

Regulatory Analysis Form

(Completed by Promulgating Agency)



SECTION I: PROFILE

(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) Short Title:

Act 38 of 2008 amendments

(4) PA Code Cite:

49 Pa. Code Ch. 40

(5) Agency Contacts (List Telephone Number, Address, Fax 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@state.pa.us

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@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5: **State Board of Physical Therapy**

(717)783-7134; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-7769; st-physical@state.pa.us

(All Comments will appear on IRRC'S website)

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

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

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

This proposed rulemaking would implement the act of July 4, 2008 (P.L. 293, No. 38) (Act 38). It would set standards for required continuing education for all physical therapists and physical therapist assistants, not solely those physical therapists who are certified for direct access. Continuing education could include demonstration of continued competence. The rulemaking would set standards for required professional liability insurance for all physical therapists, not solely those who are certified for direct access. The rulemaking would also implement 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 would revise the language throughout the regulations to refer to certification, rather than registration, of physical therapist assistants.

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

- | | |
|---|---------------------|
| A. The date by which the agency must receive public comments: | 30 days after publ. |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | publ. as final |
| D. The expected effective date of the final-form regulation: | final promulgation |
| E. The date by which compliance with the final-form regulation will be required: | effective date |
| F. The date by which required permits, licenses or other approvals must be obtained: | effective date |

(10) 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/phyther).

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

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

This rulemaking is authorized by section 3(a) of the Physical Therapy Practice Act (63 P.S. § 1303(a)).

(12) 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 is proposed in order to implement the changes to the act as amended by Act 38 of 2008. The rulemaking is not otherwise mandated by any federal or state law or court order or federal regulation.

(13) 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 (12).

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

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

(15) Describe who and how many 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 proposed rulemaking.

(16) 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 12,200 licensed physical therapists (including 1,800 certified for direct access) and 4,400 certified physical therapist assistants (including 2,600 authorized to provide services under indirect supervision).

Regulatory Analysis Form

SECTION III: COST AND IMPACT ANALYSIS

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

The regulated community will experience an increase in costs with all licensed physical therapists and all certified physical therapist assistants now being required to complete continuing education. In addition, all licensed physical therapists will be required to obtain and maintain professional liability insurance. These obligations are mandated by the Act 38 amendments to the act. There are no other costs or savings to the regulated community associated with compliance with the proposed rulemaking.

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

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

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. 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 a slight increase in costs necessary to audit licensees and certificate-holders for compliance with the continuing education requirement. There are no other costs or savings to state government associated with compliance with the proposed rulemaking.

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

	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						

Regulatory Analysis Form

Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	NA	NA	NA	NA	NA	NA
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	NA	NA	NA	NA	NA	NA

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

Program	FY -3 (FY 07-08)	FY -2 (FY 08-09)	FY -1 (FY 09-10)	Current FY (FY 10-11)
Pa. State Board of Physical Therapy	actual \$331,882	actual \$432,691	projected \$356,943	budget \$480,500

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

No adverse effects or costs have been associated with compliance with the proposed rulemaking. Therefore, the above-identified benefits would outweigh any costs.

(22) 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 meetings, the committee included representatives of the regulated community in forming recommendations. Additionally, the proposed rulemaking was extensively discussed at public meetings of the Board, which are routinely attended by members of the regulated community and their professional associations.

(23) 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.

No alternative regulatory schemes were considered.

Regulatory Analysis Form

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

The proposed rulemaking is not more stringent and does not overlap or conflict with any federal requirements.

(25) 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 proposed rulemaking would not put Pennsylvania at a competitive disadvantage. The

Regulatory Analysis Form

additional professional liability insurance, continuing education and physical therapist assistant supervision are all required by the Act 38 amendments; the proposed rulemaking implements these requirements in the most cost-effective means possible.

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

This proposed regulation would not affect other regulations of the Board or other state agencies.

(27) 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 will be required to complete continuing education and keep records. This proposed rulemaking would not require any other additional recordkeeping or other paperwork.

(28) 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.

Regulatory Analysis Form

SUPPLEMENTAL PAGE VALID FOR USE THROUGH 11/1/2011

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(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, tblackbum@pa.gov

Secondary Contact: Cynthia Montgomery, Regulatory Counsel, cymontgomery@pa.gov

2601 N. Third St., P.O. Box 2649, Harrisburg, PA 17105-2649

Phone: (717) 783-7200 Fax: (717) 787-0251

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

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) 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.

The proposed rulemaking is not based upon any data, studies or references.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

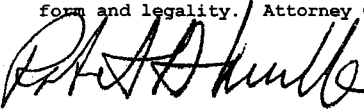
(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

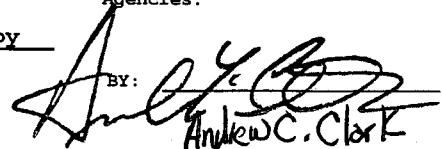
Copy below is hereby approved as to
form and legality. Attorney General

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

Copy below is approved as to
form and legality.
Executive or Independent
Agencies.



State Board of Physical Therapy



BY: _____
(DEPUTY ATTORNEY GENERAL)

(AGENCY)

BY: _____

AUG 31 2011

DOCUMENT/FISCAL NOTE NO. 16A-6514


AUG 4 2011

DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:

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

BY: 
James L. Clahane, PT

[] 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.

PROPOSED 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) proposes to amend §§ 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 and 40.191, to delete § 40.62, and to add §§ 40.19, 40.20, 40.67, 40.69, 40.165, 40.166, 40.173, and 40.193, to read as set forth in Annex A.

Effective date

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are authorized under section 3(a) of the Physical Therapy Practice Act (act) (63 P.S. § 1303(a)).

Background and Need for the Amendment

The act of July 4, 2008 (P.L. 293, No. 38) (Act 38) substantially amended the act, including qualifications for licensure as a physical therapist, continuing education for all physical therapists and physical therapist assistants, professional liability insurance for all 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.

Description of the Proposed Amendments

Qualifications for licensure as physical therapist

Current § 40.11 (relating to license by examination; requirements for examination) requires an applicant to have graduated from a physical therapy program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE). Act 38 amended section 6(a) of the act (63 P.S. § 1306(a)) to provide that an applicant for licensure who completed the professional study of physical therapy after 2002 must hold a minimum of a master's degree from a regionally accredited institution of higher education. Accordingly, the Board proposes adding a new subsection (b) to existing § 40.11 to require such a master's degree. Additionally, the Board proposes including in proposed § 40.11(b) similar requirements for those completing professional study prior to 2002 using the standards that arise from required CAPTE accreditation: an applicant completing the professional study of physical therapy between January 1967 and December 2002 must hold a minimum of a bachelor's degree in physical therapy from a regionally accredited institution of higher education or the combination of a bachelor's degree from a regionally accredited institution of higher education and a post-baccalaureate certificate in physical therapy. Additionally, the Board proposes moving the contents of existing § 40.11 into proposed § 40.11(a) and revising that subsection to allow that there might be national accrediting bodies other than CAPTE and excluding foreign-educated physical therapists from this requirement, as foreign-educated applicants are specifically

addressed in existing § 40.17 (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience). Because this section is specific to educational requirements, the Board also proposes revising the title to reflect that these are the educational requirements for licensure by examination.

Existing § 40.12 (relating to application for licensure) includes in its only subsection (a) the requirements for licensure, referring to § 40.11. However, § 40.12 does not explicitly include the requirement to apply for licensure and pay the necessary fee. The Board proposes to add subsection (b) to require application on board forms and subsection (c) to require payment of the fee specified in § 40.5 (relating to fees).

Act 38 amended section 6(c) of the act (63 P.S. § 1306(c)) to reduce from 6 months to 60 days the time after failing the licensure examination that an applicant must wait to retake the exam and reducing from 2 years to 1 year the time in which an applicant may retake the exam. Accordingly, the Board proposes to revise § 40.14(a) to reflect these time periods. Additionally, Act 38 amended section 6(c) of the act to provide that an applicant may take the licensure examination no more than three times in a consecutive 12-month period. The Board proposes to add § 40.14(d) to incorporate this limitation.

Section 6(f) of the act (63 P.S. § 1306(f)) previously authorized the Board to license foreign-trained physical therapists of appropriate age, good moral character, without addiction, who have completed educational requirements substantially equal to those of the act, and passed the licensure examination and, in the Board's discretion, have completed a supervised clinical program of up to 1 year. Act 38 amended this section to delete all the provisions except the discretionary clinical experience. In place of those deleted provisions, Act 38 added new section 6(i) of the act (63 P.S. § 1606(i)) to require that a foreign-educated applicant applies and pays the appropriate fee, the applicant holds an unrestricted license in the country where the applicant was educated, the applicant's education is substantially equivalent to the education generally required for licensure (either similarly accredited or based upon a credentials evaluation the recognized program preparing applicants to practice physical therapy is found to be equivalent with or without additional education), and the applicant passes the licensure examination. In order to implement these changes, the Board proposes to amend § 40.17 (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience) by amending paragraph (1) to require the applicant to apply and pay the fee, amending paragraph (2) to require the applicant to provide 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 (in addition to the existing requirement that the school is recognized by the authorizing agency of that jurisdiction); by deleting paragraph (3), which required the applicant to provide documentation that the applicant was authorized to practice physical therapy without limitation in that country; and by amending paragraph (5) to require satisfactory evidence via credentials evaluation that the applicant's education is substantially equivalent to the education of physical therapists in accredited programs in this country. Because the CAPTE accreditation standards have changed, the Board also proposes amending § 40.17(5) to specify that if the applicant completed the program before 1998, the applicant must have completed the currently-specified at least 120 semester hours with at least 42 credit hours in general education subjects and at least 69 credit hours in professional education subjects; if

completed in 1998 or later, the applicant must have at least 150 semester hours with at least 60 credit hours in general education and at least 90 credit hours in professional education subjects. The Board also proposes to amend paragraph (7) to provide that the clinical experience is always required, but is intended to correct any deficiency in the foreign-trained applicant's clinical education or experience. In addition, due to the deletion of paragraph (3), all subsequent paragraphs would be renumbered.

Renewal of license or certification

In considering the required qualifications for licensure, as well as the impact of required continuing education and professional liability insurance, it became apparent that the Board's regulations do not currently address license renewal or reactivation. Accordingly, the Board proposes to add § 40.19 (renewal of physical therapist license) and § 40.20 (inactive status of physical therapist license). Proposed § 40.19(a) would acknowledge the current practice that each license expires on December 31 of each even-numbered year. Proposed § 40.19(b) would set forth the standard provision that the licensee must notify the Board of any change in address and that, because the Board will send notices to the last address provided by a licensee, the licensee's obligation to renew the license is not avoided by the Board's failure to send renewal forms or the licensee's failure to receive them. Proposed § 40.19(c) would set forth the following requirements for renewal: the licensee must apply for renewal and pay the renewal fee, disclose any license to practice elsewhere, disclose any disciplinary actions or pending charges in another jurisdiction, disclose any criminal convictions or pending criminal charges, verify that the licensee has complied with the continuing education requirements, and verify that if practicing in this Commonwealth the licensee carries the required professional liability coverage. Proposed § 40.20(a) would provide that a license will become inactive upon either the licensee's request or the licensee's failure to renew. Under proposed § 40.20(b), a licensee whose license is inactive may not practice as a physical therapist in this Commonwealth until the license is reactivated. A licensee seeking to reactivate a license must apply on Board forms and provide documentation of continuing education, pay the current renewal fee and reactivation fee, and verify that the licensee did not practice in this Commonwealth while the license was inactive, as set forth in proposed § 40.20(c). Proposed § 40.20(d) would require a licensee who practiced while inactive or otherwise cannot make the verification of non-practice to pay the renewal fee for all periods in which the licensee practiced and a late fee of \$5 per month, as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225). Finally, in order to better assure continued competence to practice, proposed § 40.20(e) would provide that, in order to reactivate a license that has been inactive for more than 5 years, the licensee must either successfully complete the licensure examination or qualify for licensure by endorsement having practiced for at least the last 5 years in another jurisdiction.

Existing § 40.191 (relating to renewal of registration) addresses renewal by a physical therapist assistant. Similar to proposed § 40.19(c), the Board proposes to amend § 40.191(c) to require a physical therapist assistant applying for renewal of the certificate to complete the application and pay the required fee, disclose any license to provide services as a physical therapist assistant in another jurisdiction, disclose any disciplinary actions or pending charges, disclose any criminal convictions or pending criminal charges, and verify that the certificate holder has complied with the continuing education requirements. The Board also proposes to

amend § 40.191(g) to address reactivation similar to § 40.20(c) by requiring a physical therapist assistant seeking to reactivate a certificate to apply on Board forms and provide documentation of continuing education, pay the current renewal fee and reactivation fee, and verify that the certificate holder did not provide services as a physical therapist assistant in this Commonwealth while the certificate was inactive. Similar to proposed § 40.20(d), proposed § 40.191(h) would require a certificate holder who provided services while inactive or otherwise cannot make the verification of non-practice to pay the renewal fee for all periods in which the certificate holder provided services and a late fee of \$5 per month, as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225). Similar to proposed § 40.20(b), the Board proposes to amend § 40.191(j) to provide that a certified physical therapist assistant may not provide services while the certificate is inactive; doing so will subject the physical therapist assistant to disciplinary action.

Physician referral

In general, a physical therapist may provide physical therapy services on upon referral of a physician or of a dentist or podiatrist within the scope of those professions. Act 38 amended section 9(a) of the act (63 P.S. § 1309(a)) to expand the list of those who may refer a patient for physical therapy to include a certified registered nurse practitioner and a physician assistant. Accordingly, the Board proposes to amend existing § 40.61 (relating to certificate of authorization to practice physical therapy without a referral) to include these additional practitioners.

Under the act prior to the Act 38 amendments, only those physical therapists holding a certificate of authorization to practice without a physician referral were required to maintain professional liability insurance. As discussed below, all physical therapists are now required to maintain professional liability insurance. Accordingly, the Board proposes to delete now-superfluous § 40.62 (professional liability insurance for direct access certificateholders).

Prior section 9(c) of the act (63 P.S. § 1309(c)) required direct access certificate holders to complete at least 20 hours of continuing physical therapy education, including at least 10 hours in appropriate evaluative procedures to treat an individual without referral, for each renewal of the certificate of authorization to treat without a referral. Act 38 increased this requirement to 30 hours and prohibited education in office management or practice building. The Board proposes amending existing § 40.63(b) to include this increased requirement.

Under the act prior to the Act 38 amendments, only those physical therapists holding a certificate of authorization to practice without a physician referral were required to complete continuing education. As discussed below, all physical therapists are now required to complete continuing education. Accordingly, the Board also proposes adding § 40.63(i) to provide that hours of continuing education applied to satisfy the obligation for direct access certificate holders may also be applied to satisfy the general continuing education requirement for all physical therapists.

Professional liability insurance for physical therapists

Act 38 added section 9(b)(4)(iii.1) of the act (63 P.S. § 1309(b)(4)(iii.1)) to require a licensee practicing in this Commonwealth to maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made with coverage provided through self-insurance, personally purchased liability insurance, or professional liability insurance provided through the physical therapist's employer or similar group. Accordingly, the Board proposes to add § 40.69 (professional liability insurance) repeating those requirements in subsection (a). In accordance with new section 9(b)(4)(iii.2) of the act, proposed § 40.69(b) would allow that, although proof is generally a certificate of insurance or a copy of the declarations page of a policy, an applicant could submit a letter from an insurance carrier indicating that it will provide coverage upon issuance of a license; in accordance with section 9(b)(4)(iii.3) of the act, proposed § 40.69(b) would also provide that such a license would become inactive if proof is not provided within 30 days. Because carrying liability insurance is a condition of practice rather than of licensure, the Board proposes to include § 40.69(c) to make clear that a licensee who fails to maintain coverage while practicing is subject to disciplinary action.

Continuing education for physical therapists and physical therapist assistants

Act 38 added section 7.2 of the act (63 P.S. § 1307.2) to require all physical therapists to complete at least 30 hours of continuing physical therapy education during each two-year renewal period. The Board proposes adding §§ 40.67 and 40.68 (relating to continuing education for licensed physical therapist; and continuing competence for licensed physical therapist) to implement this new CE requirement.

Proposed § 40.67(a) would set forth the general requirement that, unless waived by the Board for good cause, a licensee complete at least 30 contact hours of continuing physical therapy education during each renewal period, credits may not be carried over, and credits may be applied only during the period in which they were earned, except in order to reactivate a license or ordered by the Board in a disciplinary action. A contact hour would be defined in § 40.1 (relating to definitions) as 60 minutes of participation; a semester credit would be equal to 15 contact hours. Failure to complete continuing education subjects the licensee to disciplinary action. Under proposed § 40.67(b), completion would be shown by a certificate of completion issued by the provider with the licensee's name, the provider's name, date of the course, name of the course, any Board-issued approval number, and the number of contact hours. The licensee must retain proof for 5 years, and the Board will audit licensees to verify compliance. As provided in proposed § 40.67(c), credit would be permitted only in courses from pre-approved or approved providers, in an appropriate subject matter (not including office management or practice building), no more than once in a renewal period for substantially the same course, but a licensee who teaches may receive attendance credit and additional credit for preparation up to the amount of credit a licensee could earn simply for attending.

Proposed § 40.67(d) would address approval of continuing education courses. Consistent with regulations the Board has separately promulgated for direct access physical therapists, proposed § 40.67(d)(1) would recognize as preapproved providers the American Physical

Therapy Association (APTA), the Federation of State Boards of Physical Therapy (FSBPT), physical therapy programs accredited by CAPTE, and any other provider who applies and is approved by the Board, subject to termination for cause. So long as the course is in appropriate subject matter and otherwise complies, no additional approval is necessary for these providers. Under proposed § 40.67(d)(2), any other provider may apply for course approval by submitting the application at least 60 days in advance on the Board form with all documentation and the required fee. (This is the current practice for all providers of CE for direct access physical therapists.) The application could cover a single course or a coordinated course of study, though material changes would have to be approved by the Board. The Board may disapprove courses that do not meet the standards and may terminate approval where false or misleading statements were made on the application or it is later discovered that grounds exist to disapprove the course. The Board will maintain a list of courses it has approved and make that list accessible to the public. To accommodate those licensees who might take continuing education through a course that, due to factors such as location or small market, the provider has not separately sought approval, the Board will permit a licensee who plans to attend the course to seek approval. Proposed § 40.67(d)(3) would set forth the provider's responsibilities: disclosing in advance to prospective attendees the objectives, content, teaching method and number of hours of continuing education; providing physical facilities adequate for the number of anticipated attendees; providing accurate instructional materials; utilizing qualified instructors who are knowledgeable in the subject matter; evaluating the program through the use of questionnaires of participants and instructors; issuing a certificate of completion to each participant; and retaining attendance records, written outlines, and a summary of evaluations for 5 years.

Because sitting in lecture courses and other traditional methods to obtain information are not the only viable method of assuring that licensees remain competent to practice, the Board is proposing to include what is often referred to as continuing competence in the array of methods for licensees to satisfy the continuing education requirement. This model is based upon the model currently being pursued by the FSBPT. Proposed § 40.67(e) would provide that, because 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, a licensed physical therapist may earn up to 15 hours of required continuing education in each period through continuing competence activities that do not otherwise qualify under the requirements if the activity is approved by the Board. In applying the continuing competence provisions, proposed § 40.68(a) (relating to continuing competence for licensed physical therapists) would guide the Board by the following principles: continuing competence should be self-directed by the physical therapist; evaluation or assessment of current competence is critical for the physical therapist, and the results of an evaluation or assessment should be used by the physical therapist to then select appropriate development activities; and physical therapists should have a wide variety of activities available to demonstrate their competence, rather than any single "right way." In order to obtain credit for continued competence activities, proposed § 40.68(b) would require the licensee to apply on Board forms and fully document the activity, including any professional certification as appropriate. In determining whether to approve an activity, proposed § 40.68(b) would guide the Board by the following standards: content within the continuing competence activity must be relevant to the physical therapy profession and the designated audience; the continuing competence activity

must foster the participant's learning and professional engagement through reflection, interaction, participation and contribution; 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 current regulations; qualified individuals with appropriate subject matter expertise and credentials must develop and, when applicable, conduct the continuing competence activity; the continuing competence activity must include behavioral objectives that encompass the content of the activity and promote a high level of learning in one or more of the cognitive, psychomotor and affective domains; the design of the activity must support the achievement of the objectives; each continuing competence activity must include objective methods to assess the participant's attainment of the specified activity outcomes; there must be mechanisms in place for ongoing review and evaluation of the quality and the effectiveness of the continuing competence activity, and the activity must be modified based on information gained from review and evaluation; the continuing competence provider must 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; and the continuing competence provider must have established processes for developing, administering and documenting the continuing competence activity.

Proposed § 40.68(c) would establish the standards for amounts of continuing education credit that could be awarded for continuing competence activities. A licensee who completes a fellowship conferred by an organization credentialed by APTA in a specialty area of physical therapy practice would earn 10 hours for each full 12-month period of fellowship to be credited in the renewal cycle of completion of the fellowship. A licensee who completes a residency program in physical therapy offered by an APTA credentialed organization would earn 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. A licensee who completes specialty certification or specialty recertification by the American Board of Physical Therapy Specialization or its successor organization would receive 15 contact hours upon receipt of certification or recertification to be credited in the renewal cycle of certification or recertification. A licensee who takes the practice review tool of the FSBPT would receive 5 contact hours, and a licensee who passes the practice review tool would receive an additional 5 contact hours. A licensee who participates in other activities evaluated and approved by the FSBPT would receive the number of continuing education units set by the FSBPT with each continuing education unit worth 10 contact hours of credit. A licensee who becomes a credentialed Clinical Instructor or a Credentialed Clinical Instructor Trainer as recognized by APTA would receive 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. A licensee who submits a request to a funding agency for a research grant as a principal or co-principal investigator would receive 10 contact hours, and for an award would receive an additional 10 contact hours. A licensee who serves as a grants reviewer would receive 1 contact hour for every 2 hours of review up to a maximum of 5 contact hours in a single renewal cycle. A licensee who authors or edits a book dealing with a subject related to the practice of physical therapy would receive an amount of credit determined by the Board not to exceed 15 contact hours to be awarded in the renewal cycle in which the book was published. A licensee who authors or edits a chapter of a book dealing with a subject related to the practice of physical therapy would

receive an amount of credit determined by the Board not to exceed 10 contact hours to be awarded in the renewal cycle in which the book was published. A licensee who authors a published peer-reviewed article relating to the practice of physical therapy would receive an amount of credit determined by the Board not to exceed 10 contact hours to be awarded in the renewal cycle in which the article was published. A licensee who authors a published non peer-reviewed article relating to the practice of physical therapy would receive an amount of credit determined by the Board not to exceed 5 contact hours to be awarded in the renewal cycle in which the article was published. A licensee who completes 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 would receive an amount of credit determined by the Board not to exceed a total of 5 contact hours in any single renewal cycle. A licensee who participates 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 would receive 5 contact hours for each full year of participation. A licensee who participates 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 would receive 5 contact hours for each full year of participation. A licensee who participates 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 would receive an amount of credit determined by the Board not to exceed 5 contact hours in any single renewal cycle. A licensee who participates in a physical therapy professional organization committee involved with physical therapy services for at least 1 year would receive an amount of credit determined by the Board not to exceed 5 contact hours in any single renewal cycle. A licensee who engages in another continuing competence activity approved by the Board would receive an amount of credit to be determined by the Board.

Also Act 38 added section 9.1(j) of the act (63 P.S. § 1309.1(j)) to require physical therapist assistants to complete at least 30 hours of continuing physical therapy education for each certificate renewal. Accordingly, the Board proposes similar continuing education provisions for physical therapist assistants at § 40.193 (relating to continuing education for certified physical therapist assistant) and § 40.194 (relating to continuing competence for certified physical therapist assistant). However, physical therapy assistants would not be able to participate in certain activities available to physical therapists, such as a fellowship, residency or specialty certification. A physical therapist assistant who receives advanced proficiency designation by the APTA would receive 15 contact hours, to be credited in the renewal cycle during which the physical therapist assistant was designated.

Qualifications of physical therapist assistants

Act 38 amended the act to provide that physical therapist assistants are certified rather than registered. The Board has proposed replacing this language throughout Chapter 40.

Section 9.1(a) of the act (63 P.S. § 1309.1(a)) previously required a physical therapist assistant to be at least 20 years of age unless otherwise determined by the Board. Existing § 40.162(a)(1) requires an applicant to be at least 20 years of age, unless otherwise determined by

the Board that the applicant has proved the capability to accept and handle the responsibilities appurtenant to registration. Act 38 reduced this statutory minimum age to 18 years. Physical therapist assistant programs are typically 2 years long and are begun after completing high school. Very few applicants will be less than 20 years old. The Board proposes to amend § 40.162(a)(1) to require that, unless at least 20 years of age, an applicant who is at least 18 years of age must have proved to the Board the capability to accept and handle the responsibilities appurtenant to certification.

As discussed below, Act 38 amended the act to permit a physical therapist assistant, in certain situations, to provide services under supervision by a physical therapist that is less than direct on-premises supervision. In order to better describe the requirements, the Board proposes adding to existing § 40.152 (relating to definitions) a definition of the term “indirect supervision” to mean supervision of a physical therapist assistant by a physical therapist that is not direct on-premises supervision as authorized by section 9.1(c) of the act. Section 9.1(c)(4) of the act (63 P.S. § 1309.1(c)(4)) provides that a physical therapist assistant must remain under the direct on-premises supervision of a physical therapist until being approved by the Board, based upon certain experience. Accordingly, the Board proposes to add § 40.165 (relating to authorization to provide services as a physical therapist assistant under indirect supervision). Proposed § 40.165(a) would provide that an applicant for a certificate of authority to provide services as a physical therapist assistant under indirect supervision must submit an application on Board forms, together with necessary supporting documentation and the required fee. The Board proposes to amend § 40.5 (relating to fees) to provide that the application fee for initial application for certification to provide services under indirect supervision would be \$30, based upon an estimate of the cost to the Board to process the application. Proposed § 40.165(b) would provide the standard for approving the application by requiring that the applicant demonstrate qualification for certification as a physical therapist assistant, demonstrate compliance with the requirements of section 9.1(c)(4) of the act, and otherwise comply with the Board’s regulations. Proposed § 40.165(b)(2)(i) would require that the applicant provide verification from prior supervising physical therapists that the applicant has at least 2,000 hours of experience providing patient-related services under the supervision of a licensed physical therapist, as required by section 9.1(c)(4)(i) of the act. Proposed § 40.165(b)(2)(ii) would alternatively permit the applicant to provide documentation verifying that the applicant 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, as required by section 9.1(c)(4)(ii) of the act. The documentation would be by a detailed resume or other adequate documentation to corroborate the verification, and part-time work in that permitted time period would be acceptable if it is equivalent to at least 3 years of full-time work.

Act 38 added section 9.1(a.1) of the act (63 P.S. § 1309.1(a.1)) to allow for temporary certification as a physical therapist assistant, limited to providing services only under the direct on-premises supervision of a licensed physical therapist, by one who meets all requirements for certification except the examination. The temporary certificate is good for up to 6 months, but expires upon failure of the examination. To implement this new classification, the Board proposes adding § 40.166 (relating to temporary certificate to provide services as a physical therapist assistant). Similar to other license classifications, proposed § 40.166(a) would require the applicant to apply on Board forms, provide necessary documentation and pay the fee.

Proposed § 40.166(b) would provide that the Board will grant the certificate to an applicant who satisfies the requirements of section 9.1(a.1) of the act, has applied for a regular certificate, has not previously sat for the certification examination, has not previously received a temporary certificate and otherwise complies with the regulations. However, under proposed § 40.166(c), the Board could rescind a temporary certificate if the applicant provided fraudulent information. Proposed § 40.166(d) would repeat the statutory requirement that the temporary certificate expires after 6 months or failure of the examination and become void upon receiving a regular certificate. Proposed § 40.166(e) would provide that the temporary certificate cannot be extended or renewed, and proposed § 40.166(f) would provide that the holder of a temporary certificate may provide services only under the direct on-premises supervision of a licensed physical therapist.

Supervision of physical therapist assistants

Previously, section 9.1(c) of the act (63 P.S. § 1309.1(c)) required that a physical therapist assistant perform patient-related physical therapy acts and services under the direct on-premises supervision of a licensed physical therapist. Act 38 amended this provision to require that the physical therapist supervise the physical therapist assistant and provided that the required level of supervision is a function of a number of factors, including the practice setting. To incorporate this amendment, the Board first proposes amending § 40.1 to revise the definition of “direct on-premises supervision” to match the new statutory definition in section 2 of the act (63 P.S. § 1302) to mean the physical presence of a licensed physical therapist in the facility, including affiliated buildings in immediate proximity, who is immediately available to exercise supervision, direction and control.

The Board also proposes adding § 40.173 (relating to supervision of physical therapist assistant by licensed physical therapist) to set forth the standards of supervision. Because the statutory standards for supervision are complex, the Board believes that it should repeat those statutory standards along with its regulatory standards in proposing regulations relating to supervision of physical therapist assistants. Accordingly, proposed § 40.173(a) would set forth the general rule from section 9.1(c) of the act that a physical therapist assistant may provide patient care services only under the supervision of a licensed physical therapist. Because direct on-premises supervision has always been the standard and is the most conservative approach, proposed § 40.173(a) would also provide that a physical therapist assistant must be under direct on-premises supervision of a licensed physical therapist unless the act or the regulations authorize a more relaxed level of supervision. Proposed § 40.173(b) would repeat the requirements from section 9.1(c)(1)(i) of the act that performance of physical therapy services delegated to the physical therapist assistant are at all times the responsibility of the physical therapist. And proposed § 40.173(b)(2) would repeat the requirements from section 9.1(c)(1)(ii) of the act that supervision is based upon the complexity and acuity of the patient’s needs, proximity and accessibility of the physical therapist to the physical therapist assistant, supervision available in the event of an emergency or critical event, and type of practice setting. Because providing physical therapy services is the responsibility of the physical therapist, the Board believes that the licensed physical therapist must have the authority to insist upon a greater level of supervision than the act or Board regulations would otherwise appear to require. Accordingly, the Board also proposes providing in § 40.173(b)(3) that the supervising physical

therapist may determine and require that the physical therapist assistant provide services under greater supervision than would otherwise be required under the act or Board regulations, including that the physical therapist assistant provide services only under direct on-premises supervision.

Additionally, the Board proposes to add to § 40.171 (relating to functions of physical therapist assistants) an additional subsection to repeat the requirement of section 9.1(c)(2) of the act that the initial patient contact must be made by a licensed physical therapist for evaluation of the patient and establishment of a plan of care. The Board similarly proposes to amend existing § 40.53(b)(2) (relating to nondelegable activities, accountability) to provide that, in addition to the initial evaluation or reevaluation, the initial patient contact may not be with a physical therapist assistant. Because existing § 40.43(b)(4) already prohibits delegation of final discharge assessment/evaluation or establishment of discharge plan to a physical therapist assistant, the Board has not proposed amending its regulations to incorporate the prohibition of section 9.1(h) of the act (63 P.S. § 1309.1(h)) that a physical therapist assistant may not authorize the discharge of a patient from physical therapy services.

Proposed § 40.173(c) would address the effect of practice setting upon the required level of supervision of a physical therapist assistant. Proposed § 40.173(c)(1) would repeat the requirement of section 9.1(c)(3)(i) of the act that 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 shall be under the direct on-premises supervision of a licensed physical therapist. Proposed § 40.173(c)(2) would repeat the requirement of section 9.1(c)(3)(ii) of the act that 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. Section 9.1(c)(3) of the act also does not address practice in the early intervention setting. Because this is so similar to the educational setting, albeit with younger patients, the Board, consistent with section 9.1(c)(3)(ii) of the act, proposes § 40.173(c)(3) to provide that when care is provided 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. Proposed § 40.173(c)(4) would repeat the requirement of section 9.1(c)(3)(iii) of the act that 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 of a physical therapist assistant for at least 50% of the hours worked by the physical therapist assistant during the calendar week unless otherwise required by Federal law, and the physical therapist shall be immediately available by telecommunication if not providing direct on-premises supervision. The definition of "physical therapy independent private practice outpatient facility" in section 2 of the act (63 P.S. § 1302) explicitly excludes those practices owned by or affiliated with a hospital or healthcare system, and section 9.1(c)(3) of the act also does not address hospital-related settings that are not for acute care. Because this is so similar to practice in private outpatient clinics and because patients in outpatient facilities likely will have less complex or acute needs, other licensed physical therapists will likely be close-by and accessible, and supervision would not otherwise be available in the event of an emergency, the Board applied the factors of section 9.1(c)(1)(ii) and proposes, consistent with section 9.1(c)(3)(iii) of the act, in proposed § 40.173(c)(5) to provide

that 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 of a physical therapist assistant for at least 50% of the hours worked by the physical therapist assistant during the calendar week unless otherwise required by Federal law, and the physical therapist shall be immediately available by telecommunication if not providing direct on-premises supervision. Proposed § 40.173(c)(6) would repeat the requirement of section 9.1(c)(3)(iv) of the act (63 P.S. § 1309.1(c)(3)(iv)) 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 seven patient visits or 17 days, whichever occurs first. Additionally, the Board proposes requiring that the “active participation” of a physical therapist in home health care include an examination of the patient, as is provided in the educational setting. Section 9.1(c)(3) of the act does not specifically address practice in a long-term care nursing facility, skilled nursing facility or extended care facility. Because a substantial portion of physical therapist assistants are employed in these practice settings, it is appropriate for the Board to set forth the applicable standard in its regulations. Section 9.1(c)(3)(iv) of the act provides that, “For any home health care facility or practice setting not specified” in the preceding subparagraphs, the supervision standard is as discussed above for home health care. Because by not specifying them the act makes this standard applicable to long-term care nursing facility, skilled nursing facility and extended care facility practice settings, the Board proposes in § 40.173(c)(7) to repeat the same standard applicable for home health care for these practice settings.

Section 9.1(i) of the act (63 P.S. § 1309.1(i)) permits a physical therapist assistant to continue to render services to existing patients in an emergency situation, such as serious illness or death of a family member, that causes the unanticipated absence of the supervising physical therapist for not more than 2 days per month. Because it appears to be the intent of the General Assembly that these emergency provisions apply to all physical therapist assistants, and not only those certified to provide services under indirect supervision, the Board is proposing § 40.173(d) to codify this interpretation.

Because section 9.1(c)(6) of the act limits a physical therapist from supervising more than three physical therapist assistants at any time, the Board proposes to amend § 40.171(c) to provide that, instead of two physical therapist assistants, a physical therapist may supervise no more than three physical therapist assistants. Because physical therapist assistant students might also be participating in providing patient services under the supervision of a physical therapist clinical instructor, the Board proposes to provide additional clarification that the ratio of physical therapist assistants includes physical therapist assistant students, as well as certified physical therapist assistants.

In order to appropriately enforce these requirements, the Board proposes adding § 40.181(a) to provide that the Board may take disciplinary action against a physical therapist assistant who provided services under indirect supervision without holding a certificate to do so (paragraph 10) or who provided services under indirect supervision beyond what is authorized for indirect supervision (paragraph 11). Section 11(a)(11) of the act authorizes the Board to take disciplinary action against a physical therapist who failed to supervise physical therapist assistants in accordance with the act or Board regulations.

Other topics

While preparing the regulatory amendments to implement Act 38, the Board also realized that it had not completely amended its existing regulations to implement the transfer of licensure of athletic trainers from the Board to the State Board of Medicine and the State Board of Osteopathic Medicine. Accordingly, this proposed rulemaking would delete from § 40.5 (relating to fees) the fees charged to athletic trainers.

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments themselves will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

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 this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, by mail at P.O. Box 2649, Harrisburg, PA 17105-2649, or by email at st-physical@state.pa.us, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-6514 (Act 38 of 2008), when submitting comments.

Susan L. Whitney, PhD, PT, NCS, ATC
Chairperson

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] Educational requirements for licensure by examination; requirement for examination].

(a) [An] 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)] CAPTE [which has provided adequate instruction in basic sciences, clinical science and physical therapy theory and procedures] 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 1967 and December 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, answering all questions fully and provide all documentation required under subsection (a).

(c) The applicant shall pay the fee set forth 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 any 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 set forth 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 the 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 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) * * *

[(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 as set forth 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).

(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 by § 40.67(b) (relating to reporting completion of continuing education) 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 any 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.

(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. 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 5 years immediately preceding application for reactivation.

* * * * *

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 certificate holder 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 pursuant to a written agreement, a certified registered nurse practitioner practicing pursuant to 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 certificate holder 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 certificate holder 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 Errors (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:

Certificateholder – A licensed physical therapist who holds a certificate of authorization to practice physical therapy without a referral.

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

(b) *Continuing education requirement for renewal of certificate of authorization.* Beginning after the first renewal of the certificate of authorization, as a condition of certificate renewal, a physical therapist shall have completed during the preceding biennium a minimum of [20] 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 before January 1, 2011, a direct access certificate holder need complete only 20 hours of continuing education, including at least 10 hour 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 the licensee; or in case of physical disability or illness, by a physician licensed in this state or another state or territory of the United States or the District of Columbia and whose license is in good standing, or both. All necessary documentation must be received by the Board no later than 90 days preceding the biennial renewal. 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 of this section will be deemed to establish satisfaction of the continuing education requirement of § 40.67.

* * * * *

CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

(a) Contact hour requirements. Beginning with the biennial renewal period beginning January 1, 2011, 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.

(2) Except as permitted in § 40.20(c)(1) (relating to reactivation of 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. No contact hour of continuing education may be used to satisfy the requirement of paragraph (1) for more than one 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 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. No waiver or extension of time will be granted unless a written request is submitted by the licensee; or in case of physical disability or illness, by a physician licensed in this state or another state or territory of the

United States or the District of Columbia and whose license is in good standing, or both.
All necessary documentation must be received by the Board no later than 90 days
preceding the biennial renewal. 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.

(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 shall consist of a certificate of completion 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
latest.

(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 pursuant to subsection (d)(2).

(2) Unless limited by this section, continuing education credit may be earned in a course or program 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.

(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 program accredited by CAPTE.

(ii) Any other provider seeking preapproved provider status must apply to the Board on forms supplied by the Board, pay the required fee, and 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 those providers identified 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 in prior to the date the continuing education course or program is scheduled to take place on forms provided by the Board and shall fully provide all information required by those 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 locations and multiple offerings of the course or program. Unless approved by the Board, any 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 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 of the following paragraph (3) where 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).

§ 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) Physical therapists should have a wide variety of activities available to demonstrate their 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 in order to earn continuing education credit for continuing competence activities. The continuing competence activity must 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 must 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.

(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 other 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 Federation of State Board of Physical Therapy (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 any 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 one 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 one 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 any 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 any 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 \$1,000,000 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 to provide services as a physical therapist assistant [and who provides patient-care services only in compliance with this subchapter].

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 – 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. 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 assistant.

(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.

(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) The applicant satisfies either of the following age requirement:

(i) Is at least 20 years of age.

(ii) Is at least 18 years of age and [, unless otherwise determined by the Board] 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 [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 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 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:

(i) Verifying that the applicant 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) Verifying that the applicant 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 (63 P.S. § 1309.1(c)(4)), 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 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 of § 40.5

(relating to fees) for application for temporary certificate to provide services as a physical therapist assistant.

(b) The Board will grant a temporary certificate as described in this section to an applicant who:

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

(2) Has applied for certification to provide services as a physical therapist assistant in accordance with §§ 40.161-40.164 or § 40.165 (relating to certificate of authorization to provide services as a physical therapist assistant under indirect supervision).

(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 supervision of a physical therapist shall be on the basis of not more than two physical therapist assistants for a physical therapist.] Patient care services performed by a physical therapist assistant under the supervision of a physical therapist must be on the basis of not more than three physical therapist assistants for a physical therapist. A student in a physical therapist assistant program is counted along with any physical therapist assistant in determining compliance with this restriction.

(d) The initial patient contact must 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 must be based upon the complexity and acuity of the patient's needs, the proximity and accessibility of the licensed physical therapist to the certified physical therapist assistant, the amount of supervision available in the event of an emergency or critical event, and 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 (63 P.S. § 1309.1(c)).

(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 by Federal law, and 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 by federal law, and 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.

(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.

(d) Emergency situations. The emergency situation provisions of section 9.1(i) of the act (63 P.S. § 1309.1(i)) apply to all current certified physical therapist assistants, whether or not authorized by the Board under section 9.1(c)(4) of the act (63 P.S. § 1309.1(c)(4)) 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 certificate of authorization to provide services as 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 (63 P.S. § 1309.1(c)) 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 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.

(c) To retain the right to engage in practice, 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 renewal shall:

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

(2) Disclose any license 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 § 40.193 (relating to continuing education for certified physical therapist assistant).

(d) When a [registration] certification is renewed beyond December 31 of an 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 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 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.] In order to reactivate an

inactive certification, the certified physical therapist assistant shall apply on forms supplied by the Board, answering all questions fully. The certified physical therapist assistant shall:

(1) Include the documentation required by § 40.193(b) (relating to reporting completion of continuing education) for the immediately preceding biennium, which may be completed during the current biennium. Unless waived by the Board under § 40.193(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 specified 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 must 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 will not be assessed a fee or penalty for preceding biennial periods in which the applicant did not [engage in practice]

provided 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 sections 9.1(d) and 9.1(f) of the act (63 P.S. §§ 1309.1(d) and 1309.1(f)), 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 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).

§ 40.193. Continuing education for certified physical therapist assistant.

(a) Contact hour requirements. Beginning with the biennial renewal period beginning January 1, 2011, 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.

(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. No contact hour of continuing education may be used to satisfy the requirement of paragraph (1) for more than one 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 (63 P.S. § 1309.1(f)) 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. No waiver or extension of time will be granted unless a written request is submitted by the certified physical therapist assistant; or in case of physical disability or illness, by a physician licensed in this state or another state or territory of the United States or the District of Columbia and whose license is in good standing, or both. All necessary documentation must be received by the Board no later than 90 days preceding the biennial renewal. 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.

(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 shall consist of a certificate of completion 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 latest.

(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).

(2) Unless limited by this section, continuing education credit may be earned in a course or program 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.

(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 of 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 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 in paragraph (a)(1).

(ii) Any other provider seeking preapproved provider status must apply to the Board on forms supplied by the Board, pay the required fee, and 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 shall fully provide all information required by those 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 locations and multiple offerings of the course or program. Unless approved by the Board, any 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 where 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 of the following paragraph (3) where 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 § 40.194 (relating to continued competence for certified physical therapist assistant).

§ 40.194. Continuing competence for certified physical therapist assistant.

(a) Requirements. A certified physical therapist assistant may satisfy in part the requirements of § 40.193 (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) Physical therapist assistants should have a wide variety of activities available to demonstrate their 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 in order to earn continuing education credit for continuing competence activities. The continuing competence activity must 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 must 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.

(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 other 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 Trainor 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 any 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 one 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 one 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 any single renewal cycle.

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



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

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

September 6, 2011

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

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

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed 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, PhD, PT, NCS, ATC, Chairperson
State Board of Physical Therapy

SLW/TAB:klh

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
Sabina I. Howell, 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: ACT 38 OF 2008 AMENDMENTS
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF PHYSICAL THERAPY

TYPE OF REGULATION

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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/6/11	<i>Anzie Kelly</i>	MAJORITY CHAIRMAN <u>Julie Harhart</u>
9/6/11	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
9/6/11	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/6/11	<i>m. nichols</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)