

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p>		<p><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></p>	
<p>(All Comments submitted on this regulation will appear on IRRC's website)</p>			
<p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs</p>		<p>2014 OCT 31 AM 10:55</p>	
<p>(2) Agency Number: 16A Identification Number: 6516</p>		<p>IRRC Number: 3085</p>	
<p>(3) PA Code Cite:</p>		<p>49 Pa. Code § 43b.25</p>	
<p>(4) Short Title: Schedule of Civil Penalties – Physical Therapists and Physical Therapist Assistants</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>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</p> <p>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</p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> PROPOSED REGULATION</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This rulemaking would establish a schedule of civil penalties for the State Board of Physical Therapy (Board) to include failure to complete the required amount of mandatory continuing education and practice on a lapsed license or certificate.</p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>Section 5(a) of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (63 P.S. § 2205(a)) authorizes the Commissioner, after consultation with the appropriate licensing boards in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of these boards.</p>			

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(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.

The proposed rulemaking would establish a civil penalty schedule for certain violations of the Board's regulations. Consistent with the practice of other licensing boards within the Bureau, 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.

(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 and prohibit practice on an expired license. 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 either failing to complete required continuing education or practice on an expired license.

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-6515 (continuing education enforcement) which is being proposed 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 discussed this proposed rulemaking in public session during the Board's meetings throughout 2013. 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, while still ensuring licensees due process. In addition, by establishing a schedule of civil penalties rather than relying solely on formal disciplinary charges, licensees will not be taken out of their practice, thereby providing 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 either fail to timely complete the required amount of mandatory continuing education or practice after failing to renew. 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 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 Bureau and 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 Bureau, licensees and the Board 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 and the Bureau continually review the efficacy of the regulations, as part of the 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).

2014 OCT 31 AM 10: 55

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.

BY: *Angela M. Elliott*
(DEPUTY ATTORNEY GENERAL)

Department of State, Bureau of Professional and Occupational Affairs
(AGENCY)

BY: *[Signature]*
Executive or Independent Agencies.

OCT 07 2014

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-6516

SEP 09 2014

DATE OF APPROVAL

DATE OF ADOPTION:

BY: *[Signature]*
Travis N. Gery, Esq.

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

Check if applicable
Copy not approved.
Objections attached.

TITLE: Commissioner
(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

49 Pa. Code § 43b.25

SCHEDULE OF CIVIL PENALTIES - PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to adopt § 43b.25 (relating to schedule of civil penalties – physical therapists and physical therapist assistants) to read as set forth in Annex A.

Effective date

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

Statutory Authority

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards. Section 12(c) of the Physical Therapy Practice Act (act) (63 P.S. § 1312(c)) authorizes the Board to levy a civil penalty of up to \$1,000 on any licensee or certificate holder who violates any provision of the act, and section 5(b)(4) of Act 48 authorizes a board within the Bureau to levy a civil penalty of not more than \$10,000 per violation on any licensee or certificate holder who violates any provision of the applicable licensing act or board regulation.

Background and Need for the Amendment

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's licensing boards. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the licensing boards being accomplished through the Act 48 citation process. The Board has not previously had an Act 48 schedule of civil penalties.

As is being done for other licensing boards with continuing education requirements, the Commissioner is proposing a civil penalty schedule for violation of the continuing education requirements for licensees of the Board, because the Commissioner and Board believe the Act 48 citation process will be a much more efficient method of handling these violations, while still ensuring licensees due process. Payment of the civil penalty will not relieve a licensee of the obligation to complete the required amount of mandatory continuing education. Because the primary objective of the disciplinary process is compliance, under the separate rulemaking being proposed by the Board, a licensee who fails to complete the required amount of mandatory continuing education during the biennial renewal period will also be required to complete the required continuing education during the next 6 months; failure to complete the required continuing education by that deadline will subject the licensee to formal disciplinary action. The rulemaking is intended to apply to those licensees and certificate holders who mistakenly

verified that they had satisfied the continuing education requirement and timely renewed, but who later were determined not to have satisfied the requirements. In support of the additional disciplinary objective of deterrence, the Commonwealth's prosecuting attorneys have discretion to file formal action under section 11(a)(2) of the act against those licensees and certificate holders who attempt to or obtain licensure or certification by fraud or misrepresentation. As provided in the Board's regulations at §§ 40.67(b)(3) and 40.192(b)(3) (relating to continuing education for licensed physical therapist; and continuing education for licensed physical therapist assistant), the Board will audit physical therapists and physical therapist assistants to verify compliance with the continuing education requirements, and licensees and certificate holders are required to respond to audit notices timely. The Board believes that prompt issuance of a citation and subsequent audit notices will encourage compliance with the continuing education requirements.

Also, the Board's current regulation at § 40.20(f) (relating to inactive status of physical therapist license) prohibits a licensed physical therapist whose license has lapsed from practicing physical therapy in this Commonwealth, and the current regulation at § 40.191(j) (relating to renewal of certification) prohibits a certified physical therapist assistant whose certificate has lapsed from providing physical therapy services in this Commonwealth. As is being done for other licensing boards, the Commissioner is proposing a civil penalty schedule for practice on a lapsed or expired license or certificate, because the Commissioner and Board believe the Act 48 citation process will be a much more efficient method of handling these violations, while still ensuring licensees due process. Because failure to renew a license might be an attempt to avoid the continuing education or – for licensed physical therapists – professional liability insurance requirements, use of an Act 48 citation for lapsed license practice will be limited to those first-time offenders who are in compliance with the continuing education requirements. A licensee who practiced on a lapsed license without having complied with the continuing education or malpractice insurance requirements will instead be subject to formal disciplinary action where the Board has the authority to suspend or revoke a license.

Description of the Proposed Amendments

The Commissioner, in consultation with the Board, proposes for practicing on a lapsed or expired license or certificate (while in compliance with continuing education and applicable professional liability insurance requirements) a civil penalty of \$50 per month – up to a maximum of \$1,000 – for practicing less than one renewal cycle. Violations of practicing for more than one renewal cycle while expired would not be subject to an Act 48 citation, but rather would proceed through the formal disciplinary process.

The Commissioner, in consultation with the Board, also proposes for a first offense violation of failing to complete the required amount of mandatory continuing education during the biennial renewal period a civil penalty of \$25 for each credit hour that the licensee or certificate holder is deficient, up to a maximum of \$1,000. For a second offense violation with a deficiency of 20 hours or less the civil penalty would be \$50 per hour of deficiency, and for a third offense violation with a deficiency of 10 hours or less the civil penalty would be \$100 per hour of deficiency. Offenses beyond these amounts of deficiency and all subsequent offenses would not be subject to an Act 48 citation, but rather would proceed through the formal

disciplinary process. Additionally, the Commissioner in consultation with the Board, proposes for a first offense of failing to respond timely to an audit notice a civil penalty of \$100, increasing to \$250 for a second offense and \$500 for a third offense, with any subsequent offenses resulting in formal disciplinary action. However, a citation could only be issued if the underlying audit notice notified the licensee that failure to respond would result in issuance of a citation.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions, or the private sector. Instead, the proposed rulemaking will reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

Sunset Date

The Commissioner and the Board continuously monitor the effectiveness of regulations. As a result, 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 Commissioner 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 any 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, at P.O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-6516 (Schedule of civil penalties – physical therapists and physical therapist assistants), when submitting comments.

Travis N. Gery, Esq.
Commissioner of Professional and Occupational
Affairs

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

**SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL
PENALTIES AND PROCEDURES FOR APPEAL**

* * * * *

§ 43b.25. Schedule of civil penalties – physical therapists and physical therapist assistants.

STATE BOARD OF PHYSICAL THERAPY

Violation under

<u>49 Pa. Code</u>	<u>Title/Description</u>	<u>Penalties</u>
<u>Section 40.20(b)</u>	<u>Practicing physical therapy after failing to renew but before reactivation of license (in compliance with continuing education requirements)</u>	<u>One biennial renewal cycle or less - \$50 per month lapsed, not to exceed \$1,000</u> <u>More than one biennial renewal cycle – formal action</u>
<u>Section 40.67(a)</u>	<u>Failure of licensed physical therapist to complete the required amount of continuing education</u>	<u>1st offense - \$25 per hour of deficiency, not to exceed \$1,000</u> <u>2nd offense - deficient 20 hours or less - \$50 per hour of deficiency not to exceed \$1,000</u>

		<u>2nd offense - deficient more than 20</u>
		<u>hours – formal action</u>
		<u>3rd offense - deficient 10 hours or</u>
		<u>less - \$100 per hour of deficiency</u>
		<u>not to exceed \$1,000</u>
		<u>3rd offense - deficient more than 10</u>
		<u>hours – formal action</u>
		<u>Subsequent offenses – formal</u>
		<u>action</u>
<u>Section 40.67(b)(3)</u>	<u>Failure of licensed physical</u>	<u>1st offense - \$100</u>
	<u>therapist to respond to CE audit</u>	<u>2nd offense - \$250</u>
	<u>request within 30 days, or other</u>	<u>3rd offense - \$ 500</u>
	<u>time period set forth in audit</u>	<u>Subsequent offenses – formal</u>
	<u>request that notifies the licensee</u>	<u>action</u>
	<u>that failure to respond is subject</u>	
	<u>to discipline</u>	
<u>Section 40.191(j)</u>	<u>Providing services as a physical</u>	<u>One biennial renewal cycle or less -</u>
	<u>therapist assistant after failing</u>	<u>\$50 per month lapsed, not to exceed</u>
	<u>to renew but before reactivation</u>	<u>\$1,000</u>
	<u>of certification (in compliance</u>	<u>More than one biennial renewal</u>
	<u>with continuing education</u>	<u>cycle – formal action</u>
	<u>requirements)</u>	

<u>Section 40.192(a)</u>	<u>Failure of certified physical therapist assistant to complete the required amount of continuing education</u>	<u>1st offense - \$25 per hour of deficiency, not to exceed \$1,000</u> <u>2nd offense - deficient 20 hours or less - \$50 per hour of deficiency, not to exceed \$1,000</u> <u>2nd offense - deficient more than 20 hours – formal action</u> <u>3rd offense - deficient 10 hours or less - \$100 per hour of deficiency, not to exceed \$1,000</u> <u>3rd offense - deficient more than 10 hours – formal action</u> <u>Subsequent offenses – formal action</u>
<u>Section 40.192(b)(3)</u>	<u>Failure of certified physical therapist assistant to respond to CE audit request within 30 days, or other time period set forth in audit request that notifies the physical therapist assistant that failure to respond is subject to discipline</u>	<u>1st offense - \$100</u> <u>2nd offense - \$250</u> <u>3rd offense - \$ 500</u> <u>Subsequent offenses – formal action</u>



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7200**

October 31, 2014

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

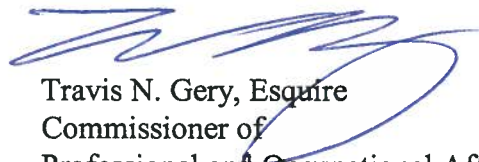
Re: Proposed Regulation
Bureau of Professional and Occupational Affairs
16A-6516

Dear Chairman Mizner:

Enclosed is a copy of a proposed rulemaking package of the Commissioner of Professional and Occupational Affairs pertaining to the schedule of civil penalties for physical therapists and physical therapist assistants.

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

Sincerely,



Travis N. Gery, Esquire
Commissioner of
Professional and Occupational Affairs

SLW/TAB:rs

Enclosure

cc: 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-6516

SUBJECT: Schedule of Civil Penalties-Physical Therapists &
Physical Therapist Assistants

AGENCY: DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

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

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FILING OF REGULATION

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