



VIRTUAL/TELECONFERENCE
PHYSICAL THERAPY EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
May 4, 2022

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 February 9, 2022 (5-13)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. 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
- F. Legislative and Policy Matters – Discussion and Consideration
- G. Administrative Rule Matters – Discussion and Consideration (14-18)**
 - 1) Second Extension Discussion: EmR 2128 (PT 1 and 5), Relating to Supervision of Physical Therapy Assistants
 - 2) Adoption Order: CR 21-079 (PT 1 and 5), Relating to Supervision of Physical Therapy Assistants
 - 3) Pending or Possible Rulemaking Projects
- H. Board Chair Meeting and Options to Address Department Resources – Discussion and Consideration (19)**
- I. Physical Therapy Compact Update – Discussion and Consideration**

- J. Federation of State Boards of Physical Therapy (FSBPT) Matters – Discussion and Consideration
- K. Speaking Engagements, Travel, or Public Relation Requests, and Reports**
 - 1) Speaking Report: American Physical Therapy Association - Wisconsin Chapter Conference on 4/7/2022-4/8/2022 in Oshkosh, WI
- L. Liaison Reports – Discussion and Consideration**
- M. COVID-19 – Discussion and Consideration**
- N. 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

O. 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.).

- P. 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

Q. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

T. 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: AUGUST 10, 2022

VIRTUAL/TELECONFERENCE

PHYSICAL THERAPY EXAMINING BOARD

4822 Madison Yards Way, Madison

Contact: Tom Ryan (608) 266-2112

May 4, 2022

PHYSICAL THERAPY EXAMINING BOARD

2021 WISCONSIN PUBLIC RECORDS LAW FACILITATED TRAINING

8:45 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

A quorum of the Physical Therapy Examining Board may be present; however, no board business will be conducted.

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 at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
PHYSICAL THERAPY EXAMINING BOARD
MEETING MINUTES
FEBRUARY 9, 2022**

PRESENT: Shari Berry, PT; Barbara Carter, PTA; John Greany, PT; Todd McEldowney, Kathryn Zalewski, PT (*arrived at 8:42 a.m.*)

STAFF: Brad Wojciechowski, Acting Executive Director; Jameson Whitney, Legal Counsel; Sofia Anderson, 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 DECEMBER 1, 2021

MOTION: Barbara Carter moved, seconded by Shari Berry, to approve the Minutes of December 1, 2021 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Kathryn Zalewski arrived at 8:42 a.m.

Election of Officers

Chairperson

NOMINATION: John Greany nominated Kathryn Zalewski for the Office of Chairperson. Kathryn Zalewski declined the nomination.

NOMINATION: Barbara Carter nominated Shari Berry for the Office of Chairperson. Shari Berry accepted the nomination.

Brad Wojciechowski, Executive Director, called for nominations three (3) times.

Shari Berry was elected as Chairperson by unanimous voice vote.

Vice Chairperson

NOMINATION: Kathryn Zalewski nominated Barbara Carter for the Office of Vice Chairperson. Barbara Carter accepted the nomination.

Brad Wojciechowski, Executive Director, called for nominations three (3) times.

Barbara Carter was elected as Vice Chairperson by unanimous voice vote.

Secretary

NOMINATION: Shari Berry nominated John Greany for the Office of Secretary. John Greany accepted the nomination.

Brad Wojciechowski, Executive Director, called for nominations three (3) times.

John Greany was elected as Secretary by unanimous voice vote.

ELECTION RESULTS	
Chairperson	Shari Berry
Vice Chairperson	Barbara Carter
Secretary	John Greany

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Shari Berry, Kathryn Zalewski <i>Alternate:</i> Barbara Carter
Education and Examinations Liaison(s)	Shari Berry, Barbara Carter, <i>Alternate:</i> Kathryn Zalewski
Monitoring Liaison(s)	Todd McEldowney <i>Alternate:</i> John Greany
Professional Assistance Procedure (PAP) Liaison(s)	John Greany <i>Alternate:</i> Todd McEldowney
Legislative Liaison(s)	Shari Berry <i>Alternate:</i> Kathryn Zalewski
Travel Authorization Liaison(s)	Barbara Carter <i>Alternate:</i> John Greany
Website Liaison(s)	Barbara Carter, John Greany <i>Alternate:</i> Todd McEldowney
Compact Liaison	Shari Berry <i>Alternate:</i> Kathryn Zalewski

Screening Panel	John Greany, Todd McEldowney <i>Alternate: Kathryn Zalewski</i>
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Delegation of Authorities

Document Signature Delegations

MOTION: John Greany moved, seconded by Kathryn Zalewski, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: John Greany moved, seconded by Barbara Carter, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Barbara Carter moved, seconded by Kathryn Zalewski, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Delegation to Chief Legal Counsel Due to Loss of Quorum

MOTION: John Greany moved, seconded by Kathryn Zalewski, to delegate the review and authority to act on disciplinary cases to the Department's Chief Legal Counsel due to lack of/loss of quorum after two consecutive meetings. Motion carried unanimously.

Monitoring Delegations

Delegation of Authorities for Monitoring

MOTION: Barbara Carter moved, seconded by Todd McEldowney, to adopt the "Roles and Authorities Delegated for Monitoring" document as presented in the February 9, 2022 agenda materials on pages 19-20. Motion carried unanimously.

Delegation of Authorities for Legal Counsel to Sign Monitoring Orders

MOTION: Barbara Carter moved, seconded by Kathryn Zalewski, to delegate to Legal Counsel the authority to sign Monitoring orders that result from Board meetings on behalf of the Board Chairperson. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison

MOTION: John Greany moved, seconded by Kathryn Zalewski, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications. Motion carried unanimously.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: Kathryn Zalewski moved, seconded by Barbara Carter, to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

Delegation of Authority for Predetermination Reviews

MOTION: Kathryn Zalewski moved, seconded by John Greany, to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f). Motion carried unanimously.

Delegation of Authority for Conviction Reviews

MOTION: John Greany moved, seconded by Kathryn Zalewski, to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the practice of physical therapy. Motion carried unanimously.

Delegation to DSPS When Applicant's History Has Been Previously Reviewed

MOTION: Barbara Carter moved, seconded by Todd McEldowney, to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous physical therapy credential and there is no new conviction record. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: John Greany moved, seconded by Kathryn Zalewski, that the Department's Attorney Supervisors are authorized to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

Pre-Screening Delegation to Open Cases

- MOTION:** John Greany moved, seconded by Todd McEldowney, to delegate pre-screening decision making authority to the DSPS screening attorney for opening cases as outlined below:
1. OWIs of 3 or more that occurred in the last 5 years.
 2. Reciprocal discipline cases.
 3. Impairment and/or diversion at work that includes a positive drug/alcohol test or admission by respondent.
 4. Conviction of a misdemeanor or felony that the attorney believes is substantially related and is not otherwise excluded from consideration via Wis. Stat. ch. 111.
 5. No response from the respondent after intake requested a response (case would be opened for the failure to respond issue as well as the merits).
- Motion carried unanimously.

Pre-Screening Delegation to Close Cases

- MOTION:** Todd McEldowney moved, seconded by John Greany, to delegate pre-screening decision making authority to the DSPS screening attorney for closing cases as outlined below:
1. One OWI that is non-work related and if AODA assessment completed, assessment does not indicate dependency.
 2. Complaints that even if allegations are true, do not amount to a violation of law or rules.
- Motion carried unanimously.

Voluntary Surrenders

- MOTION:** Todd McEldowney moved, seconded by Barbara Carter, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter. Motion carried unanimously.

Education and Examination Liaison(s) Delegation

- MOTION:** Todd McEldowney moved, seconded by John Greany, to delegate authority to the Education and Examination Liaison(s) to address all issues related to education, continuing education, and examinations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies

- MOTION:** Barbara Carter moved, seconded by John Greany, to authorize DSPS staff to provide national regulatory related bodies with all board member contact information that DSPS retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: John Greany moved, seconded by Kathryn Zalewski, to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Kathryn Zalewski moved, seconded by Todd McEldowney, to delegate authority to the Legislative Liaison(s) to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Authorization Liaison Delegation

MOTION: John Greany moved, seconded by Todd McEldowney, to delegate authority to the Travel Authorization Liaison(s) to approve any board member travel to and/or participation in events germane to the board, and to designate representatives from the Board to speak and/or act on the Board's behalf at such events. Motion carried unanimously.

Website Liaison(s) Delegation

MOTION: Todd McEldowney moved, seconded by Barbara Carter, to authorize to the Website Liaison(s) to act on behalf of the Board in working with Department staff to identify and execute website updates. Motion carried unanimously.

Compact Liaison(s) Delegation

MOTION: John Greany moved, seconded by Kathryn Zalewski, to delegate to the Compact Liaison the authority to act and answer questions on any matters related to the Physical Therapy Licensure Compact. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Extension Discussion: EmR 2128 (PT 1 and 5), Relation to Supervision of Physical Therapy Assistants

MOTION: John Greany moved, seconded by Kathryn Zalewski, to request a 60-day extension to EmR 2128 (PT 1 and 5) relating to the supervision of Physical Therapist Assistants. Motion carried unanimously.

REVIEW OF THE PHYSICAL THERAPY EXAMINING BOARD'S ANNUAL REVIEW

MOTION: Barbara Carter moved, seconded by Kathryn Zalewski, to approve the Physical Therapy Examining Board 2021 Annual Review. Motion carried unanimously.

**ANNUAL REVIEW OF THE TEMPORARY CHANGES TO
TELETHERAPY SUPERVISORY REQUIREMENTS**

MOTION: John Greany moved, seconded by Kathryn Zalewski, to reaffirm that pursuant to PT 5.01(2)(b), to approve reasonable alternative methods of contact between physical therapist assistants and their supervising physical therapists as necessary and appropriate due to the COVID-19 pandemic. The Board shall review this approval annually to amend, rescind, or continue as appropriate. Motion carried unanimously.

**SPEAKING ENGAGEMENTS, TRAVEL, OR
PUBLIC RELATION REQUESTS, AND REPORTS**

MOTION: Kathryn Zalewski moved, seconded by Barbara Carter, to designate Shari Berry to speak on the Board's behalf at the American Physical Therapy Association - Wisconsin Chapter Conference on 4/7/2022-4/8/2022 in Oshkosh, WI regarding current legislative updates. Motion carried unanimously.

Consideration of Attendance: FSBPT Leadership Issues Forum (LIF) – July 23-25, 2022 – Alexandria, VA

MOTION: Barbara Carter moved, seconded by John Greany, to designate Shari Berry, as the Board's delegate, and to request Tom Ryan, Executive Director, to attend the FSBPT Leadership Issues Forum (LIF) on July 23-25, 2022 in Alexandria, VA and to authorize travel. Motion carried unanimously.

Consideration of Attendance: 2022 FSBPT Annual Meeting and Delegate Assembly – October 27-30, 2022 – Orange County, CA

MOTION: Todd McEldowney moved, seconded by Barbara Carter, to designate Shari Berry, as the Board's delegate, and John Greany as the Board's alternate delegate, and to request Tom Ryan, Executive Director, to attend the 2022 FSBPT Annual Meeting and Delegate Assembly on October 27-30, 2022 in Orange County, CA and to authorize travel. 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.). 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; Barbara Carter-yes; John Greany-yes; Todd McEldowney-yes; and Kathryn Zalewski-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:58 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

20 PHT 012 – J.T.B.

MOTION: Kathryn Zalewski moved, seconded by John Greany, to close DLSC Case Number 20 PHT 012, against J.T.B., for No Violation. Motion carried unanimously.

Todd McEldowney was disconnected at the time of the vote on the matter of DLSC Case Number 20 PHT 012.

20 PHT 013 – E.N.R.

MOTION: Barbara Carter moved, seconded by Todd McEldowney, to close DLSC Case Number 20 PHT 013, against E.N.R., for Insufficient Evidence. Motion carried unanimously.

21 PHT 020 – A.T.P.

MOTION: Todd McEldowney moved, seconded by Barbara Carter, to close DLSC Case Number 21 PHT 020, against A.T.P., for Prosecutorial Discretion (P2). Motion carried unanimously.

Proposed Stipulation and Final Decision and Order

21 PHT 002 – Maurice Dumit, P.T.

MOTION: Todd McEldowney moved, seconded by Kathryn Zalewski, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Maurice Dumit, P.T., DLSC Case Number 21 PHT 002. Motion carried unanimously.

RECONVENE TO OPEN SESSION

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

The Board reconvened into Open Session at 11:25 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: John Greany moved, seconded by Barbara Carter, 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: Kathryn Zalewski moved, seconded by Todd McEldowney, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:30 a.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Sofia Anderson, Administrative Rules Coordinator		2) Date when request submitted: 4/22/2022 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: May 4, 2022	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. Second extension discussion: EmR 2128 PT 1 and 5, relating to supervision of Physical Therapy Assistants. 2. Adoption Order: CR 21-079: PT 1 and 5, relating to supervision of Physical Therapy Assistants. 3. Pending or Possible Rulemaking Projects.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: <ul style="list-style-type: none"> • CR 21-079: PT 1 and 5 Adoption Order 			
11) Authorization			
 Signature of person making this request		04/22/2022 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.			

STATE OF WISCONSIN
PHYSICAL THERAPY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	PHYSICAL THERAPY
PHYSICAL THERAPY EXAMINING	:	EXAMINING BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 21-079)

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 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.

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:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8306; email at DSPSAdminRules@wisconsin.gov.

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)

Dated _____

Agency _____

Chairperson
Physical Therapy Examining Board

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Shari Berry, Board Chair		2) Date when request submitted: 2/25/2022 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Physical Therapy Examining Board			
4) Meeting Date: 5/4/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Chair Meeting and Options to Address Department Resources	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: Chair Berry would like to discuss opportunities for the Board to take action to increase the staffing challenges in the Department, which is currently affecting all Divisions but is most directly evident in the Division of Professional Credential Processing (DPCP). Applicants have brought challenges in the licensing process, and concerns regarding licensing timelines, to members of the Board and Department staff. Chair Berry attended the Quarterly Board Chair Connection meeting on February 25, 2022. At that meeting, the matter of staffing shortages was discussed along with solutions and ways for Board members to act collectively and individually to improve staffing resources.			
11) Authorization			
Signature of person making this request			Date
Supervisor (Only required for post agenda deadline items)			Date
Executive Director signature (Indicates approval for post agenda deadline items)			Date
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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.			