

Regulatory Analysis Form

(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

2014 OCT 31

RECEIVED
IRRC

(2) Agency Number: 16A
Identification Number: 6515

IRRC Number: 3084

AM 10:53

(3) PA Code Cite:
49 Pa. Code §§ 40.67, 40.192

(4) Short Title:
Continuing education enforcement

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

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

- PROPOSED REGULATION**
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

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

This proposed rulemaking would amend the regulations of the State Board of Physical Therapy (Board) to provide that, in addition to paying a civil penalty upon citation, a licensee who did not complete the required amount of continuing education must make up the deficient credits. Failure to make up the deficiency and provide the Board with proof within 6 months of issuance of the citation would subject the licensee to formal disciplinary action.

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

The rulemaking is adopted under section 3(a) of the Physical Therapy Practice Act (act) (63 P.S. § 1303(a), which provides the Board's general authority to promulgate regulations not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of the act.

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

The rulemaking is not mandated by any Federal or State law or court order.

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

Licensees are required to complete continuing education as a condition of license renewal. However, sometimes a licensee mistakenly verifies that the licensee has completed all required continuing education. Invariably disciplinary action involves payment of a civil penalty proportionate to the amount of deficiency and making up the deficient amount of continuing education. The proposed rulemaking would permit the Board to take advantage of the streamlined procedures of the Act 48 citation system while requiring licensees to make up the deficiency in a timely manner or face possible license suspension.

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

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

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

The states surrounding Pennsylvania all require licensed physical therapists to complete required continuing education as a condition of renewal. Although the surrounding states permit the imposition of a fine of varying maximum amounts on a licensee who has committed these violations, none of the surrounding states has set a specific fine for failing to complete required continuing education.

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

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

Except as provided in proposed rulemaking 16A-6516 (schedule of civil penalties – physical therapists and physical therapist assistants) which is being proposed by the Commissioner of Professional and Occupational Affairs simultaneously, this rulemaking will have no effect on other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Board did not solicit input by way of an exposure draft because the rulemaking is related only to the procedural mechanism for enforcement of the Board's continuing education requirements (Act 48 citation process versus formal disciplinary action). However, the Board discussed this proposed rulemaking in public session during three public Board meetings in 2013 at which interested parties and stakeholders were present, including the Hospital and Health System Association of Pennsylvania, and the Rehabilitation & Community Providers Association. All of the Board's public meetings are generally attended by representatives of associations of members of the regulated community.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Currently, there are approximately 13,702 licensed physical therapists in Pennsylvania, an additional 2,283 physical therapists who are certified for direct access, 1,612 certified physical therapist assistants and an additional 3,765 physical therapist assistants who are authorized to provide services under indirect supervision.

According to the Pennsylvania Department of Labor and Industry (L&I) in 2010, the greatest percentage of physical therapists (PTs), 37.4%, work in offices of other health practitioners as do 51.2% of physical therapy assistants (PTAs). 21.8% of PTs and 19.5% of PTAs work in general medical and surgical hospitals, 8.4% of PTAs work in other hospitals, 9.1% of PTs and 2.3% of PTAs work for home health care services, 6.2% of PTs and 9.3% of PTAs work in nursing care facilities, 5.9% of PTs and no PTAs are self-employed, 2.7% of PTs and 3.4% of PTAs work in offices of physicians, 1.6 % of PTs and no PTAs work in community care facilities for the elderly, 1.2 % of PTs and only a few PTAs work in outpatient care centers, 1.1% of PTs and no PTAs work in elementary and secondary schools, and 0.9% of PTs and no PTAs work for individual and family services, while 0.5% of PTAs work in private households. Finally, only a few PTAs work in medical and diagnostic laboratories and other ambulatory health care services.

For the business entities listed above, small businesses are defined in Section 3 of Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, the SBA has established these size standards at 13 CFR § 121.201 for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where physical therapists and physical therapist assistants work, a small business in the categories of offices of physical, occupational and speech therapists and audiologists and offices of all other miscellaneous health practitioners are ones with \$7.0 million or less in average annual receipts. Small businesses in general medical and surgical hospitals and specialty hospitals (except for psychiatric and substance abuse hospitals) are those with \$35.5 million or less in average annual receipts. The NAICS threshold for home health care services is \$14.0 million or less in average annual receipts. Furthermore, small businesses in skilled nursing care facilities are those with \$25.5 million or less in average annual receipts. Small businesses in outpatient care centers are those with \$19 million or less in average annual receipts. For elementary and

secondary schools as well as individual and family services and offices of physicians (except mental health specialists), the NAICS thresholds are \$10 million or less in average annual receipts. In considering all of these small business thresholds set by NAICS for the businesses in which physical therapists and physical therapists assistants work, it is probable that most of the licensed physical therapists and physical therapists assistants work in small businesses.

This rulemaking will benefit both licensees and the businesses that employ them. As noted in the answer to question 10, the summary process under Act 48 would be a much more efficient manner of handling violations than the formal disciplinary process, as long as licensees promptly make up any deficiencies in continuing education within 6 months. In addition, by reinforcing a schedule of civil penalties adopted in the companion regulation (16A-6516) rather than relying solely on formal disciplinary charges, licensees will not be taken out of their practice unless they fail to make up the continuing education in a timely manner. This will provide stability not only for the licensees, but also for those businesses that employ the licensees.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

All physical therapists and physical therapist assistants will be required to comply with the proposed rulemaking, but it would affect only those licensees or certificate holders who fail to timely complete the required amount of mandatory continuing education. The Board currently has approximately 13,702 licensed physical therapists, an additional 2,283 physical therapists who are certified for direct access, 1,612 certified physical therapist assistants and an additional 3,765 physical therapist assistants who are authorized to provide services under indirect supervision.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

As noted in the last paragraph of the answer to question 15, this rulemaking will benefit both licensees and the businesses that employ them. As noted in the answer to question 10, the summary process under Act 48 would be a much more efficient manner of handling violations than the formal disciplinary process, while still ensuring licensees due process. In addition, by establishing a schedule of civil penalties rather than relying solely on formal disciplinary action, licensees who timely make up the deficiency will not be taken out of their practice, thereby providing stability not only for the licensees, but also those businesses that employ the licensees.

(18) 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 rulemaking. Therefore, the above-identified benefits outweigh any cost.

(19) 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.

Those few members of the regulated community who are charged with these violations would enjoy a savings as a result of compliance with this proposed rulemaking, as a result of using the summary Act 48 citation process rather than full formal disciplinary action. There are no other costs or savings to the regulated community associated with compliance with the rulemaking.

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

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

(21) Provide a specific estimate of the costs and/or savings to the **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 would enjoy a savings as a result of compliance with this rulemaking, as a result of using the summary Act 48 citation process rather than full formal disciplinary action. There are no other costs or saving to state government associated with implementation of the proposed rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

This proposed rulemaking would not require any additional recordkeeping or other paperwork. Because the proposed rulemaking would permit the use of Act 48 citations, rather than formal disciplinary action, to sanction certain violators, the Board and its licensees will have a reduction in paperwork requirements for the disciplinary process.

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

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						

Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 (10-11)	FY -2 (11-12)	FY -1 (12-13)	Current FY (13-14)
Pa. State Board of Physical Therapy	actual \$408,093	actual \$348,817	budget \$456,000	proposed \$470,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

As noted in the answers to questions 10, 15 and 17, this regulation does not have an adverse impact on small businesses.

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

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

(26) Include a 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.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As noted in the answers to questions 10, 15, 17 and 24, this regulation does not have an adverse impact on small businesses.

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

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

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

- | | |
|---|-----------------------------------|
| A. The date by which the agency must receive public comments: | <u>30 days after publ.</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>Within 2 years</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>Effective date</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

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

DOE Legal Counsel
OCT 11 2000
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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

2014 OCT 31 AM 10: 53

(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.

Angela Elliott

State Board of Physical Therapy
(AGENCY)

[Signature]

BY: (DEPUTY ATTORNEY GENERAL)

DOCUMENT/FISCAL NOTE NO. 16A-6515

OCT 06 2014
DATE OF APPROVAL

OCT 22 2014

DATE OF APPROVAL

DATE OF ADOPTION:

Susan L Whitney

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

BY: Susan L. Whitney, 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 §§ 40.67, 40.192

CONTINUING EDUCATION ENFORCEMENT

The State Board of Physical Therapy (Board) proposes to amend §§ 40.67 and 40.192 (relating to continuing education for licensed physical therapist; and continuing education for certified physical therapist assistant), 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)), which provides the Board's general authority to promulgate regulations not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of the act.

Background and Need for the Amendment

Section 7.2 of the act (63 P.S. § 1307.2) requires each licensed physical therapist to complete at least 30 hours of continuing physical therapy education during each biennial renewal period, and section 9.1(j) of the act (63 P.S. § 1309.1(j)) requires each certified physical therapist assistant to complete at least 30 hours of continuing physical therapy education during each biennial renewal period. The Board has incorporated these requirements into its regulations at §§ 40.67(a) and 40.192(a), respectively. Under §§ 40.19(c)(5) and 40.191(c)(5) (relating to renewal of physical therapist license; and renewal of certification), to renew a license or certificate, a licensed physical therapist or certified physical therapist assistant is required to verify that the licensee or certificate holder has completed the required amount of continuing education. Moreover, the Board will not renew the license of a physical therapist or the certificate of a physical therapist assistant if the individual cannot verify that the continuing education required during the immediately preceding biennium has been completed. Although these requirements are conditions for renewal, a licensee or certificate holder may mistakenly verify that the licensee has satisfied the continuing education requirement. Upon audit, however, it is discovered that the licensee or certificate holder has not completed all requirements.

Under section 11(a)(6) of the act (63 P.S. § 1311(a)(6)), the Board may suspend or revoke a license or certificate for unprofessional conduct, and under section 12(c) of the act (63 P.S. § 1312(c)) the Board may levy a civil penalty against a licensee or certificate holder who has violated the act. At § 40.52(11) (relating to unprofessional conduct; physical therapists), the Board has defined unprofessional conduct to include violating a provision of the act or the Board's regulations that establish a standard of conduct. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board proposes to utilize the more streamlined citation procedures under section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)), which provides that the Commissioner of Professional and Occupational Affairs (Commissioner), after consultation with licensing boards in the Bureau of

Professional and Occupational Affairs (Bureau), may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards and agents of the Board may issue citations for violations covered by the schedule of civil penalties. Accordingly, the Commissioner has separately proposed using the Act 48 citation system to levy the civil penalty. To obtain greater compliance with the underlying continuing education requirements, this rulemaking proposes to amend the Board's regulations to address curing the deficiency.

While the Commonwealth's prosecuting attorneys may utilize this "citation and make-up" system as one tool in addressing a licensee or certificate holder who has not completed the required continuing education, they retain the discretion to also file formal action under section 11(a)(2) of the act, which provides that the Board may suspend or revoke a license or certificate of an individual who has attempted to or obtained a license or certificate by fraud or misrepresentation, if the licensee/certificate holder, for example, knows that the required continuing education has not been completed, but verifies on the renewal application that the licensee/certificate holder has completed the required amount of continuing education.

Description of the Proposed Amendments

The proposed rulemaking would first add § 40.67(f). This provision would subject a licensee who failed to complete the minimum required amount of continuing education during the applicable biennial renewal period to disciplinary action in the form of a civil penalty under section 12(c) of the act in accordance with the schedule of civil penalties at § 43b.25 (relating to schedule of civil penalties—physical therapists and physical therapist assistants), being promulgated concurrently by the Commissioner. It would also require the licensee to make up the deficiency and provide proof to the Board within 6 months of the issuance of the Act 48 citation. If the licensee does not do so, the licensee will be subject to disciplinary action, including the suspension of the license under section 11(a)(6) of the act for committing unprofessional conduct. Because mandatory continuing education is generally considered to be a condition of renewal, proposed § 40.67(d) would exempt for this disciplinary proceeding a licensee who permitted the license to expire at the conclusion of a renewal period during which the licensee did not complete the required amount of continuing education and did not practice the profession until reactivating the license under § 40.20(c) (relating to inactive status of physical therapist license) upon a demonstration that the licensee subsequently completed all required deficient continuing education.

The proposed rulemaking would also add § 40.192(f) with essentially identical analogous provisions for certified physical therapist assistants. A certified physical therapist assistant who does not make up the deficiency would be subject to disciplinary action under § 40.181(a)(6) (relating to refusal, suspension or revocation of certification) for committing unprofessional conduct, as authorized under section 9.1(f) of the act. A physical therapist assistant who permitted the certificate to expire and did not provide services until reactivating under § 40.191(g) (relating to renewal of certification) upon a demonstration that the certificate holder subsequently completed all required deficient continuing education would be exempted from this disciplinary process.

Fiscal Impact and Paperwork Requirements

The proposed amendments would have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments 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 October 31, 2014, 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 Counsel, Department of State, by mail at P.O. Box 2649, Harrisburg, PA 17105-2649, or by email at RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-6515 (Continuing education enforcement), when submitting comments.

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

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS

* * * * *

CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

* * * * *

(f) Disciplinary action authorized. Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 12(c) of the act (63 P.S. § 1312(c)) in accordance with the schedule of civil penalties in § 43b.25 (relating to schedule of civil penalties – physical therapists and physical therapist assistants). Within 6 months after the issuance of a citation under § 43b.24 for failure to complete the required amount of continuing education, the licensee shall make up the deficiency and shall provide proof of the entire required amount of continuing education as set forth in subsection (b). In addition to any civil penalty assessed under this subsection, failure to complete the required amount of continuing education and to provide the Board with proof of completion of the required amount of continuing education within 6 months after the issuance of a citation under § 43b.25 will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 1311(a)(6)) for committing unprofessional conduct as defined at § 40.52(11) (relating to unprofessional

conduct; physical therapists). This subsection does not apply to a licensee who permitted the licensee's license to expire at the conclusion of a biennial renewal period for which the licensee did not complete the required amount of continuing education and did not practice the profession prior to reactivating that license under § 40.20(c) (relating to inactive status of physical therapist license) upon a demonstration that the licensee subsequently completed all required deficient continuing education.

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Subchapter C. PHYSICAL THERAPIST ASSISTANTS

* * * * *

CONTINUING EDUCATION

§ 40.192. Continuing education for certified physical therapist assistant.

* * * * *

(f) *Disciplinary action authorized.* Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the certified physical therapist assistant to discipline under section 12(c) of the act (63 P.S. § 1312(c)) in accordance with the schedule of civil penalties in § 43b.25 (relating to schedule of civil penalties – physical therapists and physical therapist assistants). Within 6 months after the issuance of a citation under § 43b.25 for failure to complete the required amount of continuing education, the physical therapist assistant shall make up the deficiency and shall provide proof of the entire required amount of continuing education as set forth in subsection (b). In addition to any civil penalty assessed under this subsection, failure to complete the required amount of continuing education and to provide the Board with proof of completion of the required amount of continuing education within 6 months after the

issuance of a citation under § 43b.25 will subject the certified physical therapist assistant to disciplinary action under section 9.1(f) of the act (63 P.S. § 1309.1(f) for committing unprofessional conduct as provided at § 40.181(a)(6) (relating to refusal, suspension or revocation of certification). This subsection does not apply to a certified physical therapist assistant who permitted the physical therapist assistant's certificate to expire at the conclusion of a biennial renewal period for which the physical therapist assistant did not complete the required amount of continuing education and did not provide patient services prior to reactivating that certificate under § 40.191(g) (relating to renewal of certification) upon a demonstration that the physical therapist assistant subsequently completed all required deficient continuing education.

* * * * *



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) 783-7184

October 31, 2014

The Honorable John F. Mizner, Esq., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Physical Therapy
16A-6515: CONTINUING EDUCATION ENFORCEMENT

Dear Chairman Mizner:

Enclosed is a copy of a proposed rulemaking package of the State Board of Physical Therapy pertaining to Continuing Education Enforcement.

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

Sincerely,

A handwritten signature in black ink that reads "Susan L. Whitney".

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

SLW/TAB:rs

Enclosure

cc: Travis N. Gery, Esq., Commissioner of
Professional and Occupational Affairs
Patricia Allan, Director of Policy, Department of State
Kevin Schmidt, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Juan A. Ruiz, 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-6515
SUBJECT: Continuing Education Enforcement
AGENCY: DEPARTMENT OF STATE
 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
 STATE BOARD OF PHYSICAL THERAPY


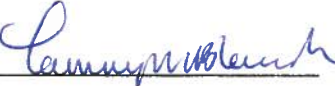
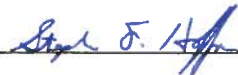

TYPE OF REGULATION

- 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 Disapproved Regulation
 - a. With Revisions
 - b. Without Revisions

2014 OCT 31 AM 10:54

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IRRC

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<i>HOUSE COMMITTEE ON PROFESSIONAL LICENSURE</i>
10/31/14		MAJORITY CHAIR <u>Julie Harhart</u>
		MINORITY CHAIR _____
		<i>SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE</i>
10/31/14		MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
		MINORITY CHAIR _____
		<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
10/3/14		ATTORNEY GENERAL (for Final Omitted only)
10/31/14		LEGISLATIVE REFERENCE BUREAU (for Proposed only)