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**VIRTUAL/TELECONFERENCE  
PHYSICAL THERAPY EXAMINING BOARD  
4822 Madison Yards Way, Madison  
Contact: Tom Ryan (608) 266-2112  
December 1, 2021**

*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 11, 2021 (5-6)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns**
- D. Introductions, Announcements and Recognition**
- E. 8:30 A.M. Public Hearing – Emergency (EmR2128) and Permanent Rule (CR 21-079) on PT 1 and 5, Relating to Supervision of Physical Therapist Assistants (7-25)**
  - 1) Review Public Hearing Comments and Respond to Clearinghouse Report
- F. Administrative Matters – Discussion and Consideration**
  - 1) Department, Staff and Board Updates
  - 2) Board Members – Term Expiration Dates
    - a. Berry, Shari – 7/1/2020
    - b. Carter, Barbara – 7/1/2025
    - c. Greany, John – 7/1/2023
    - d. McEldowney, Todd – 7/1/2025
    - e. Zalewski, Kathryn – 7/1/2025
- G. Administrative Rule Matters – Discussion and Consideration**
  - 1) Pending or Possible Rulemaking Projects
- H. Legislative and Policy Matters – Discussion and Consideration**
  - 1) Compact Status
- I. Education and Examination Matters – Discussion and Consideration**
  - 1) Wisconsin Jurisprudence PT Exam Question Writing Update – Kristin Carlton, Licensing Examination Specialist-Senior (**26**)
  - 2) FSBPT Jurisprudence Examination Option

- J. Credentialing Matters – Discussion and Consideration**
  - 1) Application Delays: Status Updates and Issuing Licenses
- K. Public Agenda Request - Discussion and Consideration (27)**
  - 1) Physical Therapist taking the Physical Therapy Assistant Examination
- L. Foreign Education – Discussion and Consideration**
- M. Speaking Engagements, Travel, or Public Relation Requests, and Reports**
  - 1) Attendance Report: Virtual FSBPT Delegate Assembly on October 22-23, 2021 – John Greany and/or Kathryn Zalewski
- N. Federation of State Boards of Physical Therapy (FSBPT) Matters – Discussion and Consideration
- O. COVID-19 – 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. 20 PHT 010 – K.E.O. **(28-33)**
- b. 21 PHT 004 – B.J.K. **(34-37)**

**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 9, 2022**

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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.

**VIRTUAL/TELECONFERENCE  
PHYSICAL THERAPY EXAMINING BOARD  
MEETING MINUTES  
AUGUST 11, 2021**

**PRESENT:** Shari Berry, PT; Barbara Carter, PTA; John Greany, PT; Todd McEldowney

**EXCUSED:** Kathryn Zalewski, PT

**STAFF:** Valerie Payne, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rule Coordinator; Katlin Schwartz, Bureau Assistant; Kimberly Wood, Program Assistant Supervisor-Adv; and other Department Staff

**CALL TO ORDER**

John Greany, Chairperson, called the meeting to order at 8:31 a.m. A quorum was confirmed with four (4) members present.

**ADOPTION OF AGENDA**

**MOTION:** Shari Berry moved, seconded by Barbara Carter, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF MAY 5, 2021**

**MOTION:** Shari Berry moved, seconded by Barbara Carter, to approve the Minutes of May 5, 2021 as published. Motion carried unanimously.

**ADMINISTRATIVE RULE MATTERS**

**PT 1 and 5, Relating to Supervision of Physical Therapist Assistants**

**MOTION:** Shari Berry moved, seconded by Todd McEldowney, to authorize the Chairperson to approve the emergency rule on PT 1 and 5, relating to Supervision of Physical Therapist Assistants, for emergency rule submission to the Governor, publication in an official newspaper and for the permanent rule posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

**CLOSED SESSION**

**MOTION:** Shari Berry moved, seconded by Todd McEldowney, 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.). John Greany, 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; Barbara Carter-yes; John Greany-yes; and Todd McEldowney-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:49 a.m.

## **DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS**

### **Administrative Warnings**

#### **21 PHT 005– J.L.A.**

**MOTION:** Shari Berry moved, seconded by Barbara Carter, to issue an Administrative Warning in the matter of J.L.A., DLSC Case Number 21 PHT 005. Motion carried unanimously.

### **Case Closings**

#### **20 PHT 014– D.M.W.**

**MOTION:** Shari Berry moved, seconded by Barbara Carter, to close DLSC Case Number 20 PHT 014, against D.M.W., for Insufficient Evidence. Motion carried unanimously.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Shari Berry moved, seconded by Barbara Carter, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 10:15 a.m.

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

**MOTION:** Shari Berry moved, seconded by John Greany, 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:** Barbara Carter moved, seconded by Shari Berry, to delegate ratification of examination results to DSPS staff and to delegate and ratify all licenses and certificates as issued. Motion carried unanimously.

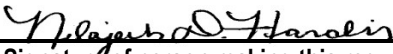
### **ADJOURNMENT**

**MOTION:** Todd McEldowney moved, seconded by Shari Berry, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:21 a.m.

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Nilajah Hardin Administrative Rules Coordinator		<b>2) Date when request submitted:</b> 11/19/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Physical Therapy Examining Board			
<b>4) Meeting Date:</b> 12/01/21	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> 8:30 A.M. Public Hearing – Emergency and Permanent Rule (CR 21-079 ) on PT 1 and 5, Relating to Supervision of Physical Therapist Assistants Review Public Hearing Comments and Respond to Clearinghouse Report	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b> The Board will hold a Public Hearing on these rules as required by the rulemaking process.			
<b>11) Authorization</b>			
 Signature of person making this request		11/19/21 Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)     Date			
<b>Directions for including supporting documents:</b> 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

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IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	PHYSICAL THERAPY EXAMINING
PHYSICAL THERAPY EXAMINING	:	BOARD
BOARD	:	ADOPTING EMERGENCY RULES

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The statement of scope for this rule, SS 011-21, was approved by the Governor on February 4, 2021, published in Register 782A2 on February 8, 2021, and approved by the Physical Therapy Examining Board on March 17, 2021. This emergency rule was approved by the Governor on (mm,dd,yyyy).

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.

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FINDING OF EMERGENCY

The Physical Therapy Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Administrative rules require a physical therapist providing general supervision of a physical therapist assistant to have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days and provide on-site assessment and reevaluation of each patient's treatment a minimum of one time per calendar month or every tenth treatment day, whichever is sooner. The ongoing COVID-19 pandemic, and the resulting safety precautions, have severely limited the ability of physical therapists to adhere to these supervision requirements. An expeditious promulgation of the proposed rule is in the best interest of Wisconsin's economy and public welfare, as it will help ensure continuity of care for individuals in need of physical therapy services.

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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’s primary objective is to promulgate an emergency rule that will temporarily suspend the requirements under s. PT 5.01 (2) (b) and (h) that a supervising physical therapist have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days and provide on-site assessment and reevaluation of each patient’s treatment a minimum of one time per calendar month or every tenth treatment day, whichever is sooner.

The Board will also conduct 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. These revisions may be included in the emergency rule, promulgated in a permanent rule, or both.

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

**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.

**Fiscal Estimate:**

The Fiscal Estimate 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](mailto:DSPSAdminRules@wisconsin.gov). Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

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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 fulfil 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~~ patient's treatment at a minimum of one time per calendar month or every tenth treatment day, whichever is sooner, and adjust the treatment plan as appropriate. This requirement may be waived when another type of contact has been approved by the Board.

SECTION 2. EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper.

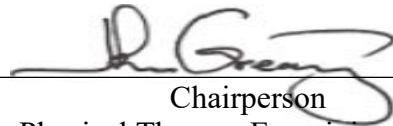
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(END OF TEXT OF RULE)

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Dated 13 September 2021

Agency



Chairperson  
Physical Therapy Examining Board

## 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 September 23, 2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PT 1 and 5 - Emergency Rule	
4. Subject Supervision of Physical Therapist Assistants	
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	6. Chapter 20, Stats. Appropriations Affected
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	
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 <b>(if checked, complete Attachment A)</b>	
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 Administrative rules require a physical therapist providing general supervision of a physical therapist assistant to have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days and provide on-site assessment and reevaluation of each patient's treatment a minimum of one time per calendar month or every tenth treatment day, whichever is sooner. The spread of COVID-19 and the resulting safety precautions have severely limited the ability of physical therapists to adhere to these supervision requirements. An expeditious promulgation of the proposed rule is in the best interest of Wisconsin's economy and public welfare, as it will help ensure continuity of care for individuals in need of physical therapy services.	
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. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
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) None	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Section PT 5.01 contains requirements for supervision of physical therapist assistants, including requirements that a physical therapist providing general supervision of a physical therapist assistant have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days and provide on-site assessment and reevaluation of each patient's treatment a minimum of one time per calendar month or every tenth treatment day, whichever. If the rules are not updated to temporarily suspend these requirements, continuity of care of individuals in need of physical therapy services may be adversely affected.	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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16. Long Range Implications of Implementing the Rule

The ongoing COVID-19 pandemic, and the resulting safety precautions, have severely limited the ability of physical therapists to adhere to these supervision requirements. An expeditious promulgation of the proposed rule is in the best interest of Wisconsin's economy and public welfare, as it will help ensure continuity of care for individuals in need of physical therapy services.

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17. Compare With Approaches Being Used by Federal Government

None

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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)].

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].

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19. Contact Name

Nilajah Hardin, Administrative Rules Coordinator

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20. Contact Phone Number

608-267-7139

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

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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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)

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

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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

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5. Describe the Rule's Enforcement Provisions

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

- Yes    No
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STATE OF WISCONSIN  
PHYSICAL THERAPY EXAMINING BOARD

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

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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.

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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’s primary objective is to promulgate an emergency rule that will temporarily suspend the requirements under s. PT 5.01 (2) (b) and (h) that a supervising physical therapist have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days and provide on-site assessment and reevaluation of each patient’s treatment a minimum of one time per calendar month or every tenth treatment day, whichever is sooner.

The Board will also conduct 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. These revisions may be included in the emergency rule, promulgated in a permanent rule, or both.

**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.

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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 fulfil 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 ~~patient's treatment~~ at a minimum of one time per calendar month or every tenth treatment day, whichever is sooner, and adjust the treatment plan as appropriate. This requirement may be waived when another type of contact has been approved by the Board.

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.

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(END OF TEXT OF RULE)

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## 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 October 4, 2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PT 1 and 5 - Permanent Rule	
4. Subject Supervision of Physical Therapist Assistants	
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	6. Chapter 20, Stats. Appropriations Affected
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	
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 <b>(if checked, complete Attachment A)</b>	
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 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.	
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.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
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.	
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.	
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 contiuity of patient care.	
17. Compare With Approaches Being Used by Federal Government	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None

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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)].

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].

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

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

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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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)

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

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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

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5. Describe the Rule's Enforcement Provisions

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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 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 **21-079**

AN ORDER to amend PT 5.01 (2) (b) and (h), relating to supervision of physical therapist assistants.

Submitted by **PHYSICAL THERAPY EXAMINING BOARD**

10-04-2021 RECEIVED BY LEGISLATIVE COUNCIL.

10-26-2021 REPORT SENT TO AGENCY.

SG:SM

**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 21-079

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]**

#### 2. Form, Style and Placement in Administrative Code

a. The Board’s plain language analysis states that “The Board’s primary objective is to promulgate an emergency rule that will temporarily suspend” certain requirements for a supervising physical therapist. However, this rule is a permanent rule, not an emergency rule, and it does not include any temporal limitation that would cause the rule changes to expire after a certain point. Rather, as drafted, the rule text could only be changed when treated by new rulemaking. The rule should be revised to refer to the rule as permanent, and if desired, describe the changes as temporary, but eliminate the use of the term “emergency rule”. If the proposed rule is intended to be temporary but of a duration longer than an emergency rule, and the end of such duration is known, the agency may “double draft” to both affect the administrative code and reverse that treatment in the same clearinghouse rule. This process is described in s. 1.03 (2) (e) and (4) of the Manual.

b. In s. PT 5.01 (2) (b), the period in the first sentence need not be deleted, and the underscored period may therefore be removed from the rule text. [s. 1.04 (4) (d), Manual.]

c. The word “patient” in s. PT 5.01 (2) (h) is new material and should be underlined and inserted after the stricken text.

#### 3. Conflict With or Duplication of Existing Rules

The treatment of s. PT 5.01 (2) (h) modifies an on-site assessment and reevaluation requirement by adding language that says “This requirement may be waived when another type of contact has been approved by the Board”. It is unclear how the Board would approve such a change of contact after the promulgation of the rule. It appears the Board is attempting to indicate that the change in s. PT 5.01 (2) (b) is itself the Board’s act of approving another type of contact. Assuming that is the case, the Board should revise the material in s. PT 5.01 (2) (h) to reference par. (b) and more specifically treat the reference to “on-site” assessment and reevaluation. However, as presently treated, note that s. PT 5.01 (2) (b) does not give the Board discretion to approve the other types of contact, or revoke such approval. As discussed above, this rule is not an emergency



rule or a temporary rule. If the Board wishes to “turn back on” the on-site assessment and reevaluation requirement it wishes to “temporarily” delete here, it needs to do additional rulemaking to add that language back to the code at a later date or via double-drafted treatments in the proposed rule.

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

In s. PT 5.01 (2) (b), the agency should consider the more commonly used spelling, “fulfill”.

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Kristin Carlton, License Examination Specialist		<b>2) Date when request submitted:</b> 11/18/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Physical Therapy Examining Board			
<b>4) Meeting Date:</b> 12/01/21	<b>5) Attachments:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Wisconsin Jurisprudence PT Exam Question Writing Update	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b> Update on completion of Exam Review/Question Writing with SME and next steps.			
<b>11) Authorization</b>			
Kristin Carlton		11/18/21	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
<b>Directions for including supporting documents:</b> 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.			

**Tony Evers,**  
**Governor**  
**Dawn B. Crim,**  
**Secretary**

**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: Karen (920-655-8520)  
 Last Name: Engels  
 Association/Organization: Parent of Physical Therapy Graduate  
 Subject: PT taking a PTA exam with a Doctorate Degree Issued by Carroll University/Waukesha, WI  
 Issue to Address:

I read thru the "A to Z Professions List" to try to find where it states that a PT graduate cannot take the PTA exam. My daughter and a few fellow classmates who have taken the PT test a few times and have not passed yet, so they checked into taking the PTA exam so they could work in the field part-time while continuing to study, or worst case scenario if they don't pass after max attempts allowed, and they found that Wisconsin doesn't allow this, but Illinois does and apparently there are other states that do also. My question is: Why doesn't Wisconsin allow this? My daughter scores consistently 71-72% on PT exam, has mild cognitive processing delay but doesn't qualify for special accommodations for exam. She took test 5 times - #6 this coming August. She doesn't want to start over with new career choice more school & expense.