

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 20-055)

PROPOSED ORDER

An order of the Physical Therapy Examining Board to amend PT 1.02 (12) and (14), ch. PT 5 (title), 5.001, 5.01 (1), 5.02 (1) and (2) (intro.), (e), (g), and (h), and 7.025 (6) and to create PT 1.02 (11c) to (11w) and 5.03, relating to supervision of students.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

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

Statutory authority:

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

Explanation of agency authority:

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

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

Related statute or rule:

None.

Plain language analysis:

The proposed rule implements the statutory authority recently granted to the Physical Therapy Examining Board in 2019 Wisconsin Act 138. The Act created s. 448.52 (1m) (c), Stats., which authorizes the Board to promulgate rules related to the supervision of physical therapy students and physical therapist assistant students. Under this authority, the Board conducted an evaluation of its rules relating to the supervision of physical therapist students and physical therapist assistant students to ensure the rules are consistent with current professional practices and applicable Wisconsin statutes. As a result, updates have been made to do all of the following:

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

- Clarify that the holder of a temporary license as a physical therapist or a locum tenens license may not provide supervision of a physical therapist assistant, physical therapist student, physical therapist assistant student, or any unlicensed personnel.
- Establish requirements for the supervision of physical therapist students and physical therapist assistant students, and clarify that failure to provide adequate supervision as required under ch. PT 3 or 5 constitutes unprofessional conduct.

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

None.

Comparison with rules in adjacent states:

Illinois:

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

Iowa:

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

Michigan:

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

Minnesota:

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

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

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

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the Physical Therapy Examining Board's rules relating to the supervision of physical therapist students and physical therapist assistant students to ensure the rules are consistent with current professional practices and applicable Wisconsin statutes.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

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

Agency contact person:

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

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

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

TEXT OF RULE

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

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

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

(11n) “Physical therapist assistant student” means a person enrolled in a physical therapist assistant educational program approved by the board who performs physical therapy procedures and related tasks consistent with the person’s education, training, and experience under the direct, immediate, on-premises supervision of a physical therapist or under the supervision of a physical therapist assistant as authorized by s. PT 5.03 (2).

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

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

SECTION 2. PT 1.02 (12) and (14) are amended to read:

PT 1.02 (12) “Supervisor” means a person holding a regular license as a physical therapist issued under s. 448.53 (1), Stats., or a physical therapist compact privilege granted by the board who is competent to coordinate, direct, and inspect the accomplishments of another physical therapist, physical therapist assistant, student, or temporary licensee. “Supervisor” does not include a person holding a license issued under ch. PT 3 or 4.

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

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

CHAPTER PT 5

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

SECTION 4. PT 5.001 is amended to read:

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

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

PT 5.01 (1) A physical therapist assistant, ~~as defined in s. 448.50 (3m), Stats.,~~ shall assist a physical therapist in the practice of physical therapy under the general supervision of a physical therapist.

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

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

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

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

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

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

SECTION 7. PT 5.03 is created to read:

PT 5.03 Supervision of students.

(1) Except as provided under sub. (2), a physical therapist shall provide direct, immediate, on-premises supervision of a student at all times.

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

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

(3) A physical therapist supervising a student under sub. (1) shall retain full professional responsibility for all physical therapy procedures and related tasks performed by the student, and shall delegate treatment plans and programs to the student in a manner consistent with the student's education, training, and experience.

(4) A physical therapist delegating supervision of a physical therapist assistant student to a physical therapist assistant under sub. (2) shall retain full professional responsibility for all physical therapy procedures and related tasks performed by the physical therapist assistant and by the physical therapist assistant student, and shall delegate treatment plans and programs to the physical therapist assistant student in a manner consistent with the student's education, training, and experience.

SECTION 8. PT 7.025 (6) is amended to read:

PT 7.025 (6) Permitting or assisting any person to perform acts constituting the practice of physical therapy without sufficient qualifications, necessary credentials, adequate informed consent, or adequate supervision as required under chs. PT 3 and 5. The physical therapist is responsible for determining whether general, direct, or one-on-one supervision is necessary to protect the patient from unacceptable risk of harm. The physical therapist retains responsibility for delegated or supervised acts, unless the board determines that the delegate knowingly and willfully violated the supervisor's direction or instruction.

SECTION 9. 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 _____

Agency _____

Chairperson
Physical Therapy Examining Board