration] certification by exam or endorsement\$30

Certification of exam scores or [registration] certification\$25

Biennial renewal of [registration] certification\$45

Verification of [registration] certification\$15

Initial application for certification to provide services under indirect supervision\$30

Application for temporary certification\$15

Application for reactivation of inactive certificate\$30

LICENSURE

§ 40.11. [~~License by examination; requirements for examination~~] Educational requirements for licensure by examination.

[An] (a) Except as provided in § 40.17 (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience), an applicant for license by examination shall have graduated from a physical therapy program accredited by [the Commission on Accreditation in Physical Therapy Education (CAPTE) which has provided adequate instruction in basic sciences, clinical science and physical therapy theory and procedures] CAPTE or by another National organization recognized by the Board that accredits physical therapy programs.

(b) An applicant completing the professional study of physical therapy after 2002 shall hold a minimum of a master's degree in physical therapy from a regionally accredited institution of higher education. An applicant completing the professional study of physical therapy between January 1, 1967, and December 31, 2002, shall hold a minimum of either:

(1) A baccalaureate degree in physical therapy from a regionally accredited institution of higher education.

(2) A baccalaureate degree from a regionally accredited institution of higher education and a post-baccalaureate certificate in physical therapy.

§ 40.12. **Application for licensure.**

(a) Evidence, satisfactory to the Board, shall be submitted indicating that the applicant:

* * * * *

(4) Has met the professional requirements [as set forth] in § 40.11 (relating to

educational requirements for license by examination[; requirements for examination]].

(b) The applicant shall apply on forms supplied by the Board, answer all questions fully and provide all documentation required under subsection (a).

(c) The applicant shall pay the fee in § 40.5 (relating to fees) for application for physical therapist licensure by examination/endorsement.

§ 40.14. Examination; failure; reexamination.

(a) Applicants shall successfully pass, to the satisfaction of the Board, the examination approved by the Board. In cases of failure at the first examination, the applicant shall have, after the expiration of [6 months] 60 days and within [2 years] 1 year from the date of the first failure, the privilege of a second examination, with the payment of an additional examination fee charged by the vendor.

* * * * *

(d) An applicant may not take the examination more than three times in a consecutive 12-month period.

§ 40.17. Foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience.

To be eligible to take the examination for licensure, foreign-educated applicants for licensure shall comply with the following conditions:

(1) The applicant shall submit evidence, satisfactory to the Board, indicating that the applicant has met the requirements [stated] in § 40.12(a)(1)-(3) and (b) (relating to application for licensure) and pay the fee in § 40.5 (relating to fees) for application for physical therapist licensure through foreign training.

(2) The applicant shall provide written documentation that the applicant has

graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy and that the school of physical therapy is recognized by the authorizing agency or entity of the jurisdiction in which the school is situated.

(3) {The applicant shall provide written documentation of authorization to practice as a physical therapist without limitations in the country where the professional education took place.

(4)} The applicant shall provide documentation of legal authorization to seek employment in the United States or its territories.

{(5)} ~~(4)~~ The applicant shall [meet educational requirements] provide satisfactory evidence that the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited program as set forth in § 40.11 (relating to educational requirements for licensure by examination) by EITHER SHOWING THAT THE EDUCATION PROGRAM IS ACCREDITED AS PROVIDED IN § 40.11(A) OR securing a credentials evaluation from a recognized and accredited evaluation agency approved by the Board. [The] If the applicant's education was completed before 1998, the credentials evaluation must demonstrate that the applicant has met the requirements of at least 120 semester credit hours of which at least 42 credit hours must be in general education subjects and 69 credit hours must be in professional education subjects. If the applicant's education was completed in 1998 or later, credentials evaluation must demonstrate that the applicant has met the requirements of at least 150 semester hours of which at least 60 credit hours must be in general education subjects and 90 credit hours must be in professional education subjects. If an applicant

has deficiencies in general education or professional education, the applicant can correct the deficiencies as follows:

* * * * *

~~{(6)}~~ ~~(5)~~ *General educational deficiencies.* The applicant may correct general educational deficiencies in the areas specified in paragraph (5)(i) by either:

* * * * *

~~{(7)}~~ ~~(6)~~ *Clinical experience.* The applicant [shall complete] may correct a deficiency in clinical experience by obtaining, at the Board's discretion, up to 1 year of supervised clinical experience in the United States, as approved by the Board.

* * * * *

§ 40.19. Renewal of physical therapist license.

(a) A license issued under this subchapter expires on December 31 of each even-numbered year unless renewed for the next biennium.

(b) If a licensee's mailing address changes, the licensee shall notify the Board in writing within 10 days thereafter. Notice of renewal will be forwarded to the licensee's last known address on file with the Board. Failure of the Board to send or of the licensee to receive a biennial renewal application does not relieve the licensee of the biennial renewal responsibility.

(c) A licensee applying for biennial license renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee in § 40.5 (relating to fees) for application for biennial renewal of physical therapist license.

(2) Disclose any license to practice as a physical therapist in another state, territory, possession or country.

(3) Disclose any disciplinary action pending before the appropriate healthcare licensing authority in any other jurisdiction or taken since the most recent application for renewal, whether or not licensed to practice in that other jurisdiction.

(4) Disclose any pending criminal charges and any finding or verdict of guilt, admission of guilt, plea of nolo contendere or other criminal conviction since the most recent application for renewal.

(5) Verify that the licensee has complied with the continuing education requirements mandated by section 7.2 of the act (63 P.S. § 1307.2) during the biennial period immediately preceding the period for which renewal is sought in accordance with § 40.67 (relating to continuing education for licensed physical therapist). THE BOARD WILL NOT RENEW A LICENSE IF THE LICENSEE HAS NOT COMPLETED THE CONTINUING EDUCATION REQUIRED BY SECTION 7.2 OF THE ACT DURING THE BIENNIAL PERIOD IMMEDIATELY PRECEDING THE PERIOD FOR WHICH RENEWAL IS SOUGHT.

(6) Verify that, if practicing as a physical therapist in this Commonwealth, the licensee maintains professional liability insurance coverage in accordance with section 9(b)(4) of the act (63 P.S. § 1309(b)(4)) and § 40.69 (relating to professional liability insurance).

§ 40.20. Inactive status of physical therapist license.

(a) A physical therapist license will become inactive upon either of the following:

(1) The licensee in writing affirmatively requests the Board to place licensure on inactive status. Written confirmation of inactive status will be forwarded to the licensee.

(2) The licensee fails to renew the license by the expiration of the renewal period.

(b) A physical therapist whose license has expired or been placed on inactive status may not practice as a physical therapist in this Commonwealth until the license has been reactivated.

(c) To reactivate an inactive license, the licensee shall apply on forms supplied by the Board, answering all questions fully. The licensee shall:

(1) Include the documentation required under § 40.67(b) (relating to continuing education for licensed physical therapist) for the immediately preceding biennium, which may be completed during the current biennium. Unless waived by the Board under § 40.67(a)(4), the Board will not reactivate a license until the required continuing education for the preceding biennium has been successfully completed.

(2) Pay the current renewal fee and the reactivation application fee specified in § 40.5 (relating to fees).

(3) Verify that the licensee did not practice as a physical therapist in this Commonwealth while the license was inactive.

(d) A licensee who does not make the verification required under subsection (c)(3) shall also pay prior biennial renewal fees and late fees as required by this subsection. Unless previously paid, the licensee shall pay the renewal fee for each biennial renewal period after the license became inactive and during which the licensee practiced as a physical therapist in this Commonwealth. The licensee shall also pay a late fee of \$5 per month or part of month from the first date the licensee practiced as a physical therapist in this Commonwealth after the license became inactive until the date the licensee files a fully-completed reactivation application. THE

APPLICANT FOR LICENSE REACTIVATION WILL NOT BE ASSESSED A FEE OR PENALTY FOR PRECEDING BIENNIAL PERIODS IN WHICH THE LICENSEE DID NOT ENGAGE IN PRACTICE AS A PHYSICAL THERAPIST IN THIS COMMONWEALTH. Payment of a late fee does not preclude the Board from taking disciplinary action for practicing as a physical therapist without a current license.

(e) In addition to the other requirements of this section, a licensee whose license has been inactive for 5 years or more shall demonstrate current competence to practice as a physical therapist by at least one of the following:

(1) Successful completion of the licensure examination required by § 40.13 (relating to areas of examination) and section 6(b) of the act (63 P.S. § 1306(b)).

(2) Satisfaction of the requirements of § 40.16 (relating to licensure by endorsement) and proof of continuous licensed practice of physical therapy in one or more other jurisdictions of the United States or Canada for at least 36 MONTHS OF THE 5 years immediately preceding application for reactivation.

(F) A LICENSEE WHO HAS NOT RENEWED THE LICENSE MAY NOT PRACTICE THE PROFESSION IN THIS COMMONWEALTH UNTIL THE LICENSE HAS BEEN RENEWED OR REACTIVATED.— A LICENSEE WHO PRACTICES THE PROFESSION IN THIS COMMONWEALTH AFTER THE LICENSE HAS EXPIRED AND BEFORE IT HAS BEEN RENEWED OR REACTIVATED IS SUBJECT TO DISCIPLINARY ACTION UNDER SECTION 4(A) AND 11(6) OF THE ACT, AS SET FORTH AT § 40.52(11) (RELATING TO UNPROFESSIONAL CONDUCT; PHYSICAL THERAPISTS). A LICENSEE WHO HAS ENGAGED IN PRACTICE DURING A PERIOD IN WHICH THE LICENSE WAS NOT ACTIVE MAY BE SUBJECT TO CRIMINAL PROSECUTION UNDER

SECTION 12 OF THE ACT (63 P.S. § 1312).

SCOPE OF PRACTICE

§ 40.53. Nondelegable activities; accountability.

* * * * *

(b) A physical therapist may not assign or delegate to physical therapist assistants or supportive personnel functions which require the formal education or training and the skill and knowledge of a licensed physical therapist, including the following functions:

* * * * *

(2) Initial patient contact and initial evaluation or reevaluation.

* * * * *

PRACTICE WITHOUT [PHYSICIAN] REFERRAL

§ 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] a 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:

* * * * *

(e) A certificateholder may treat [a person] an individual without a referral as provided in this chapter for up to 30 calendar days from the date of the first treatment. A physical therapist may not treat [a person] an individual beyond 30 days from the date of the first treatment unless the [person] individual has obtained a referral from a licensed physician, a licensed physician assistant practicing under a written agreement, a certified registered nurse practitioner practicing under a collaborative agreement, a licensed dentist for the treatment of a condition that is within the scope of practice of dentistry or a licensed podiatrist for the treatment

of a condition that is within the scope of practice of podiatry. 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.

(f) A certificateholder may not treat a condition in [any person] an individual which is a nonneurologic, nonmuscular or nonskeletal condition or treat [a person] an individual who has an acute cardiac or acute pulmonary condition unless the certificateholder has consulted with the [person's] individual's licensed physician, dentist or podiatrist regarding the [person's] individual's condition and the physical therapy treatment plan or has referred the [person] individual to a licensed physician, dentist or podiatrist for diagnosis and referral.

§ 40.62. [Professional liability insurance] (Reserved).

[(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 certificateholder shall notify the Board within 30 days of the holder's lapse in coverage of the required insurance.

(c) The certificate of authorization will automatically be suspended upon failure to be covered by the required insurance and will 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) A self-insurance plan that meets the standards and procedures established by the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice

and health-related self-insurance plans).

- (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 for direct access certificate holder.

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

* * * * *

[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] 30 contact hours of physical therapy continuing education relating 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] 30 contact hours shall be in evaluative procedures to treat a person without a referral. During renewal periods prior to January 1, ~~2011~~ 2013, a direct access certificateholder need complete only 20 hours of continuing education, including at least 10 hours in evaluative procedures.

* * * * *

(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 OR ON BEHALF OF the licensee; ~~or in~~. IN case of physical disability or illness, THE REQUEST SHALL INCLUDE SUPPORTING DOCUMENTATION PROVIDED by a physician licensed in this Commonwealth or another state or territory of the United States or the District of Columbia and whose license is in good standing, ~~or both~~. Necessary documentation must be received by the Board no later than 90 days preceding the biennial renewal. If the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the licensee shall reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the [applicant] licensee to make up all or part of the continuing education involved.

* * * * *

(i) General continuing education requirement. Hours of continuing education applied to satisfy the requirement of this section may also be applied to satisfy the requirement of § 40.67 (relating to continuing education for licensed physical therapist). Satisfaction of the continuing education requirement in this section will be deemed to establish satisfaction of the continuing education requirement in § 40.67.

CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

(a) Contact hour requirements. ~~With the biennial renewal period beginning~~ BEGINNING WITH THE January 1, 2011 2013 – DECEMBER 31, 2014 BIENNIAL RENEWAL PERIOD, a licensed physical therapist shall satisfy the following continuing education requirements.

(1) During each biennial renewal period, a licensee shall complete qualifying continuing education equal to at least 30 contact hours of continuing physical therapy education, INCLUDING AT LEAST 2 CONTACT HOURS IN LAW OR ETHICS APPLICABLE TO THE PRACTICE OF PHYSICAL THERAPY.

(2) Except as permitted in § 40.20(c)(1) (relating to inactive status of physical therapist license), paragraph (4) or as directed by the Board, continuing education may satisfy the requirement of paragraph (1) only for the biennium during which it was completed. A contact hour of continuing education may not be used to satisfy the requirement of paragraph (1) for more than 1 biennium.

(3) Unless otherwise excused by the act or this subchapter, failure to complete the minimum required amount of continuing education during the applicable renewal period as required under section 7.2 of the act (63 P.S. § 1307.2) and this section will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 1311(a)(6)) as provided in § 40.52(11) (relating to unprofessional conduct; physical therapists).

(4) 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. A waiver or extension of time will not be granted unless a written request is submitted by OR ON BEHALF OF the licensee; ~~or~~ ~~in~~. IN case of physical disability or illness, THE REQUEST SHALL INCLUDE SUPPORTING DOCUMENTATION PROVIDED by a physician licensed in this Commonwealth or another state or territory of the United States or the District of Columbia and whose license is in good standing, ~~or both~~. The necessary documentation

must be received by the Board no later than 90 days preceding the biennial renewal. If the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the licensee shall reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the licensee to make up all or part of the continuing education involved.

(5) A LICENSEE IS NOT REQUIRED TO COMPLETE CONTINUING EDUCATION DURING THE BIENNIAL RENEWAL CYCLE IN WHICH THE LICENSEE WAS FIRST LICENSED.

(b) Reporting completion of continuing education. Continuing education must be reported and documented in the following manner.

(1) In general, proof of completion of a course or program of continuing education must consist of a certificate of completion OR OTHER DOCUMENTATION issued by the course or program provider, including:

(i) The name of the participant.

(ii) The name of the provider.

(iii) The date or dates of the course or program.

(iv) The name of the course and any Board issued approval number of the course or program.

(v) The number of contact hours of continuing education or academic credit.

(2) A licensee shall retain proof of completion of continuing education for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required or applied, whichever is later.

(3) The Board will audit licensees to verify compliance with continuing education requirements. A licensee shall fully respond to any audit notice within 30 days or other time period allowed in the notice.

(c) Credit for approved continuing education. Credit for continuing education will be determined in accordance with the following.

(1) * Credit for continuing education will be granted only for courses or programs offered by providers preapproved under subsection (d)(1) or approved by the Board under subsection (d)(2) OR FOR AUTHORIZING PUBLICATIONS AS AUTHORIZED UNDER SUBSECTION (E).

(2) Unless limited by this section, continuing education credit may be earned in a course or program OR AUTHORIZING A PUBLICATION relating to any of the following:

(i) Subject matter falling within the definition of "physical therapy" in section 2 of the act (63 P.S. § 1302).

(ii) Subject matter that is part of training necessary to qualify one for licensure as a physical therapist or certification of authority to practice physical therapy without a referral.

(iii) Law or ethics applicable to the practice of physical therapy.

(iv) Subject matter that otherwise keeps the licensee apprised of advancements and new developments in the practice of the profession of physical therapy.

(3) Continuing education credit may not be earned in any course in office management or practice building.

(4) A licensee may not receive credit more than once in a given renewal period for repetition of courses or programs with substantially similar content and objectives.

(5) A licensee teaching a course or program of continuing education may receive the same credit that a licensee attending the course or program would receive and may also receive credit for time spent in preparation. Credit for time spent in preparation may not exceed the credit available for a licensee attending the course or program.

(6) IF A COURSE OR PROGRAM EXTENDS BEYOND A SINGLE BIENNIAL RENEWAL PERIOD, ALL CREDIT WILL BE AWARDED IN THE PERIOD IN WHICH THE COURSE OR PROGRAM IS FINALLY COMPLETED.

(d) Approval of continuing education courses and programs. Continuing education courses and programs may be approved in accordance with this subsection.

(1) Provided that the course or program otherwise meets the requirements of subsection (c)(2) and the provider issues to each attending licensee a certificate of completion record in accordance with subsection (b)(1), a course or program of continuing education from a provider preapproved under this paragraph is approved by the Board.

(i) The following providers are preapproved:

(A) APTA or its components.

(B) FSBPT and its jurisdictions.

(C) A physical therapy THERAPIST OR PHYSICAL THERAPIST ASSISTANT EDUCATIONAL program accredited by CAPTE.

(D) THE AMERICAN HEART ASSOCIATION AND THE AMERICAN RED CROSS AND THEIR COMPONENT ORGANIZATIONS, ONLY FOR PURPOSES OF PROVIDING CONTINUING EDUCATION IN IDENTIFYING AND RESPONDING TO EMERGENCY HEALTH CONDITIONS.

(E) AN ORGANIZATION CREDENTIALLED BY APTA TO CONFER A FELLOWSHIP IN A SPECIALTY, ONLY FOR PURPOSES OF CONFERRING THE FELLOWSHIP.

(F) AN ORGANIZATION CREDENTIALLED BY APTA TO OFFER A RESIDENCY PROGRAM, ONLY FOR PURPOSES OF THE RESIDENCY PROGRAM.

(G) THE AMERICAN BOARD OF PHYSICAL THERAPY SPECIALIZATION OR ITS SUCCESSOR ORGANIZATION, ONLY FOR SPECIALTY CERTIFICATION.

(ii) Any other provider seeking preapproved provider status shall:

(A) Apply to the Board on forms supplied by the Board.

(B) Pay the required fee.

(C) Demonstrate that the provider is competent to provide continuing education to physical therapists without direct review by the Board.

(iii) The Board may terminate preapproved provider status if the provider, including the providers in subparagraph (i), is no longer able to demonstrate that it is competent to provide continuing education to physical

therapists without direct review by the Board. The Board will audit preapproved providers to assure that the provider complies with the requirements of this paragraph and of paragraph (3).

(iv) The Board will maintain a list of preapproved providers and make the list publicly available.

(2) A continuing education course or program offered by a provider not preapproved under paragraph (1) may be approved as provided in this paragraph.

(i) The provider shall apply at least 60 days prior to the date the continuing education course or program is scheduled to take place on forms provided by the Board and fully provide the information required on the application forms for the Board to fulfill its duties under this section. The application shall be submitted to the Board with payment of the fee as required in § 40.5 (relating to fees). A provider who is unable to submit the application at least 60 days prior to the date the course or program is given may request a waiver in writing setting forth the reasons why the 60-day requirement could not be met.

(ii) The provider shall apply for approval of each course or program of continuing education, which may include multiple presentations of the course or program at various ONE OR MORE locations and multiple offerings of the course or program. Unless approved by the Board, a significant change in content or use of instructors other than those described in the application for approval is a separate course or program for which Board approval is required.

(iii) The Board may deny approval of a course or program of continuing education when the provider has previously failed or is not currently

able to comply with the provider responsibilities of paragraph (3) or the course or program does not qualify under subsection (c)(1). The Board may approve in part and deny in part an application for approval of a course or program. The Board may deny an application for approval that does not comply with the act or this chapter.

(iv) The Board may terminate its prior approval of a course or program of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course or program when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course or program completed prior to termination of approval.

(v) The Board will maintain a list of approved courses and programs in a form accessible to licensees and the public.

(vi) If the provider has not separately sought approval under this paragraph, a licensee attending the course or program may apply for approval of a course or program of continuing education in accordance with this paragraph. The licensee shall apply for approval prior to attending the course or program. The Board may waive the requirements in paragraph (3) when a licensee attending a course or program applies for approval.

(3) For each course or program of continuing education, the provider shall:

(i) Disclose in advance to prospective attendees the objectives, content, teaching method and the number of hours of continuing education credit

approved by the Board.

(ii) Provide physical facilities adequate for the number of anticipated participants and the teaching methods to be used.

(iii) Provide accurate instructional materials.

(iv) Utilize qualified instructors who are knowledgeable in the subject matter.

(v) Evaluate the course or program through the use of questionnaires of the participants and instructors.

(vi) Issue a certificate of completion to each participant.

(vii) Retain attendance records, written outlines and a summary of evaluations for 5 years.

(e) Continuing competence. Continuing education is a structured process of education beyond professional entry level education that is applicable to the practice of physical therapy and is designed or intended to support the continuous development of physical therapists and to maintain and enhance their professional competence. Accordingly, a licensed physical therapist may earn up to 15 contact hours of required continuing education in each biennial renewal period through continuing competence activities that do not otherwise qualify under this section if the activity is approved by the Board under § 40.68 (relating to continuing competence for licensed physical therapist). *AUTHORING PUBLICATIONS. A LICENSED PHYSICAL THERAPIST MAY EARN CONTINUING EDUCATION CREDIT FOR AUTHORING PUBLICATIONS AS PROVIDED IN THIS SUBSECTION.*

(1) PRIOR TO THE END OF THE BIENNIAL RENEWAL PERIOD FOR WHICH CREDIT IS SOUGHT, THE LICENSED PHYSICAL THERAPIST SHALL

APPLY TO THE BOARD ON FORMS PROVIDED BY THE BOARD AND SUBMIT ALL DOCUMENTATION NECESSARY TO ESTABLISH ENTITLEMENT TO CREDIT.

(2) SUBJECT TO THE LIMITATIONS OF PARAGRAPH (3), 1 CONTACT HOUR OF CONTINUING EDUCATION CREDIT WILL BE AWARDED FOR EACH HOUR SPENT IN RESEARCH OR WRITING. NO CREDIT WILL BE AWARDED IF THE TOTAL RESEARCH AND WRITING TIME WAS LESS THAN 1 HOUR.

(3) WITHIN THE SUBJECT MATTER LIMITATIONS OF SUBSECTION (C), A LICENSED PHYSICAL THERAPIST MAY EARN CREDIT FOR AUTHORIZING A PUBLICATION AS FOLLOWS:

(I) AUTHORIZING OR EDITING A BOOK, NOT TO EXCEED 15 CONTACT HOURS.

(II) AUTHORIZING OR EDITING A CHAPTER OF A BOOK, NOT TO EXCEED 10 CONTACT HOURS.

(III) AUTHORIZING OR REVIEWING A PUBLISHED PEER-REVIEWED ARTICLE, NOT TO EXCEED 10 CONTACT HOURS.

(IV) AUTHORIZING A NON-PEER-REVIEWED ARTICLE PUBLISHED IN A PHYSICAL THERAPY PUBLICATION, NOT TO EXCEED 5 CONTACT HOURS.

(4) CREDIT FOR AUTHORIZING A PUBLICATION WILL BE AWARDED ONLY FOR THE BIENNIAL RENEWAL PERIOD IN WHICH IT WAS PUBLISHED.

§ 40.68. Continuing competence for licensed physical therapist.

~~(a) Requirements. A licensed physical therapist may satisfy in part the requirements~~

~~of § 40.67 (relating to continuing education for licensed physical therapist) by completing continued competence activities approved by the Board as provided in this section. The Board will be guided by the following principles in applying this section.~~

~~(1) — Continuing competence should be self directed by the physical therapist.~~

~~(2) — Evaluation or assessment of current competence is critical for the physical therapist. The results of an evaluation or assessment should be used by the physical therapist to then select appropriate development activities.~~

~~(3) — A physical therapist should have a wide variety of activities available to demonstrate his competence. There is no single right way to demonstrate competence.~~

~~(b) — *Approval process.* A licensee shall apply to the Board on forms provided by the Board and receive approval from the Board to earn continuing education credit for continuing competence activities. The continuing competence activity shall be fully documented, including certification as appropriate. In determining whether to approve a continuing competence activity and how much credit to award, the Board will be guided by the following standards:~~

~~(1) — Content within the continuing competence activity must be relevant to the physical therapy profession and the designated audience.~~

~~(2) — The continuing competence activity must foster the participant's learning and professional engagement through reflection, interaction, participation and contribution.~~

~~(3) — The continuing competence activity must incorporate, reflect and promote the use of evidence based practice (patient values, available evidence, and clinician experience) or be based on the act or this chapter.~~

~~(4) — Qualified individuals with appropriate subject matter expertise and~~

~~credentials shall develop and, when applicable, conduct the continuing competence activity.~~

~~(5) The continuing competence activity must include behavioral objectives that encompass the content of the activity. The objectives must promote a high level of learning in one or more of the cognitive, psychomotor and affective domains.~~

~~(6) The design of the activity must support the achievement of the objectives.~~

~~(7) Each continuing competence activity must include objective methods to assess the participant's attainment of the specified activity outcomes.~~

~~(8) There must be mechanisms in place for ongoing review and evaluation of the quality and the effectiveness of the continuing competence activity. The activity must be modified based on information gained from review and evaluation.~~

~~(9) The continuing competence provider shall furnish clear, complete information to potential learners about continuing competence activities regarding administrative details, activity specifics and content, biography of the activity deliverer/presenter and participant requirements.~~

~~(10) The continuing competence provider shall have established processes for developing, administering and documenting the continuing competence activity.~~

~~(e) Credit. Credit for continuing competence activities may be awarded in accordance with this subsection. Credit will not be awarded for any activity that duplicates another continuing competence activity or continuing education for which credit is also awarded.~~

~~(1) For completion of a fellowship conferred by an organization credentialed by APTA in a specialty area of the practice of physical therapy 10 contact hours for each full 12 month period of fellowship to be credited in the renewal cycle of completion~~

of the fellowship.

~~(2) For completion of a residency program in physical therapy offered by an APTA credentialed organization — 10 contact hours for each full 12 month period of clinical participation to be credited in the renewal cycle of completion of the residency program.~~

~~(3) For specialty certification or specialty recertification by the American Board of Physical Therapy Specialization or its successor organization — 15 contact hours upon receipt of certification or recertification to be credited in the renewal cycle of certification or recertification.~~

~~(4) Taking the practice review tool of the FSBPT — 5 contact hours; passing the practice review tool of the FSBPT — an additional 5 contact hours.~~

~~(5) Other activities evaluated and approved by the FSBPT — the number of continuing education units set by FSBPT with each continuing education unit worth 10 contact hours of credit.~~

~~(6) Becoming a Credentialed Clinical Instructor or a Credentialed Clinical Instructor Trainer as recognized by APTA — 1 contact hour for each hour of coursework required in order to receive the credential, not to exceed 15 contact hours, to be credited in the renewal cycle during which the credential was issued.~~

~~(7) Submission of a request to a funding agency for a research grant as a principal or co-principal investigator — 10 contact hours; award of the grant — an additional 10 contact hours.~~

~~(8) Service as a grants reviewer — 1 contact hour for every 2 hours of review up to a maximum of 5 contact hours in a single renewal cycle.~~

~~(9) — Authoring or editing a book dealing with a subject related to the practice of physical therapy as determined by the Board, not to exceed 15 contact hours, to be awarded in the renewal cycle in which the book was published.~~

~~(10) — Authoring or editing a chapter of a book dealing with a subject related to the practice of physical therapy as determined by the Board, not to exceed 10 contact hours, to be awarded in the renewal cycle in which the book was published.~~

~~(11) — Authoring a published peer reviewed article relating to the practice of physical therapy as determined by the Board, not to exceed 10 contact hours, to be awarded in the renewal cycle in which the article was published.~~

~~(12) — Authoring a published non-peer reviewed article relating to the practice of physical therapy as determined by the Board, not to exceed 5 contact hours, to be awarded in the renewal cycle in which the article was published.~~

~~(13) — Completing a professional self-assessment that is a process for the licensee to evaluate current professional practice ability, establish goals to improve those abilities, develop a plan to meet those goals, and document that the objectives are being accomplished as determined by the Board, not to exceed a total of 5 contact hours in a single renewal cycle.~~

~~(14) — Participating in a National physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee or physical therapy services task force member for at least 1 year — 5 contact hours for each full year of participation.~~

~~(15) — Participation in a State physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services~~

committee for at least 1 year — 5 contact hours for each full year of participation.

(16) — Participation in a local physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee for at least 1 year — as determined by the Board not to exceed 5 contact hours in a single renewal cycle.

(17) — Participation in a physical therapy professional organization committee involved with physical therapy services for at least 1 year — as determined by the Board not to exceed 5 contact hours in a single renewal cycle.

(18) — Other continuing competence activities — as determined by the Board.

PROFESSIONAL LIABILITY INSURANCE

§ 40.69. Professional liability insurance.

(a) Professional liability insurance requirements. As required under section 9.1(b)(4) of the act (63 P.S. § 1309.1(b)(4)), a licensed physical therapist shall maintain professional liability insurance in the minimum amount of \$1 million per occurrence or claims made as a condition of practicing as a physical therapist in this Commonwealth. Coverage may be provided through:

(1) A self-insurance plan that meets the standards and procedures established by the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(2) Personally purchased professional liability insurance.

(3) Professional liability insurance, coverage provided by the licensee's employer.

(4) A similar type of coverage.

(b) Proof of professional liability insurance coverage. Proof of professional liability insurance coverage shall include a certificate of insurance or copy of the declaration page from the insurance policy setting forth the effective date, expiration date and dollar amounts of coverage. A license that was issued in reliance upon a letter from the applicant's insurance carrier indicating that the applicant will be covered against professional liability effective upon the issuance of the applicant's license as permitted under section 9.1(b)(4)(iii.2) of the act will become inactive as a matter of law 30 days after issuance of the license if the licensee has not provided proof of professional liability insurance coverage and will remain inactive until the licensee provides proof of insurance coverage.

(c) Disciplinary action. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 1311(a)(6)) as provided in § 40.52(11) (relating to unprofessional conduct; physical therapists).

Subchapter C. PHYSICAL THERAPIST ASSISTANTS

GENERAL PROVISIONS

§ 40.152. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Indirect supervision – Supervision of a physical therapist assistant by a licensed physical therapist that is not direct on-premises supervision, as authorized by section 9.1(c) of the act (63 P.S. § 1309.1(c)) and this subchapter, including § 40.173 (relating to supervision of physical therapist assistant by licensed physical therapist).

Physical therapist assistant – A person who has been [registered] certified in accordance

with the act and this subchapter [and who provides patient-care services only in compliance with this subchapter] to provide services as a physical therapist assistant.

Physical Therapist Assistant [Registration] Certification Examination – An examination adopted by the Board and administered in accordance with section 812.1 of The Administrative Code of 1929 (71 P.S. § 279.3(a)). The term also includes an examination administered by another state, territory or the District of Columbia if it is the same examination adopted by the Board.

Physical therapy independent private practice outpatient facility –

(i) A practice owned and operated by a licensee under the act, or by a licensee under the act and a healthcare practitioner, licensed by this Commonwealth, as permitted by law.

(ii) This term does not include a practice owned or affiliated with a hospital or healthcare system.

[REGISTRATION] CERTIFICATION

§ 40.161. [Registration] Certification as physical therapist assistants; practice; exceptions.

(a) A person may not perform or hold himself out as being able to perform as a physical therapist assistant in this Commonwealth unless the person is [registered] certified by the Board under section 9.1 of the act (63 P.S. § 1309.1) and this subchapter or exempted under this section.

(b) A person or business entity may not use in connection with a business name or activity the words “physical therapist assistant,” the letters “P.T.A.” or similar words and related abbreviations to imply that physical therapist assistant services are being provided, unless the services are provided by a physical therapist assistant [registered] certified under the act and this

subchapter.

* * * * *

§ 40.162. Application for [registration] certification.

(a) The applicant shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following criteria. The applicant:

(1) ~~Satisfies either of the following age requirement:~~

~~(i) Is at least 20 18 years of age, unless otherwise determined by the Board;~~

~~(ii) Is at least 18 years of age and the Board has determined that the candidate has proved the capability to accept and handle the responsibilities appurtenant to [registration] certification.~~

* * * * *

(4) Has met the professional requirements for [registration] certification under § 40.163 (relating to requirements for [registration] certification).

(b) An applicant for [registration] certification issued by the Board shall apprise the Board of the following:

* * * * *

(c) The reporting responsibilities enumerated in subsection (b) continue after the Board issues a [registration] certification. If, after the Board has issued a [registration] certification, one or more events listed under subsection (b)(1) and (2) occur, the [registrant] certified physical therapist assistant shall report that matter to the Board in writing on the biennial [reregistration] renewal application or within 90 days of its occurrence, whichever occurs sooner. The [registrant] certified physical therapist assistant shall report an event

occurring under subsection (b)(3) within 30 days of occurrence.

§ 40.163. Requirements for [registration] certification.

(a) Under section 9.1(a) of the act (63 P.S. § 1309.1(a)), an applicant for [registration] certification by examination shall submit evidence of the following:

* * * * *

(2) A passing grade on the physical therapist assistant [registration] certification examination.

(b) Under section 6(d.1) of the act (63 P.S. § 1306(d.1)), an applicant for reciprocal [registration] certification shall submit evidence of a valid license, certificate or registration as a physical therapist assistant issued by another state, territory or the District of Columbia, where the requirements for licensure, certification or registration were on the date of issuance substantially the same as those required by this Commonwealth, and which accords similar privileges to persons [registered] certified as physical therapist assistants in this Commonwealth.

§ 40.164. Physical therapist assistant [registration] certification examination.

(a) *Application procedure.* An applicant applying for [registration] certification by examination shall take the physical therapist assistant [registration] certification examination. The applicant who is taking the examination within this Commonwealth shall comply with the following:

* * * * *

§ 40.165. Authorization to provide services as A physical therapist assistant under indirect supervision.

(a) An applicant for a certificate of authority to provide services as a physical therapist assistant under indirect supervision by a licensed physical therapist shall submit to the

Board on forms supplied by the Board a completed application, including all necessary supporting documents, and pay the fee in § 40.5 (relating to fees) for initial application for certification to provide services under indirect supervision.

(b) The UNLESS THERE ARE GROUNDS TO DENY THE APPLICATION UNDER § 40.181 (RELATING TO REFUSAL, SUSPENSION OR REVOCATION OF CERTIFICATION), THE Board will grant a certificate of authority as described in this section to an applicant who:

(1) Demonstrates that the applicant satisfies the requirements of §§ 40.161-40.164.

(2) Demonstrates that the applicant satisfies the requirements of section 9.1(c)(4) of the act (63 P.S. § 1309.1(c)(4)) for certification to provide services as a physical therapist assistant under indirect supervision of a licensed physical therapist by either verifying that the applicant:

(i) Has at least 2,000 hours of experience providing patient-related acts and services under the supervision of one or more licensed physical therapists, as verified by those physical therapists.

(ii) Worked as a physical therapist assistant for at least 3 years between October 2, 2003, and October 2, 2008, the 5-year period immediately preceding the effective date of section 9.1(c)(4) of the act, and providing a detailed resume or other adequate documentation to corroborate the verification. Part-time work will be acceptable if it is at least equivalent to 3 years of full-time work.

(3) Otherwise complies with this subchapter.

§ 40.166. Temporary certificate to provide services as A physical therapist assistant.

(a) An applicant for a temporary certificate to provide services as a physical therapist assistant under section 9.1(a.1) of the act (63 P.S. 1309.1(a.1)) shall apply to the Board on forms provided by the Board including all necessary supporting documents and pay the fee in § 40.5 (relating to fees) for application for temporary certificate to provide services as a physical therapist assistant.

(b) The UNLESS THERE ARE GROUNDS TO DENY THE APPLICATION UNDER § 40.181 (RELATING TO REFUSAL, SUSPENSION OR REVOCATION OF CERTIFICATION), THE Board will grant a temporary certificate as described in this section to an applicant who:

(1) Demonstrates that the applicant satisfies the requirements of §§ 40.161-40.164 except the certification examination requirement in § 40.163(a)(2) (relating to requirements for certification).

(2) Has applied for certification to provide services as a physical therapist assistant in accordance with §§ 40.161-40.164 or § 40.165.

(3) Has not previously sat for the certification examination.

(4) Has not previously received a temporary certificate under this section.

(5) ~~Otherwise complies with this subchapter.~~

(c) The Board may rescind any temporary certificate issued under this section if the Board determines that the certificate was issued based upon fraudulent information, such as the applicant's identity or educational, criminal, or professional or occupational licensure record.

(d) A temporary certificate issued under this section will expire upon the earlier of

failing the certification examination or 6 months after issuance. A temporary certificate issued under this section will become void upon issuance of a certificate to provide services as a physical therapist assistant under §§ 40.161-40.165.

(e) A temporary certificate may not be renewed or extended beyond its expiration. The holder of a temporary certificate shall return the certificate to the Board within 10 days after its expiration.

(f) The holder of a temporary certificate may provide services as a physical therapist assistant only under the direct on-premises supervision of a licensed physical therapist.

SCOPE OF ACTIVITIES

§ 40.171. Functions of physical therapist assistants.

* * * * *

(c) Patient care services performed by a physical therapist assistant under [direct on-premises] the supervision of a LICENSED physical therapist shall be on the basis of not more than [two] three physical therapist assistants for a LICENSED physical therapist. ~~A student in a physical therapist assistant program is counted along with a physical therapist assistant in determining compliance with this restriction.~~

(d) The initial patient contact shall be made by a licensed physical therapist for evaluation of the patient and establishment of a plan of care.

* * * * *

§ 40.173. Supervision of physical therapist assistant by licensed physical therapist.

(a) *General rule.* A physical therapist assistant may provide patient care services only under the supervision of a licensed physical therapist. Except as otherwise provided in the act or this subchapter, a physical therapist assistant may provide patient care services only under

the direct on-premises supervision of a licensed physical therapist.

(b) Supervision generally. The required level of supervision depends upon the following factors:

(1) The performance of selected acts and services by the physical therapist assistant is the responsibility of the licensed physical therapist at all times.

(2) Supervision shall be based upon the following:

(i) The complexity and acuity of the patient's needs.

(ii) The proximity and accessibility of the licensed physical therapist to the certified physical therapist assistant.

(iii) The amount of supervision available in the event of an emergency or critical event.

(iv) The type of practice setting in which the service is provided.

(3) The supervising licensed physical therapist may determine and require that the physical therapist assistant provide services under greater supervision than would otherwise appear to be required by section 9.1(c)(3) of the act (63 P.S. § 1309.1(c)(3)) or this section, including requiring that the physical therapist assistant provide services under direct on-premises supervision.

(c) Practice setting. A physical therapist assistant holding a current certificate of authority to provide services under indirect supervision may do so in accordance with this section and section 9.1(c) of the act.

(1) When care is delivered to an individual in an acute care hospital, acute inpatient rehabilitation center, long-term acute care hospital setting or as otherwise required by Federal or State law or regulation, the physical therapist assistant shall be

under the direct on-premises supervision of a licensed physical therapist.

(2) When care is provided to an individual in a preschool, primary school, secondary school or other similar educational setting, a licensed physical therapist shall make an onsite visit and examine the patient at least every four patient visits or every 30 days, whichever occurs first.

(3) When care is provided to an individual in an early intervention setting, a licensed physical therapist shall make an onsite visit and examine the patient at least every four patient visits or every 30 days, whichever occurs first.

(4) When care is provided to a patient in a physical therapy independent private practice outpatient facility, a licensed physical therapist shall provide direct on-premises supervision for a physical therapist assistant for at least 50% of the hours worked by the physical therapist assistant during the calendar week unless otherwise required under Federal law. The physical therapist shall be immediately available by telecommunication when not providing direct on-premises supervision.

(5) When care is provided to a patient in an outpatient facility of a practice owned or affiliated with a hospital or healthcare system, a licensed physical therapist shall provide direct on-premises supervision for a physical therapist assistant for at least 50% of the hours worked by the physical therapist assistant during the calendar week unless otherwise required under Federal law. The physical therapist shall be immediately available by telecommunication if not providing direct on-premises supervision.

(6) For home health care, a licensed physical therapist shall make an onsite visit and actively participate in the treatment of the patient at least every seven patient visits or every 14 days, whichever occurs first. For purposes of this paragraph, active

participation includes examination of the patient. MULTIPLE VISITS ON A SINGLE DATE CONSTITUTE ONLY A SINGLE PATIENT VISIT IN DETERMINING WHETHER THE LICENSED PHYSICAL THERAPIST IS REQUIRED TO MAKE AN ONSITE VISIT.

(7) For care provided in a long-term care nursing facility, skilled nursing facility or extended care facility, a licensed physical therapist shall make an onsite visit and actively participate in the treatment of the patient at least every seven patient visits or every 14 days, whichever occurs first. For purposes of this paragraph, active participation includes examination of the patient. MULTIPLE VISITS ON A SINGLE DATE CONSTITUTE ONLY A SINGLE PATIENT VISIT IN DETERMINING WHETHER THE LICENSED PHYSICAL THERAPIST IS REQUIRED TO MAKE AN ONSITE VISIT.

(d) Emergency situations. The emergency situation provisions of section 9.1(i) of the act apply ONLY to all THOSE current certified physical therapist assistants, whether or not WHO ARE authorized by the Board under section 9.1(c)(4) of the act and § 40.165 (relating to authorization to provide services as a physical therapist assistant under indirect supervision) to provide services under supervision of a licensed physical therapist other than direct on-premises supervision.

DISCIPLINE

§ 40.181. Refusal, suspension or revocation of [registration] certification.

(a) Under section 9.1(f) of the act (63 P.S. § 1309.1(f)), the Board may refuse, suspend or revoke the [registration] certification of a person who has:

* * * * *

(10) Provided services as a physical therapist assistant under indirect supervision without having a current certificate of authorization to practice under indirect supervision issued under § 40.165 (relating to authorization to provide services as A physical therapist assistant under indirect supervision).

(11) Provided services as a physical therapist assistant under indirect supervision other than as authorized by section 9.1(c) of the act and § 40.173 (relating to supervision of physical therapist assistant by licensed physical therapist).

* * * * *

MAINTENANCE OF [REGISTRATION] CERTIFICATION

§ 40.191. Renewal of [registration] certification.

(a) A [registration] certification issued under this subchapter expires on December 31 of every [even numbered] even-numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board by the [registrant] certified physical therapist assistant. The [registrant] certified physical therapist assistant shall notify the Board in writing within 10 days after making an address change. FAILURE OF THE BOARD TO SEND OR OF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO RECEIVE A BIENNIAL RENEWAL APPLICATION DOES NOT RELIEVE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT OF THE BIENNIAL RENEWAL RESPONSIBILITY.

(c) To retain the right to ~~engage in practice~~ PROVIDE SERVICES AS A PHYSICAL THERAPIST ASSISTANT, the [registrant's registration] certified physical therapist assistant's certification shall be renewed by the [registrant] certified physical therapist assistant in the

manner prescribed by the Board, and the required fee shall be paid by the [registrant] certified physical therapist assistant prior to the expiration of the next biennium. A certified physical therapist assistant applying for biennial license CERTIFICATE renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee in § 40.5 (relating to fees) for application for biennial renewal of physical therapist assistant certificate.

(2) Disclose any license, CERTIFICATE, REGISTRATION OR OTHER AUTHORIZATION to provide services as a physical therapist assistant in another state, territory, possession or country.

(3) Disclose any disciplinary action pending before the appropriate healthcare licensing authority in any other jurisdiction or taken since the most recent application for renewal, whether or not licensed, registered or certified to practice in that other jurisdiction.

(4) Disclose any pending criminal charges and any finding or verdict of guilt, admission of guilt, plea of nolo contendere or other criminal conviction since the most recent application for renewal.

(5) Verify that the certified physical therapist assistant has complied with the continuing education requirements mandated by section 9.1(j) of the act (63 P.S. § 1309.1(j)) during the biennial period immediately preceding the period for which renewal is sought in accordance with § 40.192 (relating to continuing education for certified physical therapist assistant). THE BOARD WILL NOT RENEW A PHYSICAL THERAPIST ASSISTANT CERTIFICATION IF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT HAS NOT COMPLETED THE CONTINUING

EDUCATION REQUIRED BY SECTION 9.1(J) OF THE ACT DURING THE BIENNIAL PERIOD IMMEDIATELY PRECEDING THE PERIOD FOR WHICH RENEWAL IS SOUGHT.

(d) When a [registration] certification is renewed beyond December 31 of an [even numbered] even-numbered year, a [penalty] late fee of \$5 for each month or part of a month that the [registrant] certified physical therapist assistant has ~~engaged in the practice~~ PROVIDED SERVICES AS A PHYSICAL THERAPIST ASSISTANT beyond the renewal date will be charged, in addition to the renewal fee. Payment of a late fee does not preclude the Board from taking disciplinary action for providing services as a physical therapist assistant without a current certification.

(e) A [registrant] certified physical therapist assistant who does not intend to ~~practice~~ PROVIDE SERVICES AS A PHYSICAL THERAPIST ASSISTANT in this Commonwealth and who does not desire to renew the [registration] certification shall inform the Board in writing. Written confirmation of the Board's receipt of the request and notice that the [registration] certification has been classified as inactive will be forwarded to the [registrant] certified physical therapist assistant.

(f) The [registrant] certified physical therapist assistant who either fails to pay the biennial renewal fee or who notifies the Board of the desire not to renew the [registration] certification will not be sent biennial renewal forms for the following biennial renewal periods unless the [registrant] certified physical therapist assistant requests the Board, in writing, to reactivate the [registration] certification.

(g) [A registrant who is applying to return to active status is required to pay the current fees and submit a notarized affidavit stating the period of time during which the

registrant was not engaged in practice within this Commonwealth.] To reactivate an inactive certification, the certified physical therapist assistant shall apply on forms supplied by the Board and answer all questions fully. The certified physical therapist assistant shall:

(1) Include the documentation required under § 40.192(b) for the immediately preceding biennium, which may be completed during the current biennium. Unless waived by the Board under § 40.192(a)(4), the Board will not reactivate any certificate until the required continuing education for the preceding biennium has been successfully completed.

(2) Pay the current renewal fee and the reactivation application fee in § 40.5.

(3) Verify that the certified physical therapist assistant did not provide services as a physical therapist assistant in this Commonwealth while the certification was inactive.

(h) A certified physical therapist assistant who does not make the verification of subsection (g)(3) shall also pay prior biennial renewal fees and late fees as required by this subsection. Unless previously paid, the certified physical therapist assistant shall pay the renewal fee for each biennial renewal period after the certificate became inactive and during which the certified physical therapist assistant provided services as a physical therapist assistant in this Commonwealth. The certified physical therapist assistant shall also pay a late fee of \$5 per month or part of month from the first date the certified physical therapist assistant provided services as a physical therapist assistant in this Commonwealth after the certificate became inactive until the date the certified physical therapist assistant files a fully-completed reactivation application. The applicant for [registration] certification renewal REACTIVATION will not be assessed a fee or penalty for preceding biennial periods in which the applicant did not [engage in

practice] provide services as a physical therapist assistant in this Commonwealth. Payment of a late fee does not preclude the Board from taking disciplinary action for providing services as a physical therapist assistant without a current certification.

(i) If other conditions of the act and this chapter have been met, active status will be restored upon payment of the fees [and penalties] which have accrued.

(j) A certified physical therapist assistant who has not renewed the certification may not provide services as a physical therapist assistant in this Commonwealth until the certification has been renewed or reactivated. A certified physical therapist assistant who provides services as a physical therapist assistant in this Commonwealth after the certification has expired and before it has been renewed or reactivated is subject to disciplinary action under section 9.1(d) and (f) of the act, as set forth at § 40.181(a)(6) (relating to refusal, suspension or revocation of certification). A [registrant] certified physical therapist assistant who has ~~engaged in practice~~ PROVIDED SERVICES AS A PHYSICAL THERAPIST ASSISTANT during a period in which the [registrant] certified physical therapist assistant's certification was not [registered] active may be subject to criminal prosecution under section 12 of the act (63 P.S. § 1312).

(K) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SECTION, A CERTIFIED PHYSICAL THERAPIST ASSISTANT WHOSE CERTIFICATION HAS BEEN INACTIVE FOR 5 YEARS OR MORE SHALL DEMONSTRATE CURRENT COMPETENCE TO PROVIDE SERVICES AS A PHYSICAL THERAPIST ASSISTANT BY AT LEAST ONE OF THE FOLLOWING:

(1) SUCCESSFUL COMPLETION OF THE CERTIFICATION EXAMINATION REQUIRED BY § 40.164 (RELATING TO PHYSICAL THERAPIST ASSISTANT CERTIFICATION EXAMINATION).

(2) SATISFACTION OF THE REQUIREMENTS OF § 40.163(B) (RELATING TO REQUIREMENTS FOR CERTIFICATION) AND PROOF OF LICENSED OR CERTIFIED PROVISION OF SERVICES AS A PHYSICAL THERAPIST ASSISTANT IN ONE OR MORE OTHER JURISDICTIONS OF THE UNITED STATES OR CANADA FOR AT LEAST 36 MONTHS OF THE 5 YEARS IMMEDIATELY PRECEDING APPLICATION FOR REACTIVATION.

§ 40.192. Continuing education for certified physical therapist assistant.

(a) Contact hour requirements. With the biennial renewal period beginning BEGINNING WITH THE January 1, 2011 2013 – DECEMBER 31, 2014 BIENNIAL RENEWAL PERIOD, a certified physical therapist assistant shall satisfy the following continuing education requirements.

(1) During each biennial renewal period, a certified physical therapist assistant shall complete qualifying continuing education equal to at least 30 contact hours of continuing physical therapy education, including at least 4 contact hours in identifying and responding to emergency health conditions AND AT LEAST 2 CONTACT HOURS IN LAW OR ETHICS APPLICABLE TO THE PRACTICE OF PHYSICAL THERAPY.

(2) Except as permitted in § 40.191(g)(1) (relating to renewal of certification), paragraph (4) or as directed by the Board, continuing education may satisfy the requirement of paragraph (1) only for the biennium during which it was completed. A contact hour of continuing education may not be used to satisfy the requirement of paragraph (1) for more than 1 biennium.

(3) Unless otherwise excused by the act or this subchapter, failure to complete the minimum required amount of continuing education during the applicable renewal

period as required by section 9.1(j) of the act (63 P.S. § 1309.1(j)) and this section will subject the certified physical therapist assistant to disciplinary action under section 9.1(f) of the act as provided in § 40.181(6) (relating to refusal, suspension or revocation of certification).

(4) 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. A waiver or extension of time will not be granted unless a written request is submitted by OR ON BEHALF OF the certified physical therapist assistant; or in. IN case of physical disability or illness, THE REQUEST SHALL INCLUDE SUPPORTING DOCUMENTATION PROVIDED by a physician licensed in this Commonwealth or another state or territory of the United States or the District of Columbia and whose license is in good standing; or both. The necessary documentation shall be received by the Board no later than 90 days preceding the biennial renewal. If the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the certified physical therapist assistant shall reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the certified physical therapist assistant to make up all or part of the continuing education involved.

(5) A CERTIFIED PHYSICAL THERAPIST ASSISTANT IS NOT REQUIRED TO COMPLETE CONTINUING EDUCATION DURING THE BIENNIAL RENEWAL CYCLE IN WHICH THE CERTIFIED PHYSICAL THERAPIST ASSISTANT WAS FIRST CERTIFIED.

(b) Reporting completion of continuing education. Continuing education shall be

reported and documented in the following manner.

(1) In general, proof of completion of a course or program of continuing education must consist of a certificate of completion OR OTHER DOCUMENTATION issued by the course or program provider, including:

(i) The name of the participant.

(ii) The name of the provider.

(iii) The date or dates of the course or program.

(iv) The name and any Board issued approval number of the course or program.

(v) The number of contact hours of continuing education or academic credit.

(2) A certified physical therapist assistant shall retain proof of completion of continuing education for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required or applied, whichever is later.

(3) The Board will audit certified physical therapist assistants to verify compliance with continuing education requirements. A certified physical therapist assistant shall fully respond to any audit notice within 30 days or other time period allowed in the notice.

(c) Credit for approved continuing education. Credit for continuing education will be determined in accordance with the following.

(1) Credit for continuing education will be granted only for courses or programs offered by providers preapproved under subsection (d)(1) or approved by the

Board under subsection (d)(2) OR FOR AUTHORIZING PUBLICATIONS AS AUTHORIZED UNDER SUBSECTION (E).

(2) Unless limited by this section, continuing education credit may be earned in a course or program OR AUTHORIZING A PUBLICATION relating to any of the following:

(i) Subject matter falling within the definition of "physical therapy" in section 2 of the act (63 P.S. § 1302).

(ii) Law or ethics applicable to the practice of physical therapy.

(iii) Subject matter that otherwise keeps the certified physical therapist assistant apprised of advancements and new developments in the practice of the profession of physical therapy.

(3) Continuing education credit may not be earned in any course in office management or practice building.

(4) A certified physical therapist assistant may not receive credit more than once in a given renewal period for repetition of courses or programs with substantially similar content and objectives.

(5) A certified physical therapist assistant teaching a course or conducting a program of continuing education may receive the same credit that a certified physical therapist assistant attending the course or program would receive and may also receive credit for time spent in preparation. Credit for time spent in preparation may not exceed the credit available for a certified physical therapist assistant attending the course or program.

(6) IF A COURSE OR PROGRAM EXTENDS BEYOND A SINGLE

BIENNIAL RENEWAL PERIOD, ALL CREDIT WILL BE AWARDED IN THE PERIOD IN WHICH THE COURSE OR PROGRAM IS FINALLY COMPLETED.

(d) Approval of continuing education courses. Continuing education courses or programs may be approved in accordance with this subsection.

(1) Provided that the course or program otherwise meets the requirements in subsection (c)(2) and the course or program provider issues to each attending certified physical therapist assistant a certificate of completion record in accordance with subsection (b)(1), a course or program of continuing education from a provider preapproved under this paragraph is approved by the Board.

(i) The following providers are preapproved:

(A) APTA or its components.

(B) FSBPT and its jurisdictions.

(C) A physical therapy THERAPIST OR PHYSICAL THERAPIST ASSISTANT EDUCATIONAL program accredited by CAPTE.

(D) The American Heart Association and the American Red Cross and their component organizations, only for purposes of providing continuing education in identifying and responding to emergency health conditions as required under subsection (a)(1).

(ii) Any other provider seeking preapproved provider status shall:

(A) Apply to the Board on forms supplied by the Board.

(B) Pay the required fee.

(C) Demonstrate that the provider is competent to provide

continuing education to physical therapist assistants without direct review by the Board.

(iii) The Board may terminate its prior approval of a course or program of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course or program when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course or program completed prior to termination of approval.

(iv) The Board will maintain a list of preapproved providers and make the list publicly available.

(2) A continuing education course or program offered by a provider not preapproved under paragraph (1) may be approved as provided in this paragraph.

(i) The provider shall apply at least 60 days in prior to the date the continuing education course or program is scheduled to take place on forms provided by the Board and fully provide the information required on the application forms for the Board to fulfill its duties under this section. The application shall be submitted to the Board with payment of the fee as required in § 40.5 (related to fees). A provider who is unable to submit the application at least 60 days prior to the date the course or program is given may request a waiver in writing setting forth the reasons why the 60-day requirement could not be met.

(ii) The provider shall apply for approval of each course or program of continuing education, which may include multiple presentations of the course or

program at various ONE OR MORE locations and multiple offerings of the course or program. Unless approved by the Board, a significant change in content or use of an instructor or instructors other than those described in the application for approval is a separate course or program for which Board approval is required.

(iii) The Board may deny approval of a course or program of continuing education when the provider has previously failed or is not currently able to comply with the provider responsibilities of paragraph (3) or the course or program does not qualify under subsection (c)(1). The Board may approve in part and deny in part an application for approval of a course or program. The Board may deny an application for approval that does not comply with the act or this chapter.

(iv) The Board may terminate its prior approval of a course or program of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course or program when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course or program completed prior to termination of approval.

(v) The Board will maintain a list of approved courses and programs in a form accessible to certified physical therapist assistants and the public.

(vi) If the provider has not separately sought approval under this paragraph, a certified physical therapist assistant attending the course or program may apply for approval of a course or program of continuing education in

accordance with this paragraph. The certified physical therapist assistant shall apply for approval prior to attending the course or program. The Board may waive the requirements in paragraph (3) when a certified physical therapist assistant attending a course or program applies for approval.

(3) For each course or program of continuing education, the provider shall:

(i) Disclose in advance to prospective attendees the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board.

(ii) Provide physical facilities adequate for the number of anticipated participants and the teaching methods to be used.

(iii) Provide accurate instructional materials.

(iv) Utilize qualified instructors who are knowledgeable in the subject matter.

(v) Evaluate the course or program through the use of questionnaires of the participants and instructors.

(vi) Issue a certificate of completion to each participant.

(vii) Retain attendance records, written outlines, and a summary of evaluations for 5 years.

(e) ~~Continuing competence. Continuing education is a structured process of education beyond professional entry level education that is applicable to the practice of physical therapy and is designed or intended to support the continuous development of physical therapist assistants and to maintain and enhance their professional competence. Accordingly, a certified physical therapist assistant may earn up to 15 contact hours of required continuing education in~~

~~each biennial renewal period through continuing competence activities that do not otherwise qualify under this section if the activity is approved by the Board under § 40.193 (relating to continued competence for certified physical therapist assistant).~~ *AUTHORING PUBLICATIONS.* A CERTIFIED PHYSICAL THERAPIST ASSISTANT MAY EARN CONTINUING EDUCATION CREDIT FOR AUTHORIZING PUBLICATIONS AS PROVIDED IN THIS SUBSECTION.

(1) PRIOR TO THE END OF THE BIENNIAL RENEWAL PERIOD FOR WHICH CREDIT IS SOUGHT, THE CERTIFIED PHYSICAL THERAPIST ASSISTANT SHALL APPLY TO THE BOARD ON FORMS PROVIDED BY THE BOARD AND SUBMIT ALL DOCUMENTATION NECESSARY TO ESTABLISH ENTITLEMENT TO CREDIT.

(2) SUBJECT TO THE LIMITATIONS OF PARAGRAPH (3), ONE CONTACT HOUR OF CONTINUING EDUCATION CREDIT WILL BE AWARDED FOR EACH HOUR SPENT IN RESEARCH OR WRITING. NO CREDIT WILL BE AWARDED IF THE TOTAL RESEARCH AND WRITING TIME WAS LESS THAN ONE HOUR.

(3) WITHIN THE SUBJECT MATTER LIMITATIONS OF SUBSECTION (C), A CERTIFIED PHYSICAL THERAPIST ASSISTANT MAY EARN CREDIT FOR AUTHORIZING A PUBLICATION AS FOLLOWS:

(I) AUTHORIZING OR EDITING A BOOK, NOT TO EXCEED 15 CONTACT HOURS.

(II) AUTHORIZING OR EDITING A CHAPTER OF A BOOK, NOT TO EXCEED 10 CONTACT HOURS.

(III) AUTHORIZING OR REVIEWING A PUBLISHED PEER-REVIEWED ARTICLE, NOT TO EXCEED 10 CONTACT HOURS.

(IV) AUTHORIZING A NON-PEER-REVIEWED ARTICLE PUBLISHED IN A PHYSICAL THERAPY PUBLICATION, NOT TO EXCEED 5 CONTACT HOURS.

(4) CREDIT FOR AUTHORIZING A PUBLICATION WILL BE AWARDED ONLY FOR THE BIENNIAL RENEWAL PERIOD IN WHICH IT WAS PUBLISHED.

§ 40.193. Continuing competence for certified physical therapist assistant.

~~(a) — Requirements. A certified physical therapist assistant may satisfy in part the requirements of § 40.192 (relating to continuing education for certified physical therapist assistant) by completing continuing competence activities approved by the Board as provided in this section. The Board will be guided by the following principles in applying this section.~~

~~(1) — Continuing competence should be self directed by the physical therapist assistant.~~

~~(2) — Evaluation or assessment of current competence is critical for the physical therapist assistant. The results of an evaluation or assessment should be used by the physical therapist assistant to then select appropriate development activities.~~

~~(3) — A physical therapist assistant should have a wide variety of activities available to demonstrate his competence. There is no single right way to demonstrate competence.~~

~~(b) — Approval process. A certified physical therapist assistant shall apply to the Board on forms provided by the Board and receive approval from the Board to earn continuing education credit for continuing competence activities. The continuing competence activity shall~~

~~be fully documented, including certification as appropriate. In determining whether to approve a continuing competence activity and how much credit to award, the Board will be guided by the following standards:~~

~~(1) — Content within the continuing competence activity must be relevant to the physical therapy profession and the designated audience.~~

~~(2) — The continuing competence activity must foster the participant's learning and professional engagement through reflection, interaction, participation and/or contribution.~~

~~(3) — The continuing competence activity must incorporate, reflect and promote the use of evidence-based practice (patient values, available evidence, and clinician experience) or be based on the act or this chapter.~~

~~(4) — Qualified individuals with appropriate subject matter expertise and credentials shall develop and, when applicable, conduct the continuing competence activity.~~

~~(5) — The continuing competence activity must include behavioral objectives that encompass the content of the activity. The objectives must promote a high level of learning in one or more of the cognitive, psychomotor and affective domains.~~

~~(6) — The design of the activity must support the achievement of the objectives.~~

~~(7) — Each continuing competence activity must include objective methods to assess the participant's attainment of the specified activity outcomes.~~

~~(8) — There must be mechanisms in place for ongoing review and evaluation of the quality and the effectiveness of the continuing competence activity. The activity shall be modified based on information gained from review and evaluation.~~

~~(9) The continuing competence provider shall furnish clear, complete information to potential learners about continuing competence activities regarding administrative details, activity specifics and content, biography of the activity deliverer/presenter, and participant requirements.~~

~~(10) The continuing competence provider shall have established processes for developing, administering and documenting the continuing competence activity.~~

~~(c) Credit. Credit for continuing competence activities may be awarded in accordance with this subsection. Credit will not be awarded for any activity that duplicates another continuing competence activity or continuing education for which credit is also awarded.~~

~~(1) Advanced proficiency designation by the APTA for a physical therapist assistant — 15 contact hours to be credited in the renewal cycle during which the certified physical therapist assistant was designated.~~

~~(2) Taking the physical therapist assistant practice review tool of the FSBPT, when available — 5 contact hours; passing the practice review tool of the FSBPT, when available — an additional 5 contact hours.~~

~~(3) Other activities evaluated and approved by the FSBPT — the number of continuing education units set by FSBPT with each continuing education unit worth 10 contact hours of credit.~~

~~(4) Becoming a Credentialed Clinical Instructor or a Credentialed Clinical Instructor Trainer as recognized by APTA — 1 contact hour for each hour of coursework required in order to receive the credential, not to exceed 15 contact hours, to be credited in the renewal cycle during which the credential was issued.~~

~~(5) Submission of a request to a funding agency for a research grant as a~~

~~principal or co principal investigator — 10 contact hours; award of the grant — an additional 10 contact hours.~~

~~(6) — Service as a grants reviewer — 1 contact hour for every 2 hours of review, up to a maximum of 5 contact hours in a single renewal cycle.~~

~~(7) — Authoring or editing a book dealing with a subject related to the practice of physical therapy — as determined by the Board, not to exceed 15 contact hours, to be awarded in the renewal cycle in which the book was published.~~

~~(8) — Authoring or editing a chapter of a book dealing with a subject related to the practice of physical therapy — as determined by the Board, not to exceed 10 contact hours, to be awarded in the renewal cycle in which the book was published.~~

~~(9) — Authoring a published peer reviewed article relating to the practice of physical therapy — as determined by the Board, not to exceed 10 contact hours, to be awarded in the renewal cycle in which the article was published.~~

~~(10) — Authoring a published non-peer reviewed article relating to the practice of physical therapy — as determined by the Board, not to exceed 5 contact hours, to be awarded in the renewal cycle in which the article was published.~~

~~(11) — Completing a professional self assessment that is a process for the certified physical therapist assistant to evaluate current professional practice ability, establish goals to improve those abilities, develop a plan to meet those goals, and document that the objectives are being accomplished — as determined by the Board, not to exceed a total of 5 contact hours in a single renewal cycle.~~

~~(12) — Participating in a National physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services~~

~~committee or physical therapy services task force member for at least 1 year — 5 contact hours for each full year of participation.~~

~~(13) — Participation in a State physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee for at least 1 year — 5 hours for each full year of participation.~~

~~(14) — Participation in a local physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee for at least 1 year — as determined by the Board not to exceed 5 contact hours in any single renewal cycle.~~

~~(15) — Participation in a physical therapy professional organization committee involved with physical therapy services for at least 1 year — as determined by the Board not to exceed 5 contact hours in a single renewal cycle.~~

~~(16) — Other continuing competence activities — as determined by the Board.~~

* * * * *

Subchapter D. CHILD ABUSE REPORTING REQUIREMENTS

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§ 40.202. Suspected child abuse – mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), physical therapists, AND physical therapist assistants or certified athletic trainers who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when the physical therapist, OR physical therapist assistant or certified athletic trainer has reasonable cause to suspect on the basis of professional or other training or experience, that a

child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Physical therapists; AND physical therapist assistants ~~and certified athletic trainers~~ who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the physical therapist; OR physical therapist assistant ~~or certified athletic trainer~~, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

* * * * *

§ 40.203. Photographs, medical tests and X-rays of child subject to report.

A physical therapist; OR physical therapist assistant ~~or certified athletic trainer~~ may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social services agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 40.204. Suspected death as a result of child abuse – mandated reporting requirement.

A physical therapist, OR physical therapist assistant ~~or certified athletic trainer~~ who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

§ 40.205. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a physical therapist, OR physical therapist assistant ~~or certified athletic trainer~~ who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the physical therapist's, OR physical therapist assistant's ~~or certified athletic trainer's~~ actions. For the purposes of any civil or criminal proceeding, the good faith of the physical therapist, OR physical therapist assistant ~~or certified athletic trainer~~ shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a physical therapist's, physical therapist assistant's ~~or certified athletic trainer's~~ actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

* * * * *

§ 40.207. Noncompliance.

(a) *Disciplinary action.* A physical therapist, OR physical therapist assistant ~~or certified athletic trainer~~ who willfully fails to comply with the reporting requirements in § 40.202 (relating to suspected child abuse – mandated reporting requirements) will be subject to

disciplinary action under section 11 of the act (63 P.S. § 1311).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a physical therapist, OR physical therapist assistant ~~or certified athletic trainer~~ who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
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October 11, 2012

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Physical Therapy
16A-6514: ACT 38 OF 2008 AMENDMENTS

Dear Chairman Lutkewitte:

Enclosed is a copy of a final rulemaking package of the State Board of Physical Therapy pertaining to Act 38 of 2008 Amendments.

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 that reads "Susan L. Whitney".

Susan L. Whitney, PT, Chairperson
State Board of Physical Therapy

SLW/CKM:rs

Enclosure

cc: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
David O. Chick, 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-6514
 SUBJECT: AMENDMENTS
 AGENCY: DEPARTMENT OF STATE
 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
 STATE BOARD OF PHYSICAL THERAPY

TYPE OF REGULATION

- Proposed Regulation
- X 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

2012 OCT 11 AM 10:31

RECEIVED
HPRC

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
10/11/12	<i>Annie Kelly</i>	MAJORITY CHAIR <u>Julie Harhart</u>
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/11/12	<i>Mary Walmer</i>	MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)