



**VIRTUAL/TELECONFERENCE
PHYSICAL THERAPY EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
December 2, 2020**

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 description of the actions of the Board.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes of August 12, 2020 (5-7)**
- C. Conflicts of Interest
- D. Introductions, Announcements and Recognition
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
- F. 8:30 A.M. Public Hearing: CR 20-054 (PT 1), Relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses (8-17)**
 - 1) Review and Respond to Public Comments and Clearinghouse Report
- G. 8:30 A.M. Public Hearing: CR 20-055 (PT 1, 5, and 7), Relating to Supervision of Students (18-30)**
 - 1) Review and Respond to Public Comments and Clearinghouse Report
- H. 8:30 A.M. Public Hearing: CR 20-056 (PT 1 to 10), Relating to Implementation of the Physical Therapy Licensure Compact (31-43)**
 - 1) Review and Respond to Public Comments and Clearinghouse Report
- I. Administrative Rule Matters – Discussion and Consideration**
 - 1) Administrative Rules Reporting Requirement Under 227.29, Stats. (44-47)
 - a. Review of Statutory Requirement and 2019 Report
 - b. Proposals for 2021 Report
 - 2) Pending or Possible Rulemaking Projects
 - a. Emergency Rule Relating to Implementation of the Physical Therapy Licensure Compact

- J. Legislative and Policy Matters – Discussion and Consideration**
 - 1) Compact Status
- K. Education and Examination Matters – Discussion and Consideration**
 - 1) Guidelines for Requiring Oral Examinations
- L. Foreign Education – Discussion and Consideration**
- M. Public Agenda Request: Temporary Changes to PT 5 Regarding Teletherapy (48)**
- N. COVID-19 – Discussion and Consideration**
- O. Federation of State Boards of Physical Therapy (FSBPT) Matters – Discussion and Consideration**
- P. Discussion and Consideration of Items Added After Preparation of Agenda**
 - 1) Introductions, Announcements and Recognition
 - 2) Administrative Matters
 - 3) Election of Officers
 - 4) Appointment of Liaisons and Alternates
 - 5) Delegation of Authorities
 - 6) Education and Examination Matters
 - 7) Credentialing Matters
 - 8) Practice Matters
 - 9) Legislative and Policy Matters
 - 10) Administrative Rule Matters
 - 11) Liaison Reports
 - 12) Board Liaison Training and Appointment of Mentors
 - 13) Informational Items
 - 14) Division of Legal Services and Compliance (DLSC) Matters
 - 15) Presentations of Petitions for Summary Suspension
 - 16) Petitions for Designation of Hearing Examiner
 - 17) Presentation of Stipulations, Final Decisions and Orders
 - 18) Presentation of Proposed Final Decisions and Orders
 - 19) Presentation of Interim Orders
 - 20) Petitions for Re-Hearing
 - 21) Petitions for Assessments
 - 22) Petitions to Vacate Orders
 - 23) Requests for Disciplinary Proceeding Presentations
 - 24) Motions
 - 25) Petitions
 - 26) Appearances from Requests Received or Renewed
 - 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports
- Q. Public Comments**

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

R. Deliberation on Division of Legal Services and Compliance Matters

1) Case Closings

a. 18 PHT 008 – D.D. **(49-53)**

2) Proposed Stipulations, Final Decisions, and Orders

a. 19 PHT 008 – Mark L. Wilson, P.T. **(54-59)**

S. Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. DLSC Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspensions
7. Petitions for Designation of Hearing Examiner
8. Proposed Stipulations, Final Decisions and Orders
9. Proposed Interim Orders
10. Administrative Warnings
11. Review of Administrative Warnings
12. Proposed Final Decisions and Orders
13. Matters Relating to Costs/Orders Fixing Costs
14. Case Closings
15. Board Liaison Training
16. Petitions for Assessments and Evaluations
17. Petitions to Vacate Orders
18. Remedial Education Cases
19. Motions
20. Petitions for Re-Hearing
21. Appearances from Requests Received or Renewed

T. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

U. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate

V. Open Session Items Noticed Above Not Completed in the Initial Open Session

W. Delegation and Ratification of Examinations, Licenses and Certificates

ADJOURNMENT

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

VIRTUAL/TELECONFERENCE

10:00 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Examination of **zero (0)** (at time of agenda publication) Candidates for Licensure – **John Greany** and **Shari Berry**

NEXT MEETING: FEBRUARY 3, 2021

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 4822 Madison Yards Way, 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. Requests for interpreter services for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**TELECONFERENCE/VIRTUAL
PHYSICAL THERAPY EXAMINING BOARD
MEETING MINUTES
AUGUST 12, 2020**

PRESENT: Shari Berry, PT; John Greany, PT; Todd McEldowney (*excused at 9:56 a.m.*); Kathryn Zalewski, PT

EXCUSED: Barbara Carter, PTA

STAFF: Valerie Payne, Executive Director; Yolanda McGowan, Legal Counsel; Daniel Betekhtin, Bureau Assistant; Megan Glaeser, Bureau Assistant; and other Department Staff

CALL TO ORDER

Shari Berry, Chairperson, called the meeting to order at 8:30 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Todd McEldowney moved, seconded by John Greany, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MAY 6, 2020

MOTION: Kathryn Zalewski moved, seconded by John Greany, to approve the Minutes of May 6, 2020 as published. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Preliminary Rule Draft: Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses

MOTION: John Greany moved, seconded by Todd McEldowney, to approve the preliminary rule draft relating to reciprocal credentials for service members, former service members, and their spouses, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Preliminary Rule Draft: Supervision of Students

MOTION: John Greany moved, seconded by Kathryn Zalewski, to approve the preliminary rule draft relating to supervision of students for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Preliminary Rule Draft and Emergency Rule Draft: Implementation of the Physical Therapy Licensure Compact

MOTION: Kathryn Zalewski moved, seconded by Todd McEldowney, to approve the emergency rule relating to implementation of the Physical Therapy Licensure Compact for submission to the Governor, and authorize the Chairperson to

approve adoption of the emergency rule and its publication in the official newspaper. Motion carried unanimously.

MOTION: John Greany moved, seconded by Todd McEldowney, to approve the preliminary draft of the permanent rule relating to implementation of the Physical Therapy Licensure Compact for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Todd McEldowney was excused at 9:56 a.m.

CLOSED SESSION

MOTION: Shari Berry moved, seconded by John Greany, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), Stats. and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Shari Berry, Chairperson, 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; and Kathryn Zalewski-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:02 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

18 PHT 003 – G.H.

MOTION: John Greany moved, seconded by Kathryn Zalewski, to close DLSC Case Number 18 PHT 003 against G.H., for No Violation. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Kathryn Zalewski moved, seconded by John Greany, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 10:27 a.m.

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

MOTION: John Greany moved, seconded by Kathryn Zalewski, 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.)

DELEGATION AND RATIFICATION OF EXAMINATIONS, LICENSES AND CERTIFICATES

MOTION: Kathryn Zalewski moved, seconded by John Greany, 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: John Greany moved, seconded by Kathryn Zalewski, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:36 a.m.

DRAFT

**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: 11/19/20 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: 12/2/20	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 8:30 A.M. Public Hearing: CR 20-054 – PT 1, Relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses 1. Review and Respond to Public Comments and Clearinghouse Report 8:30 A.M. Public Hearing: CR 20-055 – PT 1, 5, and 7, Relating to Supervision of Students 1. Review and Respond to Public Comments and Clearinghouse Report 8:30 A.M. Public Hearing: CR 20-056 – PT 1 to 10, Relating to Implementation of the Physical Therapy Licensure Compact 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:			
11) Authorization <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;"> <i>Dale Kleven</i> <hr/> Signature of person making this request </div> <div style="text-align: center;"> <i>November 19, 2020</i> <hr/> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;"> Supervisor (if required) </div> <div style="text-align: center;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </div> <div style="text-align: center;"> 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 1.03 (3) (d) (Note 2); to **amend** PT 1.03 (1) (intro.), (a) (Note), and (d) (intro.), 3., and 4., (2) (Note), and (3) (a) to (d); and to **create** PT 1.03 (4), relating to reciprocal credentials for service members, former service members, and their spouses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.09, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 440.09 (5), Stats.

Explanation of agency authority:

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

Section 440.09 (5), Stats., provides “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Related statute or rule:

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

Plain language analysis:

The proposed rule creates a provision to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members. The proposed rule also updates and repeals obsolete notes, and makes other changes to provide clarity and meet current standards for drafting administrative code.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). “Service member” includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

Michigan:

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

Minnesota:

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of s. 440.09, Stats., as created by 2019 Wisconsin Act 143, and obtaining input and feedback from the Physical Therapy Examining Board.

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 rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Dan Hereth, may be contacted by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; 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, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:30 a.m. on December 2, 2020, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. PT 1.03 (1) (intro.), (a) (Note), and (d) (intro.), 3., and 4., (2) (Note), and (3) (a) to (d) are amended to read:

PT 1.03 (1) (intro.) ~~Every~~ Except as provided under subs. (3) and (4), every person applying for any class of license to provide physical therapy services shall submit to the board all of the following:

(a) (Note) Application forms are available ~~upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services’ website at www.dps.wi.gov.

(d) (intro.) In the case of a graduate of a foreign school of physical therapy or physical therapist assistant educational program, verification of educational equivalency to a board-approved school of physical therapy or physical therapist assistant educational program, ~~the~~ The verification required under this paragraph shall be obtained from a board-approved foreign graduate evaluation service, based upon submission to the evaluation service of all of the following material:

3. A record of the number of class hours spent in each subject, for both preprofessional and professional courses. For subjects which include laboratory and discussion sections, the hours must be described in hours per lecture, hours per laboratory, and hours per discussion per week. Information must include whether subjects have been taken at basic entry or advanced levels.

4. A syllabus ~~which~~ that describes the material covered in each subject completed.

(2) (Note) The board periodically reviews and approves foreign graduate evaluation services. A list of board-approved evaluation services is available upon request ~~from the board at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935 by calling (608) 266-2112.~~

(3) (a) ~~That he or she~~ The applicant is a graduate of a physical therapy school or a physical therapist assistant educational program.

(b) ~~That he or she~~ The applicant is licensed as a physical therapist or physical therapist assistant by another licensing jurisdiction in the United States.

(c) ~~That the~~ The jurisdiction in which he or she the applicant is licensed required the ~~licensee~~ applicant to be a graduate of a school or educational program approved by the licensing jurisdiction or of a school or educational program that the licensing jurisdiction evaluated for educational equivalency.

(d) ~~That he or she~~ The applicant has actively practiced as a physical therapist or physical therapist assistant, under the license issued by the other licensing jurisdiction in the United States, for at least 3 years immediately preceding the date of ~~his or her~~ application.

SECTION 2. PT 1.03 (3) (d) (Note 2) is repealed.

SECTION 3. PT 1.03 (4) is created to read:

PT 1.03 (4) A reciprocal license to provide physical therapy services shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this subsection.

SECTION 4. 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 <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date August 31, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PT 1	
4. Subject Reciprocal credentials for service members, former service members, and their spouses	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165 (1) (g)
7. 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"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. 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)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The proposed rule creates a provision to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members. The proposed rule also updates and repeals obsolete notes, and makes other changes to provide clarity and meet current standards for drafting administrative code.	
12. 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.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. 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 \$240.00. These costs may be absorbed in the agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is reflecting s. 440.09, Stats., as created by 2019 Wisconsin Act 143. If the rule is not implemented, it will not reflect current requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is reflecting the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government
None

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

Illinois:

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). "Service member" includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

Michigan:

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

Minnesota:

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **20-054**

AN ORDER to repeal PT 1.03 (3) (d) (Note 2); to amend PT 1.03 (1) (intro.), (a) (Note), and (d) (intro.), 3., and 4., (2) (Note), and (3) (a) to (d); and to create PT 1.03 (4), relating to reciprocal credentials for service members, former service members, and their spouses.

Submitted by **PHYSICAL THERAPY EXAMINING BOARD**

10-20-2020 RECEIVED BY LEGISLATIVE COUNCIL.

11-10-2020 REPORT SENT TO AGENCY.

MSK:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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 amend PT 1.02 (14), ch. PT 5 (title), 5.001, 5.01 (1), and 5.02 (1) and (2) (intro.), (e), (g), and (h) and to create PT 1.02 (11c) to (11w) and 5.03, relating to supervision of students.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.52 (1m) (c), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 448.52 (1m) (c), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.52 (1m) (c), Stats., provides “[t]he examining board may promulgate rules related to the supervision of students who perform physical therapy procedures and related tasks.”

Related statute or rule:

None.

Plain language analysis:

The Physical Therapy Examining Board conducted an evaluation of its rules relating to the supervision of physical therapist students and physical therapist assistant students to ensure the rules are consistent with current professional practices and applicable Wisconsin statutes. As a result, updates have been made to do all of the following:

- Create definitions of “physical therapist,” “physical therapist assistant,” “physical therapist assistant student,” “physical therapist student,” and “student.”

- Clarify that the holder of a temporary license as a physical therapist may not provide supervision of a physical therapist assistant, physical therapist student, physical therapist assistant student, or any unlicensed personnel.
- Establish requirements for the supervision of physical therapist students and physical therapist assistant students.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Statutes provide an exception to practice without a license for the practice of physical therapy by a physical therapy student or a physical therapist assistant student under the on-site supervision of a licensed physical therapist. The physical therapist must be readily available for direct supervision and instruction to ensure the safety and welfare of the patient (225 ILCS 90/2).

Iowa:

The Iowa Statutes provide that students of physical therapy who practice physical therapy under the supervision of a licensed physical therapist in connection with the regular course of instruction at a school of physical therapy are not required to be licensed to practice physical therapy (Code of Iowa § 148A.3).

Michigan:

Rules of the Michigan Board of Physical Therapy provide for delegation of acts, tasks, or functions to and supervision of unlicensed persons, including students enrolled in accredited physical therapist or physical therapist assistant educational programs approved by the board. A physical therapist is required to provide "direct supervision" of students, which means the physical therapist is physically present and immediately available for direction and supervision when patients or clients are present at the time the act, task, or function is performed, and the physical therapist has direct contact with the patient or client during each visit (Mich Admin Code, R 338.7139).

Minnesota:

The Minnesota Statutes provide for the supervision of and delegation of tasks to student physical therapists and student physical therapist assistants (2019 Minnesota Statutes, Section 148.706).

A licensed physical therapist is required to provide on-site supervision of a student physical therapist. "On-site supervision" means the physical therapist is easily available for instruction to the student physical therapist. The physical therapist must have direct contact with the patient during at least every second treatment session by the student physical therapist. Telecommunications, except within the facility, does not meet the requirement of on-site supervision (2019 Minnesota Statutes, Section 148.65, Subd. 5.).

A student physical therapist assistant is required to be under the direct supervision of a physical therapist, or the direct supervision of a physical therapist and physical therapist assistant. "Direct supervision" means the physical therapist is physically present and immediately available to provide instruction to the student physical therapist assistant. (2019 Minnesota Statutes, Section 148.65, Subd. 6.).

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the Physical Therapy Examining Board's rules relating to the supervision of physical therapist students and physical therapist assistant students to ensure the rules are consistent with current professional 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 rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator, Dan Hereth, may be contacted by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; 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, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:30 a.m. on December 2, 2020, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. PT 1.02 (11c) to (11w) are created to read:

PT 1.02 (11c) "Physical therapist" has the meaning given in s. 448.50 (3), Stats.

(11g) "Physical therapist assistant" has the meaning given in s. 448.50 (3m), Stats.

(11n) “Physical therapist assistant student” means a person enrolled in a physical therapist assistant educational program approved by the board who performs physical therapy procedures and related tasks consistent with the person’s education, training, and experience under the direct, immediate, on–premises supervision of a physical therapist or physical therapist assistant.

(11r) “Physical therapist student” means a person enrolled in a physical therapist educational program approved by the board who performs physical therapy procedures and related tasks consistent with the person’s education, training, and experience under the direct, immediate, on–premises supervision of a physical therapist.

(11w) “Student” means a physical therapist student or physical therapist assistant student.

SECTION 2. PT 1.02 (14) is amended to read:

PT 1.02 (14) “Unlicensed personnel” means a person other than a physical therapist, ~~or physical therapist assistant, or student~~ who performs patient related tasks consistent with the ~~unlicensed personnel’s~~ person’s education, training and ~~expertise experience~~ experience under the direct, ~~immediate,~~ on–premises supervision of ~~the~~ a physical therapist.

SECTION 3. Chapter PT 5 (title) is amended to read:

CHAPTER PT 5

PHYSICAL THERAPIST ASSISTANTS, ~~AND~~ UNLICENSED PERSONNEL, AND STUDENTS

SECTION 4. PT 5.001 is amended to read:

PT 5.001 Authority and purpose. The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), 448.52 (1m) (c), and 448.56 (6), Stats., and govern the practice and supervision of physical therapist assistants and the supervision of unlicensed personnel, physical therapist students, and physical therapist assistant students.

SECTION 5. PT 5.01 (1) is amended to read:

PT 5.01 (1) A physical therapist assistant, ~~as defined in s. 448.50 (3m), Stats.,~~ shall assist a physical therapist in the practice of physical therapy under the general supervision of a physical therapist licensed under s. 448.53 (1), Stats., or granted a physical therapist compact privilege by the board.

SECTION 6. PT 5.02 (1) and (2) (intro.), (e), (g), and (h) are amended to read:

PT 5.02 (1) A physical therapist licensed under s. 448.53 (1), Stats., or granted a physical therapist compact privilege by the board shall provide direct, immediate, on–premises supervision of unlicensed personnel at all times. ~~A~~ The physical therapist may not direct unlicensed personnel to perform tasks ~~which that~~ require the ~~decision making~~ decision-making or ~~problem-solving~~ problem-solving skills of a physical therapist, including ~~but not limited to~~ patient examination, evaluation, diagnosis, or determination of therapeutic intervention.

(2) **(intro.)** In providing direct, immediate, on-premises supervision, the physical therapist shall do all of the following:

(e) Determine the competence of personnel to perform assigned tasks based upon ~~his or her~~ education, training, and experience.

(g) Perform initial patient examination, evaluation, diagnosis, and prognosis, interpret referrals, develop and revise as appropriate a written patient treatment plan and program for each patient, and create and maintain a patient record for every patient the physical therapist treats.

(h) Provide interpretation of objective tests, measurements, and other data in developing and revising a physical therapy diagnosis, assessment, and treatment plan.

SECTION 7. PT 5.03 is created to read:

PT 5.03 Supervision of physical therapist students and physical therapist assistant students.

(1) Except as provided under sub. (2), a physical therapist licensed under s. 448.53 (1), Stats., or granted a physical therapist compact privilege by the board shall provide direct, immediate, on-premises supervision of a physical therapist student or physical therapist assistant student at all times.

(2) (a) A physical therapist providing supervision of a physical therapist assistant student under sub. (1) may delegate that supervision to a physical therapist assistant. The delegating physical therapist shall, as required under s. PT 5.01, provide general supervision of the physical therapist assistant supervising the physical therapist assistant student.

(b) A physical therapist assistant supervising a physical therapist assistant student under par. (a) shall provide face-to-face contact with the student, as necessary, and be physically present in the same building when a service is performed by the student.

(3) A physical therapist supervising a physical therapist student or physical therapist assistant student under sub. (1) shall retain full professional responsibility for all of the following:

(a) All physical therapy procedures and related tasks performed by the physical therapist student or physical therapist assistant student.

(b) Delegation of treatment plans and programs to the physical therapist student or physical therapist assistant student in a manner consistent with the student's education, training, and experience.

(4) A physical therapist delegating supervision of a physical therapist assistant student to a physical therapist assistant under sub. (2) shall retain full professional responsibility for all of the following:

(a) All physical therapy procedures and related tasks performed by the physical therapist assistant and by the physical therapist assistant student.

(b) Delegation of treatment plans and programs to the physical therapist assistant student in a manner consistent with the student's education, training, and experience.

SECTION 8. 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 <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date August 31, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PT 1 and 5	
4. Subject Supervision of students	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165 (1) (g)
7. 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"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. 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)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The Physical Therapy Examining Board conducted an evaluation of its rules relating to the supervision of physical therapist students and physical therapist assistant students to ensure the rules are consistent with current professional practices and applicable Wisconsin statutes. As a result, updates have been made to do all of the following: <ul style="list-style-type: none">• Create definitions of "physical therapist," "physical therapist assistant," "physical therapist assistant student," "physical therapist student," and "student."• Clarify that the holder of a temporary license as a physical therapist may not provide supervision of a physical therapist assistant, physical therapist student, physical therapist assistant student, or any unlicensed personnel.• Establish requirements for the supervision of physical therapist students and physical therapist assistant students.	
12. 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.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. 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 \$558.98. These costs may be absorbed in the agency budget.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

The benefit to implementing the rule is establishing clear requirements for supervision, specifically the supervision of physical therapist students and physical therapist assistant students. If the rule is not implemented, the requirements for supervision will remain unclear.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clear requirements for supervision, specifically the supervision of physical therapist students and physical therapist assistant students.

17. Compare With Approaches Being Used by Federal Government

None

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

Illinois:

The Illinois Statutes provide an exception to practice without a license for the practice of physical therapy by a physical therapy student or a physical therapist assistant student under the on-site supervision of a licensed physical therapist. The physical therapist must be readily available for direct supervision and instruction to ensure the safety and welfare of the patient (225 ILCS 90/2).

Iowa:

The Iowa Statutes provide that students of physical therapy who practice physical therapy under the supervision of a licensed physical therapist in connection with the regular course of instruction at a school of physical therapy are not required to be licensed to practice physical therapy (Code of Iowa § 148A.3).

Michigan:

Rules of the Michigan Board of Physical Therapy provide for delegation of acts, tasks, or functions to and supervision of unlicensed persons, including students enrolled in accredited physical therapist or physical therapist assistant educational programs approved by the board. A physical therapist is required to provide "direct supervision" of students, which means the physical therapist is physically present and immediately available for direction and supervision when patients or clients are present at the time the act, task, or function is performed, and the physical therapist has direct contact with the patient or client during each visit (Mich Admin Code, R 338.7139).

Minnesota:

The Minnesota Statutes provide for the supervision of and delegation of tasks to student physical therapists and student physical therapist assistants (2019 Minnesota Statutes, Section 148.706).

A licensed physical therapist is required to provide on-site supervision of a student physical therapist. "On-site supervision" means the physical therapist is easily available for instruction to the student physical therapist. The physical therapist must have direct contact with the patient during at least every second treatment session by the student physical therapist. Telecommunications, except within the facility, does not meet the requirement of on-site supervision (2019 Minnesota Statutes, Section 148.65, Subd. 5.).

A student physical therapist assistant is required to be under the direct supervision of a physical therapist, or the direct supervision of a physical therapist and physical therapist assistant. "Direct supervision" means the physical therapist is physically present and immediately available to provide instruction to the student physical therapist assistant. (2019 Minnesota Statutes, Section 148.65, Subd. 6.).

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **20-055**

AN ORDER to amend PT 1.02 (14), ch. PT 5 (title), 5.001, 5.01 (1), and 5.02 (1) and (2) (intro.), (e), (g), and (h); and to create PT 1.02 (11c) to (11w) and 5.03, relating to supervision of students.

Submitted by **PHYSICAL THERAPY EXAMINING BOARD**

10-20-2020 RECEIVED BY LEGISLATIVE COUNCIL.

11-16-2020 REPORT SENT TO AGENCY.

SG:AB

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 20-055

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

Consider adding a comment to the rule summary explaining that this rule implements the statutory authority recently granted to the Physical Therapy Examining Board in 2019 Wisconsin Act 138. The Act created s. 448.52 (1m) (c), Stats., which authorizes the Board to promulgate rules related to the supervision of physical therapy students and physical therapy assistant students.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. PT 5.01 (1), delete the added text “physical therapist licensed under s. 448.53 (1), Stats., or granted a physical therapist compact privilege by the board”. The statutes and rules already define the term physical therapist to include individuals who received a license from the Board as well as individuals who hold compact privileges. Likewise, delete the similar language added to ss. PT 5.02 (1) and 5.03 (1).

b. In s. PT 5.03, consider replacing the phrase “physical therapist student or physical therapist assistant student” with the term “student” where appropriate. This change would be consistent with the definition of the term student in s. PT 1.02 (11w).

c. Consider clarifying the supervisor’s responsibilities under s. PT 5.03 (3) and (4).

With regard to par. (a) of each subsection, if the purpose of stating that a supervisor retains full professional responsibility for a student’s actions is to authorize the Board to discipline a supervisor for a student’s misconduct, consider adding a provision to s. PT 7.025

specifying that it is unprofessional conduct for a supervisor to fail to satisfy the standards in s. PT 5.03.

With regard to par. (b) of each subsection, it is not necessary to state that a supervisor retains responsibility for his or her own actions when choosing what tasks to delegate. Consider replacing par. (b) with a direct requirement that a supervisor must delegate treatment plans and programs to a student in a manner consistent with the student's education, training, and experience.

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 1.03 (3) (d) (Note 2) and 3.01 (4) (Note); to **renumber and amend** PT 3.01 (1); to **amend** ch. PT 1 (title), 1.01 (1) and (2), 1.02 (12), 3.01 (2) (Note) and (3) to (6), 4.01 (1) (a) (Note) and (d), 5.01 (1), 5.02 (1) and (2) (intro.), and 7.025 (4); and to **create** PT 1.02 (11e), (11m), and (11s), 1.04, 2.001 (2) (Note), and 3.01 (1) (a) to (d), (1g), and (1r), relating to implementation of the Physical Therapy Licensure Compact.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Subchapter IX of ch. 448, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 448.986 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.986 (3), Stats., provides that “[t]he examining board may, by rule, require an individual seeking a compact privilege to meet a jurisprudence requirement in accordance with s. 448.985 (4) (a) 7., if such a requirement is imposed by the examining board under s. 448.54 in order to obtain a license under s. 448.53 or 448.535.”

Related statute or rule:

Subchapter IX of ch. 448, Stats., as created by 2019 Wisconsin Act 100, ratifies the Physical Therapy Licensure Compact.

Plain language analysis:

The Physical Therapy Examining Board conducted a comprehensive evaluation of its rules to implement the Physical Therapy Licensure Compact and ensure clarity and consistency with applicable Wisconsin statutes. As a result, updates have been made to do all of the following:

- Create definitions of “physical therapist,” “physical therapist assistant,” and “physical therapy.”
- Identify the requirements for obtaining a compact privilege, including a requirement that an individual seeking a compact privilege successfully complete a jurisprudence examination.
- Specify that a person holding a physical therapist compact privilege granted by the Board may provide supervision of a physical therapist assistant and unlicensed personnel.
- Clarify the requirements for a temporary license to practice as a physical therapist or physical therapist assistant under supervision.
- Specify that a person holding a physical therapist compact privilege granted by the Board may provide supervision of a temporary licensee.
- Clarify that a locum tenens license may not be issued based on a request for services from a person who holds a temporary license as a physical therapist, and specify that a locum tenens license may be issued based on a request for services from a person who holds a physical therapist compact privilege granted by the Board.
- Specify that engaging in fraud, deceit, or misrepresentation in applying for, procuring, or maintaining a compact privilege constitutes unprofessional conduct.

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

None.

Comparison with rules in adjacent states:**Illinois:**

Illinois is not a member state of the Physical Therapy Licensure Compact.

Iowa:

Iowa is a member state of the Physical Therapy Licensure Compact, and is actively issuing compact privileges. Rules of the Iowa Board of Physical and Occupational Therapy address issuing a compact privilege and the practice of physical therapy under a compact privilege (645 IAC 200.3).

Michigan:

Michigan is not a member state of the Physical Therapy Licensure Compact.

Minnesota:

Minnesota is not a member state of the Physical Therapy Licensure Compact.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing subch. IX of ch. 448, Stats., which ratifies the Physical Therapy Licensure Compact, and conducting a comprehensive evaluation and update of the Physical Therapy Examining Board’s rules in order to implement the Compact.

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 rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Dan Hereth, may be contacted by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; 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, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:30 a.m. on December 2, 2020, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter PT 1 (title) is amended to read:

CHAPTER PT 1

LICENSE AND COMPACT PRIVILEGE TO PRACTICE PHYSICAL THERAPY

SECTION 2. PT 1.01 (1) and (2) are amended to read:

PT 1.01 (1) The rules in this chapter are adopted by the physical therapy examining board pursuant to the authority delegated by ss. 15.08 (5) (b), ~~and 15.405 (7r)~~, 448.53 (1), and 448.986 (3), Stats.

(2) The rules in this chapter are adopted to govern the issuance of licenses to physical therapists and physical therapist assistants under ss. 448.53, 448.535, 448.54, and 448.55, Stats., and the granting of compact privileges under subch. IX of ch. 448, Stats.

SECTION 3. PT 1.02 (11e), (11m), and (11s) are created to read:

PT 1.02 (11e) “Physical therapist” has the meaning given in s. 448.50 (3), Stats.

(11m) “Physical therapist assistant” has the meaning given in s. 448.50 (3m), Stats.

(11s) “Physical therapy” has the meaning given in s. 448.50 (4), Stats.

SECTION 4. PT 1.02 (12) is amended to read:

PT 1.02 (12) “Supervisor” means a person holding a regular license as a physical therapist issued under s. 448.53 (1), Stats., or a physical therapist compact privilege granted by the board who is competent to coordinate, direct, and inspect the accomplishments of another physical therapist, physical therapist assistant, student, or temporary licensee.

SECTION 5. PT 1.03 (3) (d) (Note 2) is repealed.

SECTION 6. PT 1.04 is created to read:

PT 1.04 Compact privilege requirements. Every person applying for a compact privilege shall submit to the board all of the following:

- (1) A completed application form provided by the board.
- (2) The fee specified in s. 448.985 (3) (d), Stats.
- (3) Evidence of successful completion of the examination specified in s. PT 2.01 (6) (c).

SECTION 7. PT 2.001 (2) (Note) is created to read:

PT 2.001 (2) (Note) The examination requirement for a physical therapist or physical therapist assistant compact privilege is under s. PT 1.04.

SECTION 8. PT 3.01 (1) is renumbered PT 3.01 (1) (intro.) and amended to read:

PT 3.01 (1) (intro.) An applicant for a regular license to practice as a physical therapist ~~or physical therapist assistant, who has not previously been licensed to practice as a physical therapist or as a physical therapist assistant in this state, whichever is applicable, and who is a graduate of an approved school of physical therapy or a physical therapist assistant educational program and has applied to take the national physical therapist examination or the national physical therapist assistant examination and is awaiting results and is not required to take an oral examination,~~ may apply to the board for a temporary license to practice as a physical therapist ~~or physical therapist assistant~~

~~under supervision. The applications and required documents for a regular license and for a temporary license may be reviewed by 2 members of the board, and upon the finding by the 2 members that the applicant is qualified for admission to examination for a regular license to practice as a physical therapist or physical therapist assistant, the board, acting through the 2 members, may issue a temporary license to practice as a physical therapist or physical therapist assistant under supervision to the applicant. An applicant for a temporary license under this subdivision shall meet all of the following requirements:~~

SECTION 9. PT 3.01 (1) (a) to (d), (1g), and (1r) are created to read:

PT 3.01 (1) (a) The applicant has not previously been licensed or granted a compact privilege to practice in this state as a physical therapist.

(b) The applicant is a graduate of an approved school of physical therapy.

(c) The applicant has applied to take the national physical therapist examination and is awaiting results.

(d) The applicant is not required to take an oral examination under s. PT 2.01 (1).

(1g) An applicant for a regular license to practice as a physical therapist assistant may apply to the board for a temporary license to practice as a physical therapist assistant under supervision. An applicant for a temporary license under this subdivision shall meet all of the following requirements:

(a) The applicant has not previously been licensed or granted a compact privilege to practice in this state as a physical therapist assistant.

(b) The applicant is a graduate of an approved physical therapist assistant educational program.

(c) The applicant has applied to take the national physical therapist assistant examination and is awaiting results.

(d) The applicant is not required to take an oral examination under s. PT 2.01 (1).

(1r) The applications and required documents for a regular license and for a temporary license may be reviewed by 2 members of the board, and upon the finding by the 2 members that the applicant is qualified for admission to examination for a regular license, the board, acting through the 2 members, may issue a temporary license to practice under supervision.

SECTION 10. PT 3.01 (2) (Note), (3), and (4) are amended to read:

PT 3.01 (2) (Note) Application forms are available ~~upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708~~ from the department of safety and professional services' website at www.dsps.wi.gov.

(3) The holder of a temporary license to practice physical therapy under supervision may practice physical therapy, ~~as defined in s. 448.50 (4), Stats., providing that provided~~ the entire practice is under the supervision of a person validly holding a regular license as a physical therapist issued under s. 448.53 (1), Stats., or a physical therapist compact privilege granted by the board. The supervision shall be direct, immediate, and on premises.

(4) The holder of a temporary license to practice as a physical therapist assistant under supervision may provide physical therapy ~~services as defined by s. 448.50 (4), Stats., providing that~~ in a manner consistent with the physical therapist assistant's education, training and experience, provided the entire practice is under the supervision of a person validly holding a regular license as a physical therapist issued under s. 448.53 (1), Stats., or a physical therapist compact privilege granted by the board. The supervision shall be direct, immediate, and on premises.

SECTION 11. PT 3.01 (4) (Note) is repealed.

SECTION 12. PT 3.01 (5) and (6) are amended to read:

PT 3.01 (5) The duration of a temporary license to practice physical therapy under supervision granted under this section shall be for a period of 3 months or until the holder receives failing examination results, whichever is ~~shorter~~ sooner, unless the board grants an extension of the temporary license. A temporary license may be renewed for a period of 3 months, and may be renewed a second time for a period of 3 months for reasons of hardship. Practice under a temporary license may not exceed 9 months total duration.

(6) A physical therapist providing supervision under sub. (3) or (4) may supervise no more than a combined total of 4 physical therapists and physical therapist assistants who hold temporary licenses. This number shall be reduced by the number of physical therapist assistants and ~~physical therapy aides~~ unlicensed personnel being supervised by the physical therapist under ~~s. ss.~~ PT 5.01 and 5.02 (2) (k).

SECTION 13. PT 4.01 (1) (a) (Note) and (d) are amended to read:

PT 4.01 (1) (a) (Note) Application forms are available ~~upon request to the board at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services' website at www.dsps.wi.gov.

(d) A letter requesting the applicant's services from a physical therapist licensed ~~in this state requesting the applicant's services~~ under s. 448.53 (1), Stats., an individual who holds a physical therapist compact privilege granted by the board, or a letter from an organization or facility located in this state requesting the applicant's services.

SECTION 14. PT 5.01 (1) is amended to read:

PT 5.01 (1) A physical therapist assistant, ~~as defined in s. 448.50 (3m), Stats.,~~ shall assist a physical therapist in the practice of physical therapy under the general supervision of a physical therapist licensed under s. 448.53 (1), Stats., or granted a physical therapist compact privilege by the board.

SECTION 15. PT 5.02 (1) and (2) (intro.) are amended to read:

PT 5.02 (1) A physical therapist licensed under s. 448.53 (1), Stats., or granted a physical therapist compact privilege by the board shall provide direct, immediate, on-premises supervision of unlicensed personnel at all times. ~~A~~ The physical therapist may not direct unlicensed personnel to perform tasks which require the ~~decision-making~~ decision-making or ~~problem-solving~~ problem-solving skills of a physical therapist, including ~~but not limited to~~ patient examination, evaluation, diagnosis, or determination of therapeutic intervention.

(2) (intro.) In providing direct, immediate, on-premises supervision, the physical therapist shall do all of the following:

SECTION 16. PT 7.025 (4) is amended to read:

PT 7.025 (4) Engaging in fraud, deceit, or misrepresentation in applying for or procuring a license or compact privilege to practice physical therapy, in connection with applying for or procuring periodic renewal of a license, or in otherwise maintaining licensure or a compact privilege.

SECTION 17. 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 <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date August 31, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PT 1 to 10	
4. Subject Implementation of the Physical Therapy Licensure Compact	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165 (1) (g)
7. 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"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. 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)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The Physical Therapy Examining Board conducted a comprehensive evaluation of its rules to implement the Physical Therapy Licensure Compact and ensure clarity and consistency with applicable Wisconsin statutes. As a result, updates have been made to do all of the following: <ul style="list-style-type: none">• Create definitions of “physical therapist,” “physical therapist assistant,” and “physical therapy.”• Identify the requirements for obtaining a compact privilege, including a requirement that an individual seeking a compact privilege successfully complete a jurisprudence examination.• Specify that a person holding a physical therapist compact privilege granted by the Board may provide supervision of a physical therapist assistant and unlicensed personnel.• Clarify the requirements for a temporary license to practice as a physical therapist or physical therapist assistant under supervision.• Specify that a person holding a physical therapist compact privilege granted by the Board may provide supervision of a temporary licensee.• Clarify that a locum tenens license may not be issued based on a request for services from a person who holds a temporary license as a physical therapist, and specify that a locum tenens license may be issued based on a request for services from a person who holds a physical therapist compact privilege granted by the Board.• Specify that engaging in fraud, deceit, or misrepresentation in applying for, procuring, or maintaining a compact privilege constitutes unprofessional conduct.	
12. 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.	
13. 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

14. 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 \$1,020.14. These costs may be absorbed in the agency budget.

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

The benefit to implementing the rule is to reflect the provisions of subch. IX of ch. 448, Stats., as created by 2019 Wisconsin Act 100, which ratifies the Physical Therapy Licensure Compact. If the rule is not implemented, chs. PT 1 to 10 will not reflect the Compact and applicable Wisconsin statutes.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clarity and consistency with the provisions of the Physical Therapy Licensure Compact and applicable Wisconsin statutes.

17. Compare With Approaches Being Used by Federal Government

None

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

Illinois:

Illinois is not a member state of the Physical Therapy Licensure Compact.

Iowa:

Iowa is a member state of the Physical Therapy Licensure Compact, and is actively issuing compact privileges. Rules of the Iowa Board of Physical and Occupational Therapy address issuing a compact privilege and the practice of physical therapy under a compact privilege (645 IAC 200.3).

Michigan:

Michigan is not a member state of the Physical Therapy Licensure Compact.

Minnesota:

Minnesota is not a member state of the Physical Therapy Licensure Compact.

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **20-056**

AN ORDER to repeal PT 1.03 (3) (d) (Note 2) and 3.01 (4) (Note); to renumber and amend PT 3.01 (1); to amend ch. PT 1 (title), 1.01 (1) and (2), 1.02 (12), 3.01 (2) (Note) and (3) to (6), 4.01 (1) (a) (Note) and (d), 5.01 (1), 5.02 (1) and (2) (intro.), and 7.025 (4); and to create PT 1.02 (11e), (11m), and (11s), 1.04, 2.001 (2) (Note), and 3.01 (1) (a) to (d), (1g), and (1r), relating to implementation of the Physical Therapy Licensure Compact.

Submitted by **PHYSICAL THERAPY EXAMINING BOARD**

10-20-2020 RECEIVED BY LEGISLATIVE COUNCIL.

11-10-2020 REPORT SENT TO AGENCY.

MSK:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 20-056

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

In s. PT 1.04 (1), a note should be inserted to explain how the new application form may be obtained. [s. 1.09 (3), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

The reference in s. PT 1.04 (2) to the fee specified in s. 448.985 (3) (d), Stats., is unclear. That statutory reference specifies only that a member state may charge a fee. How do applicants know the amount of the fee? The rule should be revised to specifically identify the amount of the fee.

**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: 11/19/20 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: 12/2/20	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Administrative Rules Reporting Requirement Under 227.29, Stats. a. Review of Statutory Requirement and 2019 Report b. Proposals for 2021 Report 2. Pending or Possible Rulemaking Projects a. Emergency Rule Relating to Implementation of the Physical Therapy Licensure Compact	
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:			
11) <i>Dale Kleven</i> Signature of person making this request		Authorization <i>November 19, 2020</i> Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
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.			

on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee's decision.

SECTION 7. 227.29 of the statutes is created to read:

227.29 Agency review of rules and enactments. (1)

By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, "enactment" means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.

2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.

3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.

4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.

2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.

3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

SECTION 8. Initial applicability.

(1) The treatment of section 227.29 (4) of the statutes first applies to enactments published by the legislative

Shari L. Berry
Chairperson

John F. Greany
Vice Chairperson

Sarah L. Olson
Secretary

PHYSICAL THERAPY EXAMINING BOARD



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March 18, 2019

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 210 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are unauthorized.

II. Rules for which the authority to promulgate has been restricted:

Rule	Description of the legislation that restricted the authority	Action taken to address or reason for not taking an action
PT 9.05	The Board's authority to request verification of compliance with continuing education requirements has been restricted by 2017 Act 59, s. 1929.	Final rule (CR 17-091) effective July 1, 2018.

III. Rules that are obsolete or that have been rendered unnecessary:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are obsolete or have been rendered unnecessary.

IV. Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.

V. Rules that are economically burdensome:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are economically burdensome.

Thank you.

Sincerely,

Shari L. Berry
Chairperson
Physical Therapy Examining Board



PUBLIC AGENDA REQUEST FORM

Instructions:

1. Fill out this form, and then save to your device.
2. Return to the "[Suggest an Agenda Item](#)" page and select the appropriate Board or Council from the Board/Council list.
3. Attach your completed "Public Agenda Request" form and send.

First Name: Lori

Last Name: Dominiczak

Association/Organization: Dominiczak Therapy Associates, LLC

Address Line 1: 4002 W. Cherrywood Lane

Address Line 2: _____

City: Brown Deer

State: WI

Zip: 53209

Phone Number: (414) 378-3375

Email: loridominiczak@yahoo.com

Subject: PT 5

Issue to Address: Will the temporary changes to PT 5 be revisited since teletherapy is still continuing and face-to-face contact for supervision of the PTA is not always possible?