

## Comments of the Independent Regulatory Review Commission



### State Board of Physical Therapy Regulation #16A-6522 (IRRC #3394)

#### Early Exam and CE for Clinical Instruction

March 27, 2024

We submit for your consideration the following comments on the proposed rulemaking published in the January 27, 2024 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the State Board of Physical Therapy (Board) to respond to all comments received from us or any other source.

#### **Section 40.14. Examination; failure; reexamination. – Clarity; Reasonableness.**

Section 1306(c) of the Physical Therapy Practice Act (Act) states, in part:

In case of failure at the first examination, the applicant for licensure shall have, after the expiration of 60 days and within one year from the first failure, the privilege of a second examination. . . . An applicant may take the examination no more than three times in a consecutive 12-month period.

63 P.S. §§ 1306(c). These provisions are currently found in existing subsections (a) and (d).

The Board proposes to delete from subsection (a) the existing language, which includes, “In cases of failure at the first examination, the applicant shall have, after the expiration of 60 days and within 1 year from the date of the first failure, the privilege of a second examination...” and replace it with the requirement that “[a]pplicants shall successfully pass the [National Physical Therapy Examination (NPTE)].” The proposed language no longer addresses the statutory timeframe regarding a second examination. We have concerns about the Board retaining a portion of Section 1306(c) of the Act in the regulation and at the same time deleting a portion of the same statutory provision from the regulation. While we recognize that the statute sets forth the requirements for a second examination, for ease of reference and clarity for the regulated community, we recommend that the Board retain in the final regulation the timeframe related to a second examination.

Additionally, we acknowledge that, as of this date, the NPTE schedule currently fulfills the statutory 60-day “waiting period” because exams are naturally separated by more than 60 days. However, if the NPTE changes the exam schedule to offer more frequent testing opportunities, it could be possible for an applicant to take an exam prior to the expiration of the statutorily-required 60 days.

For these reasons, we ask the Board to retain the timeframe regarding a second examination from Section 1306(c) of the Act in the final regulation to ensure the testing requirements from the Act are clear and easily accessible for the regulated community.

This comment applies also to Section 40.164(b)(1) (relating to physical therapist assistant certification examination), in which the Board is proposing to delete similar language. We ask the Board to retain the timeframe language found in Section 1309.1(b) of the Act in the final regulation.