

**STATE OF WISCONSIN
PHYSICAL THERAPY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
PHYSICAL THERAPY EXAMINIG : CR 21-079
BOARD :
:**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The purpose of the proposed rule was for the Board to review the supervision requirements under s. PT 5.01, which included evaluating alternative methods for a supervising physical therapist to maintain contact with physical therapist assistants and patients. As a result of this evaluation, the Board revised the requirements for supervision of physical therapist assistants under s. PT 5.01 as permitted under s. 448.56 (6), stats.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Physical Therapy Examining Board held a public hearing on December 1, 2021. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

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 21-079)

PROPOSED ORDER

An order of the Physical Therapy Examining Board to amend PT 5.01 (2) (b) and (h), relating to supervision of physical therapist assistants

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 448.56, Stats.

Statutory authority: Sections 15.08 (5) (b), and 448.56 (6), 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 448.56 (6), Stats., provides “[a] physical therapist assistant may assist a physical therapist in the practice of physical therapy if the physical therapist provides direct or general supervision of the physical therapist assistant. The examining board shall promulgate rules defining “direct or general supervision” for purposes of this subsection. Nothing in this subsection interferes with delegation authority under any other provision of this chapter.”

Related statute or rule: Chapters PT 1 and 5

Plain language analysis:

The Board will aconduct a review of the supervision requirements under s. PT 5.01, which will include evaluating alternative methods for a supervising physical therapist to maintain contact with physical therapist assistants and patients. The Board may, as a result of this evaluation, revise the requirements for supervision of physical therapist assistants under s. PT 5.01.

Summary of, and comparison with, existing or proposed federal regulation: None

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:

Illinois:

The Illinois Statutes require physical therapist assistants to perform patient care activities under the general supervision of a licensed physical therapist. The physical therapist must maintain continual contact with the physical therapist assistant including periodic personal supervision and instruction to ensure the safety and welfare of the patient [225 ILCS 90/2].

Iowa:

The Iowa Administrative Code provides that a supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant must provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means that the physical therapist must be readily available on site or telephonically anytime the physical therapist assistant is providing physical therapy services so that the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction [645 IAC 200.6(1)].

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 require a physical therapist must provide on-site observation of treatment and documentation of a patient delegated to a physical therapist assistant, at least every six treatment sessions. The physical therapist does not have to be on-site, but must be easily accessible via telecommunications [Minnesota Statutes, section 148.706].

Summary of factual data and analytical methodologies:

The Board reviewed chs. PT 1 and 5 to clarify the requirements for supervision of physical therapist assistants. The Board also referenced Wisconsin Administrative Code s. Med 24.02 when creating determining appropriate methods of telecommunication and electronic communication when providing such supervision.

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 is attached.

Effect on small business:

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

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8306; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, 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, held on December 1, 2021 at 8:30 a.m., to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. PT 5.01 (2) (b) and (h) are amended to read:

PT 5.01 (2) (b) Have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days ~~unless the board approves another type of contact.~~ Electronic face-to-face communications may be used to fulfill this requirement. Audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service are not considered acceptable electronic communications.

PT 5.01 (2) (h) Provide on-site assessment and reevaluation of each ~~patient's treatment~~ patient at a minimum of one time per calendar month or every tenth treatment day, whichever is sooner, and adjust the treatment plan as appropriate.

SECTION 2. 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)

This Proposed Order of the Physical Therapy Examining Board is approved for submission to the Governor and Legislature.

Dated January 14, 2022

Agency _____



Chairperson
Physical Therapy Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date October 4, 2021</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PT 1 and 5 - Permanent Rule</p>	
<p>4. Subject Supervision of Physical Therapist Assistants</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>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)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>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</p>	
<p>11. Policy Problem Addressed by the Rule The Board conducted a review of the supervision requirements under s. PT 5.01, including evaluating alternative methods for a supervising physical therapist to maintain contact with physical therapist assistants and patients. As a result of this evaluation, the Board revised the requirements for supervision of physical therapist assistants under s. PT 5.01.</p>	
<p>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 rules were posted on the Department's website 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.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p>	
<p>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 rules do not have an economic and fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units and the state's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule If the rules are not updated, continuity of care of individuals in need of physical therapy services may be adversely affected.</p>	
<p>16. Long Range Implications of Implementing the Rule This rule project was initiated due to the ongoing effects of the COVID-19 pandemic. However, providing clarification of supervision requirements for physical therapist assistant's has long term benefits by improving understanding for licensees, as well as aiding in improving contiunity of patient care.</p>	
<p>17. Compare With Approaches Being Used by Federal Government</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None

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

Illinois:

The Illinois Statutes require physical therapist assistants to perform patient care activities under the general supervision of a licensed physical therapist. The physical therapist must maintain continual contact with the physical therapist assistant including periodic personal supervision and instruction to ensure the safety and welfare of the patient [225 ILCS 90/2].

Iowa:

The Iowa Administrative Code provides that a supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant must provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means that the physical therapist must be readily available on site or telephonically anytime the physical therapist assistant is providing physical therapy services so that the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction [645 IAC 200.6(1)].

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19. Contact Name	20. Contact Phone Number
Nilajah Hardin, Administrative Rules Coordinator	608-267-7139

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:
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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
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