



TELECONFERENCE/VIRTUAL MEETING

PHYSICAL THERAPY EXAMINING BOARD **Room 121B, 1400 East Washington Avenue, Madison** **Contact: Tom Ryan (608) 266-2112** **January 5, 2018**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

12:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-2)**
- B) Approval of Minutes of November 29, 2017 (3-4)**
- C) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Introduction, Announcements, and Recognitions
 - 3) Appointments, Reappointments, and Confirmations
 - 4) Board Member Status
 - a) Shari Berry – 07/01/2020 (*Reappointed, not yet confirmed*)
 - b) John Greany – 07/01/2019
 - c) Sarah Olson – 07/01/2021 (*Reappointed, not yet confirmed*)
 - d) Bailey Steffes – 07/01/2021 (*Appointed, not yet confirmed*)
 - e) Kathryn Zalewski – 7/01/2021 (*Appointed, not yet confirmed*)
- D) Conflicts of Interest**
- E) 12:00 P.M. Public Hearing on Clearinghouse Rule 17-091 – PT 2 and 9 Relating to Examinations and Continuing Education (5-13)**
 - 1) Review and Respond to Public Comments and Clearinghouse Report
- F) Legislative and Administrative Rule Matters – Discussion and Consideration**
 - 1) Update on Other Legislation and Pending or Possible Rulemaking Projects
- G) Public Comments**

ADJOURNMENT

The Next Scheduled Meeting is February 7, 2018.

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**PHYSICAL THERAPY EXAMINING BOARD
MEETING MINUTES
November 29, 2017**

PRESENT: Shari Berry, PT; John Greany, PT; Sarah Olson, PTA; Bailey Steffes

EXCUSED: Kathryn Zalewski, PT

STAFF: Tom Ryan, Executive Director; Laura Smith, Bureau Assistant; and other Department Staff

CALL TO ORDER

Shari Berry, Chair, called the meeting to order at 8:32 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda

- *Aaron Knautz will present under Education and Examination Matters in Closed Session.*

MOTION: Sarah Olson moved, seconded by Bailey Steffes, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: John Greany moved, seconded by Sarah Olson, to approve the minutes of September 6, 2017 as published. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Update on Other Legislation and Pending or Possible Rulemaking Projects

MOTION: John Greany moved, seconded by Bailey Steffes, to authorize the Chair to accept and reject all Clearinghouse comments and respond to public comments for PT 2 and 9 relating to examinations and continuing education, and to approve the Legislative Report and Draft for submission to the Governor's Office and Legislature. Motion carried unanimously.

MOTION: Bailey Steffes moved, seconded by Sarah Olson, to authorize DSPS staff to conduct the public hearing concerning PT 2 and 9 relating to examinations and continuing education. Motion carried unanimously.

CLOSED SESSION

MOTION: Sarah Olson moved, seconded by Bailey Steffes, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§

19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Shari Berry - yes; John Greany – yes; Sarah Olson – yes; Bailey Steffes – yes. Motion carried unanimously.

The Board convened into Closed Session at 9:44 a.m.

RECONVENE TO OPEN SESSION

MOTION: Bailey Steffes moved, seconded by John Greany, to reconvene in Open Session at 10:02 a.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Sarah Olson moved, seconded by Bailey Steffes, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

16 PHT 037 (A.J.R.)

MOTION: Sarah Olson moved, seconded by John Greany, to close the DLSC case number 16 PHT 037, against A.J.R., for No Violation. Motion carried unanimously.

16 PHT 046 (D.L.S.)

MOTION: John Greany moved, seconded by Bailey Steffes, to close the DLSC case number 16 PHT 046, against D.L.S., for Insufficient Evidence. Motion carried unanimously.

DELEGATION AND RATIFICATION OF EXAMINATIONS, LICENSES AND CERTIFICATES

MOTION: John Greany moved, seconded by Sarah Olson, to delegate ratification of examination results to DSPS staff and to delegate and ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Sarah Olson moved, seconded by Bailey Steffes, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:11 a.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 12/18/17 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: 1/5/18	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 12:00 P.M. Public Hearing: Clearinghouse Rule 17-091 – PT 2 and 9 Relating to Examinations and Continuing Education 1. Review and Respond to Public Comments and Clearinghouse Report	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed: <div style="height: 40px;"></div>			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <i>Dale Kleven</i> </div> <div style="width: 45%;"> <i>December 18, 2017</i> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;">Signature of person making this request</div> <div style="width: 40%;">Date</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 40%;">Date</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 70%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 30%;">Date</div> </div>			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
PHYSICAL THERAPY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PHYSICAL THERAPY
PHYSICAL THERAPY EXAMINING	:	EXAMINING BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Physical Therapy Examining Board to repeal PT 2.01 (Note), 9.02 (5), and 9.03 (Note); to renumber and amend PT 9.02 (1m); and to amend PT 2.01 (2), (4), (5), and (8) (a), (b), and (c), 2.03 and (Note), 9.03 (1) and (2), 9.04 (2) and (3) (intro.), Table 9.04 lines (a), (h), (i), (j), (l), and (t), and 9.05, relating to examinations and continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.03 (4m), Stats.

Statutory authority:

Sections 15.08 (5) (b), 448.535 (2), and 448.55 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 448.535 (2), Stats., provides the Board may waive the licensing requirement to pass an examination, and requires the Board to promulgate rules for granting this waiver.

Section 448.55 (3), Stats., provides “[t]he examining board shall promulgate rules that require an applicant for renewal of a license to demonstrate continued competence as a physical therapist or physical therapist assistant.”

Related statute or rule:

None.

Plain language analysis:

The Physical Therapy Examining Board conducted a comprehensive evaluation and update of chs. PT 2 and 9 to ensure the rules are consistent with current professional, academic, and licensing and renewal practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- Section PT 2.01 (2) is revised to clarify how the Board determines if an applicant is required to complete an oral examination.
- Section PT 2.03 is revised to clarify the Board's requirements for reexamination only apply to the statutes and rules examination it administers.
- Section PT 9.04 (2) is revised to specify that, in order to be approved, a continuing education activity must integrally relate to the practice of physical therapy.
- Section PT 9.05 is revised to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder.
- Other provisions throughout chs. PT 2 and 9 have been revised to remove outdated notes, provide clarity, and conform to current drafting standards.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

68 Ill. Admin. Code 1340.40 and 1340.61 contain the examination requirements for licensure as a physical therapist in Illinois and continuing education requirements for renewing an Illinois license in physical therapy.

Iowa: 645 IAC 200.4 and 203 contain the examination requirements for licensure as a physical therapist in Iowa and continuing education requirements for renewing an Iowa license in physical therapy.

Michigan: Mich Admin Code, R 338.7132 to R 338.7135 and R 338.7161 to R 338.7163, contain the examination requirements for licensure as a physical therapist in Michigan and continuing education requirements for renewing a Michigan license in physical therapy.

Minnesota: Minnesota Rules, Parts 5601.2100 to 5601.2700, contain the continuing education requirements for renewing a Minnesota license in physical therapy.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of chs. PT 2 and 9 to ensure the rules are consistent with current professional, academic, and licensing and renewal practices and applicable Wisconsin statutes.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8935, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted at or before the date and time the public hearing on these proposed rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Department of Safety and Professional Services' website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. PT 2.01 (2), (4), (5), and (8) (a), (b), and (c) are amended to read:

PT 2.01 (2) An application filed under s. PT 1.03 for an applicant meeting any condition under sub. (1) (a) to (j) shall be reviewed by an application review panel consisting of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is ~~eligible for a regular license without completing~~ required to complete an oral examination.

(4) Where both written and oral examinations are required, they shall be scored separately and the applicant shall achieve a passing grade on ~~both~~ all examinations to qualify for a license.

(5) The board shall notify each applicant ~~for~~ required to complete an oral examination of the time and place scheduled for that applicant's examination. Failure of an applicant to appear for examination as scheduled ~~will~~ may void the applicant's ~~examination~~ application and require the applicant to reapply for ~~examination licensure~~ examination unless prior scheduling arrangements have been made with the board by the applicant.

(8) (a) The test of English as a foreign language as administered by the ~~educational testing service~~ Educational Testing Service.

(b) The test of written English as administered by the ~~educational testing service~~ Educational Testing Service.

(c) The test of spoken English as administered by the ~~educational testing service~~ Educational Testing Service.

SECTION 2. PT 2.01 (Note) is repealed.

SECTION 3. PT 2.03 and (Note) are amended to read:

PT 2.03 Failure and reexamination. An applicant who fails to achieve a passing ~~grades~~ grade on the ~~examinations required under this chapter~~ examination on statutes and rules may ~~apply for reexamination on forms provided by the board~~ retake the examination upon submission of a. ~~For each reexamination, the application shall be accompanied by the reexamination fee. If an applicant for reexamination fails to achieve passing grades on the second reexamination, the applicant may not be admitted to further examination until the applicant reapplies for licensure and presents to the board evidence of further professional training or education as the board may consider appropriate in the applicant's specific case.~~

(Note) A list of all current examination and reexamination fees may be obtained at no charge from the Office of Examinations, Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708 or by email at dsps@wisconsin.gov.

SECTION 4. PT 9.02 (1m) is renumbered PT 9.02 (4m) and amended to read:

PT 9.02 (4m) ~~"Continuing competence"~~ "Professional competency" means ~~the ongoing self assessment, development and implementation of a personal learning plan that evaluates professional knowledge, skill, behavior, and abilities related to the practice of physical therapy.~~

SECTION 5. PT 9.02 (5) is repealed.

SECTION 6. PT 9.03 (1) and (2) are amended to read:

PT 9.03 (1) Unless granted a postponement or waiver under sub. (8), every physical therapist shall complete at least 30 hours of board-approved continuing education in each biennial registration period, as specified in s. 448.55 (3), Stats. Four of the required 30 hours shall be in the area of ethics, ~~and~~ jurisprudence, or both.

(2) Unless granted a postponement or waiver under sub. (8), every physical therapist assistant shall complete at least 20 hours of board-approved continuing education in each biennial registration period, as specified in s. 448.55 (3), Stats. Four of the required 20 hours shall be in the area of ethics, ~~and~~ jurisprudence, or both.

SECTION 7. PT 9.03 (Note) is repealed.

SECTION 8. PT 9.04 (2) and (3) (intro.) are amended to read:

PT 9.04 (2) ~~The continuing education activities~~ An activity described in table Table PT 9.04 may qualify for continuing education hours. To be approved for credit, the activity shall integrally relate to the practice of the profession.

(3) (intro.) ~~The None of the following activities shall not be awarded~~ qualify for continuing activity credit education hours:

SECTION 9. PT Table 9.04 lines (a), (h), (i), (j), (l), and (t) are amended to read:

**TABLE PT 9.04
(Partial Table)**

(a) Successful completion of relevant academic coursework.	No limit. {10 Ten contact hours = is equal to one semester credit; and 6.6 contact hours = is equal to one quarter credit}.
(h) Presenting seminars, continuing education courses, workshops, lectures, or symposia which have been approved by recognized health- related organizations including the American Physical Therapy Association and the Wisconsin Physical Therapy Association. Note: No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted but are limited to the extent of the revision.	No limit <u>for the initial presentation. No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted, but are limited to the extent of the revision.</u>
(i) Teaching in an academic course in physical therapy as a guest lecturer. Note: No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted but are limited to the extent of the revision.	No limit. <u>10 Ten contact hours = is equal to one semester credit; and 6.6 contact hours = is equal to one quarter credit.</u> No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted, but are limited to the extent of the revision.
(j) Teaching in an academic course in physical therapy. Note: No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted but are not limited to the extent of the revision.	No limit. <u>10 Ten contact hours = is equal to one semester credit; and 6.6 contact hours = is equal to one quarter credit.</u> No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted, but are limited to the extent of the revision.
(l) Attending employer <u>Employer-provided continuing education, including video and non-interactive on-line courses.</u>	Up to 15 contact hours for physical therapists. Up to 10 contact hours for physical therapist assistants.

(t) Serving as a delegate to the American Physical Therapy Association House of Delegates, on <u>or a member of a</u> professional committee, board, or task force.	Up to 5 contact hours.
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SECTION 10. PT 9.05 is amended to read:

PT 9.05 ~~Proof Certification and audit of attendance at continuing education~~ programs requirements. Applicants for renewal shall ~~be required to certify their attendance at completion of required continuing education programs hours.~~ The board ~~may conduct a random audit of all licensees on a biennial basis for compliance with continuing education requirements, and~~ shall audit any licensee who is under investigation by the board for alleged misconduct.

SECTION 11. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

PT 2 and 9

3. Subject

Examinations and continuing education

4. Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

The Physical Therapy Examining Board conducted a comprehensive evaluation and update of chs. PT 2 and 9 to ensure the rules are consistent with current professional, academic, and licensing and renewal practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- Section PT 2.01(2) is revised to clarify how the Board determines if an applicant is required to complete an oral examination.
 - Section PT 2.03 is revised to clarify the Board's requirements for reexamination only apply to the statutes and rules examination it administers.
 - Section PT 9.04 (2) is revised to specify that, in order to be approved, a continuing education activity must integrally relate to the practice of physical therapy.
 - Section PT 9.05 is revised to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder.
 - Other provisions throughout chs. PT 2 and 9 have been revised to remove outdated notes, provide clarity, and conform to current drafting standards.
-

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

The Department estimates one-time administrative costs of \$200. These costs may be absorbed in the agency budget.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is providing clarity and updated references. If the rule is not implemented, it will continue to contain outdated notes and references.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clarity and updated references.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

68 Ill. Admin. Code 1340.40 and 1340.61 contain the examination requirements for licensure as a physical therapist in Illinois and continuing education requirements for renewing an Illinois license in physical therapy.

Iowa: 645 IAC 200.4 and 203 contain the examination requirements for licensure as a physical therapist in Iowa and continuing education requirements for renewing an Iowa license in physical therapy.

Michigan: Mich Admin Code, R 338.7132 to R 338.7135 and R 338.7161 to R 338.7163, contain the examination requirements for licensure as a physical therapist in Michigan and continuing education requirements for renewing a Michigan license in physical therapy.

Minnesota: Minnesota Rules, Parts 5601.2100 to 5601.2700, contain the continuing education requirements for renewing a Minnesota license in physical therapy.

17. Contact Name	18. Contact Phone Number
Dale Kleven	(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.