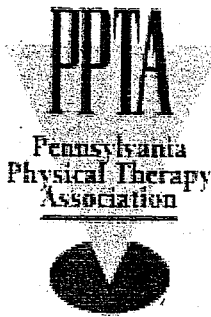


# 2910

October 14, 2011



Regulatory Unit Counsel  
Department of State  
P.O. Box 2649  
Harrisburg, PA 17105-2649

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RE: No 16A-6514 (Act 38 of 2008)

Dear Regulatory Unit Counsel:

Please allow this letter to serve as the comments of the Pennsylvania Physical Therapy Association ("PPTA"), a professional organization representing over 4,000 physical therapists and physical therapist assistants in the Commonwealth, to Regulation No. 16A-6514 (Act 38 of 2008) (the "Regulations"). Prior to providing the comments of the PPTA, I wanted to take this opportunity to thank the Senate Consumer Protection and Professional Licensure Committee, the House Professional Licensure Committee, and the State Board of Physical Therapy for allowing the PPTA to participate in the legislative and regulatory process relative to Act 38 of 2008 ("Act 38"). The PPTA's comments on the Regulations are as follows:

1. In the section entitled "Description of the Proposed Amendments" which discusses supervision of physical therapist assistants in home health care, there is a typographical error on page 12 such that the reference to "17 days" should read "14 days."

2. § 40.14(a). At the time that Act 38 was passed into law, The Federation of State Boards of Physical Therapy ("FSBPT"), the owner of the PTA National Physical Therapy Exam ("PTA NPTE") and the PT National Physical Therapy Examination ("PT NPTE"), utilized a "continuing testing" model under which applicants could freely schedule the PTA NPTE and the PT NPTE. However, due to security concerns and to protect the integrity of the examination process, FSBPT has since initiated "fixed-date" testing for all candidates for the PT NPTE and has announced a move to "fixed-date" testing for all candidates for the PTA NPTE after February 29, 2012. FSBPT plans to maintain fixed-date testing indefinitely for both the PT and PTA exams. The PPTA is concerned that applicants for the Pennsylvania examination will be disadvantaged, relative to applicants in other jurisdictions, by the 60 day period after failing a licensure exam that an applicant must wait to retake the examination. For example, the 2012 PT NPTE dates are January 30, 2012, March 29, 2012, July 2, 2012, July 31, 2012, and October 23, 2012. Given these PT NPTE dates, the PPTA is concerned that physical therapists seeking

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licensure in the Commonwealth may seek to take the PT NPTE in other jurisdictions should they fail in their initial attempt to pass the examination. The PPTA is aware that this provision was included within Act 38 itself and that the Pennsylvania State Board of Physical Therapy (the "Board") may have limited options in addressing this concern through the regulatory process; however, the PPTA nonetheless wanted to bring this to the attention of the relevant parties.

3. § 40.67. The PPTA believes it is appropriate to consider whether the requirement to renew a certificate of authorization that at least 10 of the 30 hours of continuing education be in evaluative procedure be equally applicable to all licensees through incorporation of this requirement in § 40.67. As part of standard physical therapy practice, all physical therapists perform patient evaluations and reevaluations on a regular basis. Additionally, evaluative procedure is part of the basic training of entry level physical therapists and "evaluation" is included within the definition of physical therapy set forth in the Act. The PPTA believes that such a requirement would strengthen the regulations by requiring all physical therapists to receive continuing education in this specific area.

4. § 40.68(c)(4); § 40.194(c)(2). As to the use of the practice review tool of FSBPT for continuing competence purposes, the PPTA has concerns with awarding 5 additional contact hours for passing the examination. The PPTA does not believe that the practice review tool was designed for use as a testing tool. Additionally, it is the PPTA's understanding that the requirements for passing the practice review tool have not been subject to validity testing or other similar standards commonly utilized with traditional standardized testing. Finally, the PPTA is concerned that providing for additional examinations, other than the PTA NPTE and PT NPTE, in the Regulations is potentially problematic. Therefore, the PPTA believes that the reference to 5 additional contact hours for passing the exam should be deleted as to both the physical therapist and the physical therapist assistant.

5. § 40.68(c); § 40.194. The PPTA believes that consideration should be given to allowing continuing competence credit for clinic instruction by both physical therapists and physical therapist assistants. Clinical instructors expend substantial time and effort in educating students in clinical settings. For example, clinical instructors are frequently required to review and interpret literature and educate students on areas of clinical intervention. The PPTA believes that clinical instruction is consistent with the intent of clinical competence and that credit should therefore be awarded.

6. § 40.173(d). While the PPTA respects the Board's position regarding the applicability of the emergency situation to all current certified physical therapist assistants, the PPTA believes the emergency situation provision is more appropriately applicable to those physical therapist assistants authorized to provide services under indirect supervision. The PPTA has concerns that, as written, a physical therapist assistant could find himself or herself as the sole provider of physical therapy services in a clinic within a few days of receiving certification as a physical therapist assistant. The PPTA has concerns from a consumer protection standpoint as to whether or not this is appropriate or was in fact the intent of the legislature.

Regulatory Unit Counsel  
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Thank you for allowing the PPTA to continue to participate in the regulatory process relative to Act 38 and the Regulations. If you have any questions regarding the PPTA's comments or would like to discuss any of them in further detail, please do not hesitate to contact me directly.

Sincerely,

Ivan Mulligan /s/  
Ivan Mulligan PT, DSc, SCS, ATC, CSCS  
President