Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

INDEPENDENT REGULATORY REVIEW COMMISSION

RECEIVED

Independent Regulatory Review Commission

March 19, 2025

(1) Agency
Pennsylvania Department of State

(2) Agency Number: 16A
Identification Number: 6522

IRRC Number: 3394

(3) PA Code Cite: 49 Pa. Code §§ 40.1, 40.14, 40.15, 40.61, 40.63, 40.67, 40.163, 40.164 and 40.192

(4) Short Title: Early Exam and CE for Clinical Instruction

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Omitted Regulation
- ☐ Emergency Certification Regulation;
- ☐ Certification by the Governor
- ☐ Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This final-form rulemaking of the State Board of Physical Therapy allows: 1) physical therapist (PT) and physical therapist assistant (PTA) students to take the requisite examinations up to 90 days prior to graduating from their respective programs; 2) PT licensees and PTA certificate holders working as clinical instructors to receive continuing education credit hours for teaching PT and PTA students; and 3) applicants to directly register for the national examination with the examination provider, rather than by seeking the Board's permission, via the Board's participation in the Federation of State Boards of Physical Therapy's (FSBPT's) Alternative Approval Pathway (AAP).

(8) State the statutory authority for the regulation. Include specific statutory citation.

This final-form rulemaking is authorized under sections 3(a), 5, 6(b), 7.2 and 9.1(a) of the Physical Therapy Practice Act (act) (63 P.S. §§ 1303(a), 1305, 1306(b), 1307.2, and 1309.1(a)). "It shall be the duty of the board to pass upon the qualifications of applicants for licensure as physical therapists and certification as physical therapist assistants, to conduct examinations…." 63 P.S. § 1303(a). "[A]n individual who desires and applies to be licensed as a physical therapist shall apply to the board on a form furnished by the board, and such application shall embody evidence satisfactory to the board of the applicant's possessing the qualifications preliminary to examination required by this act." 63 P.S. § 1305 (emphasis added). Accordingly, the Board has broad authority to determine the timeframe in which an applicant may sit for the exam after completion of the didactic portion of their education. "An applicant

for licensure must pass an examination approved by the board which shall test the applicant's knowledge of the basic and clinical sciences … and such other subjects as the board may deem necessary to test the applicant's fitness to practice physical therapy. No license shall be granted unless an applicant has attained passing scores established by the testing agency and published prior to the administration of the examination." 63 P.S. § 1306(b). "For each license renewal, a licensee shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board." 63 P.S. § 1307.2. "To be eligible for certification by the board as a physical therapist assistant, an applicant must be … successful in passing an examination approved by the board, subject to rules and regulations established by the board…." 63 P.S. § 1309.1(a). "For each certificate renewal, a certificate holder shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board in accordance with standards and criteria established by the board by regulation." 63 P.S. § 1309.1(j).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No, the rulemaking is not mandated by any federal or state law or court order.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The current regulations pose an unnecessary burden to licensure and employment within the Commonwealth, in that there is no reasonable need to require PT students and PTA students to apply to the Board for permission to sit for their respective examinations, when allowing the exam provider to determine eligibility can alleviate pressures on Board staff while simultaneously simplifying and accelerating the examination process. Additionally, there is no reasonable need to *require* PT students and PTA students to wait until after graduating from their respective programs to sit for their respective examinations.

Section 6(b) of the act (relating to qualifications for license; examinations; failure of examinations; licensure without examination; issuing of license; foreign applicants for licensure; temporary license; perjury) provides that an applicant for licensure must pass an examination approved by the Board. Under section 5 of the act (relating to application for license), "an individual who desires and applies to be licensed as a physical therapist shall apply to the board on a form furnished by the board, and such application shall embody evidence satisfactory to the board of the applicant's possessing the qualifications preliminary to examination required by this act."

Both PT and PTA applicants must successfully pass the Board-approved examination, the NPTE which was created by the FSBPT. As part of an ongoing effort to standardize the examination applications process, the FSBPT contacted the Board in May of 2020 to introduce the Alternative Approval Pathway (AAP). The FSBPT explained that, should the Board decide to participate in the AAP, applicants would contact the FSBPT to register to sit for the NPTE, and the FSBPT would be responsible for making the candidate eligible to sit if they meet all NPTE eligibility requirements. Furthermore, to be consistent with NPTE eligibility requirements, and to participate in the AAP, the Board's regulations must be amended: 1) to allow PT and PTA students to sit for the NPTE prior to graduation; and 2) to remove a provision that requires applicants to request the Board's permission to sit for the examination a third time after two

failures. In this rulemaking, sections 40.14 (relating to examination; failure; reexamination) and 40.164 (relation to the physical therapist assistant certification examination) are amended to implement these requirements.

Sections 40.15(b) (relating to examinations) and 40.164(a)(2)(relating to PTA certification examinations) currently require PT and PTA applicants to present the required credentials of professional education to the Board. In implementing these provisions, the Board requires proof that applicants graduated from a Board-approved school of physical therapy or completed an approved PTA program before it will permit applicants to sit for the NPTE. In proposing amendments to these sections, the Board considered the Executive Report on Occupational Licensing as well as legislation that was introduced in this Commonwealth (HB 2617 of 2018, and HB 138 of 2019), which would allow PT students, and PTA students, to sit for their respective exams prior to graduating from their respective programs so that they may enter the workforce without unnecessary delay. In reviewing the timing of the examinations, the Board has determined that the existing regulations pose an unnecessary burden to licensure and occupational employment within the Commonwealth, in that there is no reasonable need to require PT students and PTA students to wait until after graduating from their respective programs to sit for the NPTE.

Furthermore, the Board is adopting amendments which will allow PTs and PTAs who provide clinical instruction to receive credit for 1 contact hour of continuing education for each 40 hours of clinical instruction up to a maximum of 4 contact hours per biennial period. This change will benefit these individuals because they will have to pay for fewer continuing education credits, and they will have to spend less time obtaining credit hours for continuing education credits. The Board does not track how many licensees work as clinical instructors, however, the Board does not suspect that a large percentage of its licensure base works as clinical instructors, but it is likely less than 5%.

The Board receives approximately 1,423 applications annually. In the spirit of Executive Order 2017-03 and the Executive Report on Occupational Licensing ((Review of State Professional and Occupational Licensure Board Requirements and Processes), the Board agrees that it is in the public interest to remove onerous and unnecessary barriers to licensure. Accordingly, the Board is amending the regulations to allow PT and PTA students to sit for the required national examinations up to 90 days prior to graduation from their respective programs. Of the 1,423 applications received annually, approximately 75% of those applications are individuals seeking an initial PT license or initial PTA certificate. Accordingly, approximately 1,067 applications are received from individuals who just completed their training programs. the regulation allowing individuals to sit for the examination prior to completing their program of study should positively affect approximately 1,067 individuals annually because those individuals will be able to sit for the exam prior to graduation. Accordingly, they will be able to apply for licensure soon after graduation, which means they will ultimately enter the workforce sooner than they would have if they were forced to wait until after graduation to take the examination.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No federal standards apply.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The final-form rulemaking compares favorably to those in surrounding states.

The FSBPT develops and administers the NPTE which is the national licensure exam for both PTs and PTAs. FSBPT policy allows for testing prior to graduation, and FSBPT reports that 37 jurisdictions allow candidates to sit before graduation, whereas 15 do not. Accordingly, should the Commonwealth allow PT students and PTA students to sit for the required examination prior to graduation, that would make the Commonwealth the ninth state in the Northeast geographic region to do so. Currently, Connecticut, Delaware, Maine, New Hampshire, New Jersey, Ohio, Rhode Island, and West Virginia allow those who have not yet graduated to sit for the required examinations. Maryland, New York, Massachusetts, and Vermont require graduation prior to examination. There will be a net positive effect on Pennsylvania's ability to compete because recent Pennsylvania graduates will be able to enter into the workforce sooner than their Maryland, New York, Massachusetts, and Vermont counterparts.

Furthermore, to be consistent with FSBPT's NPTE eligibility requirements, and to participate in the AAP, the Board's regulations must be amended: 1) to allow PT and PTA students to sit for the NPTE prior to graduation; and 2) to remove a provision that requires applicants to request the Board's permission to sit for the examination a third time after two failures.

Regarding the final-form rulemaking that would authorize continuing education credit for clinical instruction for a maximum of 4 contact hours per biennial period, the Board reviewed continuing education requirements in the Northeast region of the United States.

New Hampshire allows licensees to obtain up to 8 of their required 24 hours of continuing professional education to licensees who act as the primary clinical instructor, supervising physical therapist or physical therapist assistant students during their clinical education. The board credits the licensee with 2 hours per student for clinical education supervision. The clinical education supervision must exceed 48 hours in duration.

Rhode Island allows licensees to obtain up to 3 of their 24 hours of continuing professional education for teaching and/or clinical supervision of students by licensees in American Physical Therapy Association (APTA) approved programs, with 1 continuing education hour awarded for each hour completed.

New Jersey allows licensees to obtain up to a maximum of 4 credits per biennial period of their required 30 hours of continuing professional education to licensees who provide clinical instruction to students in a clinical facility that is affiliated with a physical therapy program that is approved for the education and training of physical therapists or licensed physical therapist assistants by an accrediting agency recognized by the United States Department of Education, Office of Postsecondary Education. Licensees receive 1 credit for each 40 hours of clinical instruction.

Maryland allows licensees to obtain up to 8 of their required 30 points of continuing professional education to those who serve as a clinical instructor, resident, or fellow for PT or PTA students, with 1 point earned for every 40 hours of direct supervision.

Delaware allows licensees to obtain a seemingly unlimited number of their required 3 units of continuing professional education to those who act as a direct clinical instructor providing supervision to PT, PTA or Athletic Trainer students enrolled in an accredited institution, with 40 contact hours equaling 0.1 continuing education units.

New York allows licensees to obtain up to 6 hours of their required 36 hours of continuing professional education (during a triennial period) to licensees who supervise students as a clinical instructor. Credit hours are earned at a rate of 0.25 hours for each 2-week period of supervision per student.

West Virginia allows licensees to obtain up to 8 of their required 24 units of continuing professional education to those who provide clinical instruction to PT students or PTA students enrolled in an approved PT or PTA program, with 4 weeks of clinical instruction equaling 1 unit of continuing education.

Ohio allows licensees to obtain up to 12 of their required 24 hours of continuing professional education (six of 12 for PTAs) to those who serve as clinical instructors, earning 1 contact hour for every 80 hours of clinical instruction provided.

Vermont allows licensees to obtain up to 8 of their required 24 hours of continuing professional education (8 of 16 for PTAs) to those who serve as clinical instructors for full-time entry-level PT or PTA students, PT residents or PT fellows, with 1 clock hour earned for every 40 hours (full-time) of supervising for a period of at least 2 weeks.

Connecticut does not award continuing education credits for clinical instruction. Massachusetts and Maine do not require physical therapists to obtain continuing education credit hours.

Like Connecticut, the Commonwealth does not currently award continuing education credits for clinical instruction, which means the Commonwealth does not currently compare favorably when compared to its sister states in the Northeast quadrant of the United States. Delaware allows licensees to obtain a seemingly unlimited number (100%) of continuing professional education credits to those who act as a direct clinical instructor, and Ohio allows licensees to obtain up to 12 of their required 24 hours (50%) of continuing professional education. States like Rhode Island, New Jersey and New York are much more conservative in their allowance (12.5%, 13.3% and 16.6% respectively). Accordingly, the Board's proposal (4 of 30, or 13.3%) is more modest than many states, but this rulemaking would put the Commonwealth in a position very similar to its sister states, whereas right now it, like Connecticut, the Commonwealth is an outlier. The rulemaking would make a positive impact, ending the Commonwealth's outlier status, and allowing licensees to obtain continuing education credit for providing clinical instruction.

Currently, 26 states participate in the AAP. In the Northeast geographic region, Delaware, Maine, New Hampshire, New Jersey, Ohio, and Rhode Island participate in the AAP. Maryland, New York, Massachusetts, Vermont, Connecticut, and West Virginia do not. Accordingly, once the Commonwealth begins participating in the AAP, the majority of states in the Northeast geographic region will be participating in the AAP.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The rulemaking will not affect any other regulations of the Board or regulations of any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The rulemaking was discussed at regularly scheduled public board meetings on July 19, 2018, December 21, 2018, September 12, 2019, November 14, 2019, January 16, 2020, March 11, 2020, July 16, 2020, November 30, 2020, July 22, 2021, September 16, 2021, November 17, 2021, May 6, 2023, March 23, 2023 and May 4, 2023. Meetings are open to the public and are regularly attended by representatives of interested state associations that represent licensees.

An exposure draft of the proposed regulation was provided to interested parties and stakeholders on August 27, 2019. Two comments were received. Anthony Bujno PT, DPT emailed the Board saying he strongly supported the proposed regulation. James J. Irrgang, PT, PhD, FAPTA, Professor and Chair, Department of Physical Therapy, University of Pittsburgh, provided the Board with a letter in which he strongly supported the proposed regulation, but was concerned with wording of the amendment in section 40.63(j) that refers to "or by another National organization recognized by the Board that accredits physical therapy programs." In his opinion, this language "leaves the door open to accreditation of a physical therapy program by an entity other than CAPTE," and was concerned that "this could result in accreditation of physical therapy programs that do not meet the CAPTE standards." The comments were discussed at the regularly scheduled public board meeting held on November 14, 2019. In section 40.63(j), the Board is not creating a new standard for accreditation. Instead, the Board is clarifying that the same credentials required for graduation, and ultimately licensure by examination (as set forth in the Board's existing regulations at 40.11), are also required for continuing education credits related to clinical instruction, which is that the physical therapy program at issue must be accredited by CAPTE, *or by another National organization recognized by the Board that accredits physical therapy programs*.

In May of 2020, a representative from FSBPT contacted the Board to discuss the AAP. After a discussing the AAP at the Board's regularly scheduled July 16, 2020 Board meeting, the Board voted to participate in the AAP, which would require further amendments to the Board's regulations. The required amendments were made, and at the Board's regularly scheduled November 30, 2020 Board meeting, the Board reviewed all AAP-related amendments and voted to promulgate proposed regulation through the regulatory review process. Direct access to the national examination with the examination provider

(FSBPT), rather than by seeking the Board's permission, will simplify and streamline the process for applicants to register for the NPTE.

The proposed rulemaking was published for public comment in the *Pennsylvania Bulletin* at 54 Pa.B. 863 (January 27, 2024). The Board received only one public comment generally supporting the rulemaking. On March 27, 2024, the Board received IRRC's comments. The Board discussed these comments at its public meetings on March 21, 2024 (public comment) and July 25, 2024 (IRRC's comment), at which time the Board voted to proceed with the promulgation of this final-form rulemaking.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

For purposes of this rulemaking, the Board estimates that approximately 1,067 individuals will be impacted by early examination and AAP participation on an annual basis because the Board reviews approximately 1,067 total applications (PT plus PTA) annually. The number of individuals impacted by the amendment to allow licensees and certificate holders working as clinical instructors to receive continuing education credit hours for teaching PT and PTA students is unknown, because this number is not tracked by the Board, nor the professional organizations.

According to the Pennsylvania Department of Labor and Industry in 2020 (the most recent year for which data is available), PTs and PTAs provide their services for a variety of private and public sector employers. Physical Therapists are employed in the following private sector positions: 1) Offices of physical, occupational and speech therapists, and audiologists (32%); 2) Hospitals (28%); 3) Home healthcare services (11%); 4) Self-employed workers (6%); and 5) Nursing and residential care facilities (6%). Physical Therapist Assistants are employed in the following private sector positions: 1) Offices of physical, occupational and speech therapists, and audiologists (44%); 2) Hospitals (24%); 3) Nursing care facilities (10%); 4) Home healthcare services (9%); 5) Offices of physicians (5%).

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the 2022 NAICS standards to the types of businesses where licensees may work, a small business in physical, occupational and speech therapists, and audiologists is one that has $12.5 million or less in average annual receipts.

Based on this variety of employers, the Board believes that most PTs and PTAs in Pennsylvania are employed in small businesses. The Board does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, the Board must assume that a large number of its licensees either are or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

The Board reviews approximately 1,067 total applications (PT plus PTA) annually. Accordingly, approximately 1,067 individuals will be impacted by the amendment allowing students to sit for the required examination prior to graduation, and approximately 1,067 individuals will be impacted by the amendments made to allow applicants to directly register for the national examination with the examination provider, rather than by seeking the Board's permission. The rulemaking is not expected to have a direct fiscal impact on these individuals, but the overall purpose of allowing students to register for

the examination by contacting the exam provider (without the added requirement that the student first seek the Board's permission), and allowing students to sit for the required examination prior to graduation, is to remove unnecessary administrative barriers which will allow such prospective PTs and PTAs to enter the workforce sooner. This should have a net positive fiscal impact on these individuals. Small businesses will benefit from the availability of properly licensed or credentialed individuals, rather than individuals waiting to take the examination, and therefore waiting to be licensed/credentialed.

The number of individuals impacted by the amendment to allow licensees and certificate holders working as clinical instructors to receive continuing education credit hours for teaching PT and PTA students is unknown, because this number is not tracked by the Board, nor the professional organizations. However, it is not likely a large number. What can be ascertained is that the CE amendment allows members of the regulated community to earn up to four (4) credit hours per biennium by providing clinical instruction. The cost of credit hours varies greatly depending on the course content and provider. Therefore, the actual cost savings is exceedingly speculative. However, members of the regulated community who provide clinical instruction will be allowed to earn up to four (4) of the required thirty (30) credit hours per biennium by providing clinical instruction (4 of 30 credit hours equals approximately 13%). Therefore, we can ascertain that those able to take full advantage of this amendment should see a cost savings of approximately 13%. Small businesses that cover the cost of CE will benefit in the same fashion.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Approximately 1,067 applicants per year will be affected by the ability to sit for the exam up to 90 days prior to graduation, as well as all other proposed exam-related amendments. There is nothing in this regulation requiring compliance with new regulatory standards. This rulemaking merely provides an option to PT and PTA students to sit for the examination early (should they choose to), allows clinical instructors to obtain continuing education credits by virtue of their position (should they choose to), and allows applicants to register for the required examination with the exam provider (rather than ask the Board for permission to sit for the examination).

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Approximately 1,067 applicants per year will be affected by the ability to sit for the exam up to 90 days prior to graduation. It is unknown as to how many licensees and certificate-holders will be able to take advantage of earning CE credit hours by providing clinical instruction to PT students and PTA students because this number is not tracked by the Board, nor the professional organizations. However, members of the regulated community will be allowed to earn up to four (4) of the required thirty (30) credit hours per biennium by providing clinical instruction (4 of 30 credit hours equals approximately 13%). Therefore, we can ascertain that those able to take full advantage of this amendment should see a cost savings of approximately 13%. The costs associated with continuing education courses varies widely depending on the provider, however, for purposes of this rulemaking, the Board assumes an average of $100 per credit hour for in-person courses and $25 per credit hour for online courses based on a review of available courses. Accordingly, licensees and certificate-holders spend between $3,000 and $750 biannually on CE. A 13% cost savings would equal a savings of between $390 and $97.50 biannually.

Small businesses that cover the cost of CE will benefit in the same fashion. The Board expects that few licensees will be in a position to take advantage of this opportunity; most likely less than 5%.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

All PT students and PTA students (approximately 1,067 individuals annually) will benefit by being able to register for their examinations sooner (by no longer having to seek the Board's permission), being able to sit for their respective examinations sooner, and ultimately being able to enter the workforce sooner. To those individuals working full-time providing clinical instruction, this rulemaking will both reduce the overall cost of CEs and save them from the time and hassle of finding, paying for and attending up to 13% fewer traditional CE classes, saving between $390 and $97.50 biannually.

The Board foresees no costs or adverse effects to any of the other amendments detailed herein.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The rulemaking allows members of the regulated community to earn up to four (4) credit hours per biennium by providing clinical instruction. The cost of credit hours varies greatly depending on the course content and provider. Therefore, the actual cost savings is exceedingly speculative. However, members of the regulated community will be allowed to earn up to four (4) of the required thirty (30) credit hours per biennium by providing clinical instruction. Therefore, we can ascertain that those able to take full advantage of this amendment should see a cost savings of approximately 13%, or between $390 and $97.50 biannually. The Board expects that few licensees and certificate holders will be in a position to take advantage of this opportunity; most likely less than 5%. However, if 5% of the Board's licensee and certificate-holder population (5% of 26,581 = 1,329) were to save (at minimum) $97.50 biannually, that would equal an annual cost savings of $48.47 for 1,329 individuals, which equals a total annual savings to the regulated community of $64,416.63.

The rulemaking is not expected to have a significant fiscal impact on applicants, but the overall purpose of allowing students to register for the examination by contacting the exam provider (without the added requirement that the student first seek the Board's permission), and allowing students to sit for the required examination prior to graduation, is to remove unnecessary administrative barriers which will allow such prospective PTs and PTAs to enter the workforce sooner. This should have a net positive fiscal impact on these individuals.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local government.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to state government. The Board Administrator will have to remove he "exam registration" section from the online checklist, and edit the "survey questions" (See, Attachment "A"), but this should take less than 15 minutes, which will (according to the Bureau of Finance and Operations (now, the Bureau of Finance and Procurement)) cost the Bureau approximately $15. (1 hour of Board Administrator time costs $61.37, so $61.37 x .25 = $15.34).

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

To implement this rulemaking, two electronic forms must be to some extent amended (discussed further in paragraph 22b). The rulemaking will allow applicants to directly register for the national examination with the examination provider, rather than by seeking the Board's permission. According to FSBPT, graduates of CAPTE programs will be able to receive their NPTE eligibility immediately upon registering, because when an individual applies from an AAP state, the validation process is done electronically.

(22a) Are forms required for implementation of the regulation?

The Board's application forms and biennial renewal forms must be to some extent amended. The Board will be able to dispose of its forms related to requesting permission to sit for the examination.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

When applying for licensure online Pennsylvania Licensing System (PALS), applicants must respond to questions to ensure the applicant is completing the appropriate application. After answering questions related to completion of an accredited education program and achieving a passing score on the NPTE, applicants are provided with a "checklist" tailored to their circumstances. Currently, the Board's checklists state the Board "is unable to make you eligible [for the NPTE] unless you have [contacted FSBPT, registered for the examination, and paid for the examination]. The next checklist item then says, "[NPTE examination] scores are reported directly to the Board office approximately one week after the date of the exam." These checklists will be updated to remove the checklist item discussing the need for an applicant to contact FSBPT, register for the examination, and pay for the examination before the Board may determine/grant exam eligibility, because there will no longer be a need for the Board to determine/grant exam eligibility. However, NPTE examination scores will continue to be reported directly to the Board office approximately one week after the date of the exam.

A copy of the questions posed to applicants, as well as a copy of the checklist discussing the need for an applicant to contact FSBPT, register for the examination, and pay for the examination before the Board may determine/grant exam eligibility, are attached. (See, Attachment "A").

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year 23-24	FY +1 Year 24-25	FY +2 Year 25-26	FY +3 Year 26-27	FY +4 Year 27-28	FY +5 Year 28-29
SAVINGS:	**$**	**$**	**$**	**$**	**$**	**$**
Regulated Community	$64,416	$64,416	$64,416	$64,416	$64,416	$64,416
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	$64,416	$64,416	$64,416	$64,416	$64,416	$64,416
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 2021-2022 (actual)	FY -2 2022-2023 (budget)	FY -1 2023-2024 (budget)	Current FY 2024-2025 (projected)
State Board of Physical Therapy	$ 756,919.38	$ 910,000.00	$ 780,000.00	$ 937,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the regulation.
(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
(c) A statement of probable effect on impacted small businesses.
(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The Board assumes all its licensees either are themselves, or are employed by, small businesses. Not all licensees are affected by the proposal; only PT and PTA students looking to take the national exams (approx. 1,067 individuals annually) and PTs and PTAs who provide clinical instruction (number unknown, but this will most likely be a very small percentage of the licensee base). There are not any significant reporting, recordkeeping or other administrative costs required for compliance with the regulation.

Entering the workforce sooner and paying for fewer CEs will cause a net positive financial effect for licensees and small businesses. Therefore, the Board did not consider other alternative methods because this regulation provides great benefit to licensees.

a) Small businesses are not subject to the rulemaking.

b) Small businesses are not subject to the rulemaking, therefore there are no projected reporting, recordkeeping and other administrative costs required for compliance with the rulemaking, including the type of professional skills necessary for preparation of the report or record.

c) The Board assumes all its licensees either are themselves, or are employed by, small businesses. Accordingly, there should be a net positive impact on small business because PTs and PTAs will be licensed sooner and should be able to enter the workforce sooner.

d) The rulemaking does not negatively affect small businesses, so no less intrusive or less costly alternative methods of achieving the purpose of the rulemaking was considered.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No such special provisions are required.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The rulemaking originally included amendments which would have limited applicants from taking the exam after six unsuccessful attempts ("six lifetime limit"), or when the applicant scores lower than 400 on the NPTE scale ("low score limit"). However, the Board has decided to not incorporate these provisions in the rulemaking.

The Board considers this proposal to be the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

a) The establishment of less stringent compliance or reporting requirements for small businesses;
b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
c) The consolidation or simplification of compliance or reporting requirements for small businesses;
d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The Board assumes all its licensees either are themselves, or are employed by, small businesses. Not all licensees are affected by the proposal; only PT and PTA students looking to take the national exams (approx. 1,067 individuals annually) and PTs and PTAs who provide clinical instruction (number unknown, but this will most likely be a small percentage of the licensee base; most likely less than 5%). There are not reporting, recordkeeping or other administrative costs required for compliance with the regulation.

Entering the workforce sooner and paying for fewer CEs will cause a net positive financial effect for licensees and small businesses.

a) The rulemaking does not establish compliance or reporting requirements for small businesses;

b) The rulemaking does not establish schedules or deadlines for compliance or reporting requirements for small businesses;

c) The rulemaking does not establish compliance or reporting requirements for small businesses;

d) The rulemaking does not establish performance standards for small businesses to replace design or operational standards required in the regulation; and

e) The rulemaking does not negatively affect small businesses, so no small business exemption was contemplated.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The underlying intent of this rulemaking is to remove unnecessary barriers to licensure. This parallels Executive Order (EO) 2017-03 entitled "Review of State Professional and Occupational Licensure Board Requirements and Process," signed October 24, 2017. The intent of the report developed in response to EO 2017-03 was to provide information to the governor to help him and administration officials identify opportunities to remove unnecessary restrictions that prevent Pennsylvanians from gaining employment without compromising the health and safety of residents. While the provisions of this rulemaking are not specifically cited in the report, the underlying goal is the same: to remove unnecessary barriers to licensure. EO 2017-03 is available at: https://www.dos.pa.gov/ProfessionalLicensing/Documents/EO2017-03-Executive-Report-Occupational-Licensing.pdf.

(29) Include a schedule for review of the regulation including:

A. The length of the public comment period: 30 days

B. The date or dates on which any public meetings or hearings will be held:

No public hearings were scheduled or held. The Board discusses its regulatory proposals at regulatory scheduled meetings. The Board's upcoming 2024 meeting dates are as follows: October 3, and November 14

C. The expected date of delivery of the final-form regulation: **Fall 2024**

D. The expected effective date of the final-form regulation: **Fall 2024**

E. The expected date by which compliance with the final-form regulation will be required: **Fall 2024**

F. The expected date by which required permits, licenses or other approvals must be obtained: **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The Board is scheduled to meet on the following remaining dates in 2024: October 3 and November 14, 2024, and on the following dates in 2025: January 16, March 21, May 22, July 31, September 26 and November 17, 2024. More information can be found on the Board's website (www.dos.pa.gov/PhysTher).

ATTACHMENT “A”

CheckList Name	Instructions
Application	If this application is not completed within six months, updates of certain sections of the application and supporting documents will be required. If applicable, background check documents cannot be older than 90 days from the date of issuance. If this application is not completed within one year, you will be required to complete a new application and resubmit the application fee. You may not practice in the Commonwealth of Pennsylvania until you have been issued a license, certificate, registration, permit, or authorization.
Application Fee	Application fee of $30 is required. An additional application fee of $15 is required if you are also applying for the temporary license. Please note that all fees are non-refundable.
Child Abuse CE	All health-related licensees/certificate holders and funeral directors are considered "mandatory reporters" under section 6311 of the Child Protective Services Law (23 P.S. § 6311). Therefore, all persons applying for issuance of an initial license or certificate from any of the health-related boards (except the State Board of Veterinary Medicine) or from the State Board of Funeral Directors are required to complete, as a condition of licensure, 3 hours of approved training by the Department of Human Services (DHS) on the topic of child abuse recognition and reporting. After you have completed the required course, the approved provider will electronically submit your name, date of attendance, etc. to the Bureau. For that reason, it is imperative that you register for the course using the information provided on your application for licensure/certification. A list of DHS-approved child abuse education providers can be found on the Department of State Website.
Criminal History Check	Provide a recent Criminal History Records Check (CHRC) from the state police or other state agency **that is the official repository for criminal history record information** for every state in which you have lived, worked, or completed professional training/studies for the past five (5) years. The report(s) must be dated within 180 days of the date the application is submitted. For applicants living, working, or completing training/studies in Pennsylvania, your CHRC request will be automatically submitted to the Pennsylvania State Police upon submission of this application. The PATCH fee will be included at checkout. Your PA CHRC will be sent directly to the Board/Commission. You will be notified if additional action is required. For individuals living, working, or completing training/studies outside of Pennsylvania during the past five (5) years, in lieu of obtaining individual state background checks, you may elect to provide BOTH a state CHRC from the state in which you currently reside, AND your FBI Identity History Summary Check, available at https://www.fbi.gov/services/cjis/identity-history-summary-checks. Please note: For applicants currently living, working, or completing training/studies in California, Arizona, or Ohio: Due to the laws of these states, the Board is not an eligible recipient of CHRC's or your CHRC will not be issued to you for upload to the Board. Please obtain your Federal Bureau of Investigation (FBI) Identity History Summary Check, available at the link noted above.
Databank Report	Provide an official notification of information (Self Query) from the National Practitioner Data Bank. Please refer to the NPDB website for additional information. When you receive the "Response to your Self Query," you will need to upload it to your online application. The report will need to be uploaded, where prompted, in order to submit your application.
Education Verification	Form will be available after you have submitted the application and paid the application fee. Forward the Verification of Education form to your school/university to complete. You are only required to verify the level of education completed which qualifies you for this license. The school must return the completed verification form directly to the Board.
Exam Registration	Please contact the Federation of State Boards of Physical Therapy (FSBPT) to register and pay for your exam. The board is unable to make you eligible unless you have completed this process.
Exam Scores	Examination scores are reported directly to the Board office approximately one week after the date of the exam.

Exam registration section (yellow) will need to be removed.

Physical Therapist

Did you graduate from a **Physical Therapist** program accredited by the Commission on the Accreditation of Physical Therapy Education (CAPTE)?

If yes-Have you taken and passed the National Physical Therapy Exam (NPTE)?

If yes-**application by endorsement**
Application, fee, record of graduation, exam score, cv, logs, databank, act 31
If no-**application by examination**
Application, fee, record of graduation, ~~exam registration, exam eligibility~~, databank, act 31

If no-Do you hold a license to practice as a physical therapist in another US state or jurisdiction?

If yes-**application by endorsement-foreign trained**
Application, fee, foreign ed eval, exam score, cv, logs, databank, act 31
If no-Please contact the board office for more information.

Physical Therapist Assistant

Did you graduate from a **Physical Therapist Assistant** program accredited by the Commission on the Accreditation of Physical Therapy Education (CAPTE)?

If yes-Have you taken and passed the National Physical Therapy Exam (NPTE)?

If yes-application by endorsement
Application, fee, record of graduation, exam score, cv, logs, databank, act 31
If no-application by examination
Application, fee, record of graduation~~, exam registration, exam eligibility~~, exam score, databank, act 31

If no-You do not qualify to apply for a PTA license in Pennsylvania.

Temporary Physical Therapist

Application Information-In order to be eligible for a temporary license, you must have graduated from a CAPTE accredited program and be registered to take the NPTE ~~through~~for Pennsylvania. Only one temporary license will be issued. A temporary license will be valid until the date the examination score is reported, or 6 months from the issue date, whichever comes first. A failing score will cause the temporary license to become "Null and Void".

Have you submitted an application for a Physical Therapist license in Pennsylvania?

If yes-application for temp
Application, fee, exam application, ~~exam registration~~, record of graduation, forms signed by supervisors, databank, act 31

If no-In order to qualify for a temporary license in Pennsylvania, you must first submit an application for the license by examination. If you have already taken the National Physical Therapy Examination (NPTE), you do not qualify for temporary licensure.

Temporary Physical Therapist Assistant

Application Information-In order to be eligible for a temporary license, the applicant must have graduated from a CAPTE accredited program and be registered to take the NPTE through Pennsylvania. Only one temporary license will be issued. A temporary license will be valid until the date the examination score is reported, or 6 months from the issue date, whichever comes first. A failing score will cause the temporary license to become "Null and Void".

Have you submitted an application for a Physical Therapist Assistant license in Pennsylvania?

If yes-application for temp

Application, fee, exam application, ~~exam registration~~, record of graduation, forms signed by supervisors, databank, act 31

If no-In order to qualify for a temporary license in Pennsylvania, you must first submit an application for the license by examination. If you have already taken the National Physical Therapy Examination (NPTE), you do not qualify for temporary licensure.

Direct Access Authorization – PT

Application Information-In order to qualify for the Direct Access Authorization, you must hold a current, active license to practice Physical Therapy in Pennsylvania. Direct Access Authorization allows a licensed PT to practice without referral for up to 30 days subject to §40.61(c) through §40.61(f) of the regulations and is an addition to a physical therapist license. Both the PT license and the Direct Access Authorization must remain active to practice without referral. As a condition of practice, professional liability insurance meeting the requirements of §40.69 of the board's regulations must be maintained.

Have you practiced physical therapy in the delivery of patient care on a continuous basis for at least the last 2 years? (Please note-Practice while holding a temporary license will not be accepted towards the 2 years.)

If yes- Enter the date you passed the NPTE (Exam date text box)

If above date is after 1/1/90-application for Direct access authorization
Application, fee, current license, proof of insurance, cv

If above date is prior to 1/1/90-application for Direct access authorization
Application, fee, current license, proof of insurance, cv, course documentation

If no-You do not qualify for the direct access authorization at this time. Current, active Pennsylvania PT license and 2 years practice experience is required.

PT Assistant-Indirect Supervision

Application Information-In order to qualify for the PT Assistant-Indirect Supervision license, you must hold a current, active Pennsylvania Physical Therapist Assistant license. If you hold a PTA license in another state/jurisdiction, you must first apply for and obtain the Pennsylvania PTA license by endorsement.

Were you employed full-time as a physical therapist assistant for at least three (3) of the five (5) years immediately preceding **October 2, 2008**?

If yes-Application for PT Assistant Indirect Supervision
Application, fee, current license, cv

If no- Have you completed at least 2,000 hours of experience providing patient-related acts and services as a physical therapist assistant under the supervision of one or more licensed physical therapists?

If yes- Application for PT Assistant Indirect Supervision
Application, fee, current license, clinical experience (form), cv

If no-You do not qualify for the Indirect Supervision license at this time.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

Independent Regulatory
Review Commission

March 19, 2025

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General	Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:	Copy below is hereby approved as to form and legality. Executive or Independent Agencies.
BY: _____ (DEPUTY ATTORNEY GENERAL)	State Board of Physical Therapy (AGENCY)	BY: _____ (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)
_____ DATE OF APPROVAL	DOCUMENT/FISCAL NOTE NO. 16A-6522 DATE OF ADOPTION: _____ BY: Geraldine M. Grzybek Geraldine M. Grzybek, PT, TITLE Chair, State Board of Physical Therapy (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)	2/27/2025 DATE OF APPROVAL
☐ Check if applicable Copy not approved. Objections attached.		☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

FINAL-FORM RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY

49 PA. CODE CHAPTER 40

§§ 40.1, 40.14, 40.15, 40.61, 40.63. 40.67, 40.163, 40.164, and 40.192

EARLY EXAM AND CONTINUING EDUCATION CREDIT HOURS FOR CLINICAL INSTRUCTION

The State Board of Physical Therapy (Board) hereby amends §§ 40.1, 40.14, 40.15, 40.61, 40.63, 40.67, 40.163, 40.164, and 40.192 to read as set forth in Annex A. The final-form rulemaking allows physical therapist (PT) students, and physical therapist assistant (PTA) students to sit for the requisite examinations up to 90 days prior to graduation from their respective programs, and allows PTs and PTAs to receive a limited amount of continuing education credit for providing clinical instruction to student PTs and student PTAs at clinical facilities affiliated with accredited programs. Additionally, this final-form rulemaking allows applicants to directly register for the National examination with the examination provider, by removing the requirement that the applicant first seek the Board's permission, and it allows applicants to sit for a third or successive examination, after two failures, without first seeking the Board's permission.

Effective Date

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

This final-form rulemaking is authorized under sections 3(a), 5, 6(b), 7.2 and 9.1(a) and (j) of the Physical Therapy Practice Act (act) (63 P.S. §§ 1303(a), 1305, 1306(b), 1307.2, and 1309.1(a) and (j)). "It shall be the duty of the board to pass upon the qualifications of applicants for licensure as physical therapists and certification as physical therapist assistants, to conduct examinations. . . ." 63 P.S. § 1303(a). "[A]n individual who desires and applies to be licensed as a physical therapist shall apply to the board on a form furnished by the board, and such application shall embody *evidence satisfactory to the board of the applicant's possessing the qualifications preliminary to examination required by this act*." 63 P.S. § 1305 (emphasis added). Accordingly, the Board has broad authority to determine the timeframe in which an applicant may sit for the exam after completion of the didactic portion of their education.

"An applicant for licensure must pass an *examination approved by the board* which shall test the applicant's knowledge of the basic and clinical sciences … and such other subjects as the board may deem necessary to test the applicant's fitness to practice physical therapy. No license shall be granted unless an applicant has attained passing scores established by the testing agency and published prior to the administration of the examination." 63 P.S. § 1306(b) (emphasis added). "For each license renewal, a licensee shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board." 63 P.S. § 1307.2. "To be eligible for certification by the board as a physical therapist assistant, an applicant must be . . . successful in passing an examination approved by the board, subject to rules and regulations established by the board. . . ." 63 P.S. § 1309.1(a). "For each certificate renewal, a certificate holder shall complete within the immediately preceding two-year period at least 30 hours of continuing physical therapy education as approved by the board in accordance with standards and criteria established by the board by regulation." 63 P.S. § 1309.1(j).

Background and Purpose

The current regulations pose an unnecessary burden to licensure and employment within

the Commonwealth, in that there is no reasonable need to require PT students and PTA students to apply to the Board for permission to sit for their respective examinations, when allowing the exam provider to determine eligibility can alleviate pressures on Board staff while simultaneously simplifying and accelerating the examination process. Additionally, there is no reasonable need to require PT students and PTA students to wait until after graduating from their respective programs to sit for their respective examinations.

Section 6(b) of the act regarding qualifications for license; examinations; failure of examinations; licensure without examination; issuing of license; foreign applicants for licensure; temporary license; perjury, provides that an applicant for licensure must pass an examination approved by the Board. Under section 5 of the act (relating to application for license), "an individual who desires and applies to be licensed as a physical therapist shall apply to the board on a form furnished by the board, and such application shall embody evidence satisfactory to the board of the applicant's possessing the qualifications preliminary to examination required by this act."

Both PT and PTA applicants must successfully pass the Board-approved examination, the National Physical Therapy Examination (NPTE) which was created by the Federation of State Boards of Physical Therapy (FSBPT). As part of an ongoing effort to standardize the examination applications process, the FSBPT contacted the Board in May of 2020 to introduce the Alternative Approval Pathway (AAP). The FSBPT explained that, should the Board decide to participate in the AAP, applicants would contact the FSBPT to register to sit for the NPTE, and the FSBPT would be responsible for making the candidate eligible to sit if they meet all NPTE eligibility requirements. Furthermore, to be consistent with NPTE eligibility requirements, and to participate in the AAP, the Board's regulations must be amended: 1) to allow PT and PTA students to sit for the NPTE prior to graduation; and 2) to remove a provision that requires applicants to request the Board's permission to sit for the examination a third time after two failures. This final-form rulemaking amends §§ 40.14 and 40.164 (relating to examination; failure; reexamination; and physical therapist assistant certification examination) to implement these requirements.

Sections 40.15(b) and 40.164(a)(2) currently require PT and PTA applicants to present the required credentials of professional education to the Board. In implementing these provisions, the Board requires proof that applicants graduated from a Board-approved school of physical therapy or completed an approved PTA program before it will permit applicants to sit for the NPTE. When amending these sections, the Board considered the Executive Report on Occupational Licensing as well as legislation that was introduced in this Commonwealth (House Bill 2617 (2018) and House Bill 138 (2019)), which would have allowed PT students, and PTA students, to sit for their respective exams prior to graduating from their respective programs so that they may enter the workforce without unnecessary delay. In reviewing the timing of the examinations, the Board has determined that the existing regulations pose an unnecessary burden to licensure and occupational employment within this Commonwealth, in that there is no reasonable need to require PT students and PTA students to wait until after graduating from their respective programs to sit for the NPTE.

Furthermore, this rulemaking allows PTs and PTAs who provide clinical instruction to receive credit for 1 contact hour of CE for each 40 hours of clinical instruction up to a maximum of 4 contact hours per biennial period.

Summary of Comments and the Board's Response

Notice of the proposed rulemaking was published at 54 Pa.B. 383 (January 27, 2024). Publication was followed by a 30-day public comment period during which the Board received one public comment. The Independent Regulatory Review Commission submitted its comment letter on March 27, 2024. The Consumer Protection and Professional Licensure Committee of the Senate (SCP/PLC) and the Professional Licensure Committee of the House of Representatives (HPLC) did not submit comments. The following represents the Board's response to comments received.

Section 1306(c) of the act (63 P.S. § 1306(6), provides that (in part), "[i]n 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." Sections 40.14(a) and 40.164(b)(1) both currently reiterate that applicants for licensure have, after the expiration of 60 days and within 1 year from the first failure, the privilege of a second examination. Being that this language is found in both the act as well as in the Board's regulations, for the purpose of this final-form preamble, the Board shall refer to this language as "the duplicative language."

The Board proposed to delete the duplicative language from §§ 40.14(a) and 40.164(b)(1), because it has become moot. Prior to contracting with FSBPT for exam services, when the Board still offered a licensing exam, the Board controlled the dates of examination, however the act requires applicants to wait between 60 days and 1 year to sit for the exam a second time. Now, the NPTE is only offered by FSBPT four times per year (January, April, July and October), so it is no longer possible for an applicant to sit for the examination a second time in less than 60 days, obviating the need for the duplicative language.

In its comment, the Independent Regulatory Review Commission (IRRC) acknowledged that the language is duplicative, however it suggested the Board retain the duplicative language in its regulations for ease of reference and clarity for the regulated community. Moreover, IRRC noted that if FSBPT were to change the exam schedule to offer more frequent testing opportunities, and the Board were to delete the duplicative language from its regulations, applicants may believe it possible to sit for the examination prior to the expiration of the statutorily required 60 days. In response, the Board has decided to retain the duplicative language in §§ 40.14(a) and 40.164(b)(1).

In addition to IRRC's comment, the Board received only one comment from a member of the public. This comment was in support of the rulemaking and stated the rulemaking was, "a good idea," because it alleviates "unnecessary bureaucracy and frustration, and align[s] the Commonwealth with its sister states." The commentor ultimately called the rulemaking "beneficial."

Description of the Amendments Made to the Final-Form Rulemaking

§ 40.14. Examination; failure; reexamination.

In response to IRRC's comment, the Board amends § 40.14(a) to retain the duplicative language for ease of reference and clarity for the regulated community. Moreover, where §

40.14(a) referenced "the payment of an additional examination fee charged by the *vendor*," the Board amends § 40.14(a) to specify that the "vendor" is FSBPT.

§ 40.164. Physical therapist assistant certification examination.

In response to IRRC's comment, the Board amends § 40.164(b)(1) to retain the duplicative language for ease of reference and clarity for the regulated community. Moreover, where § 40.164(b)(1) referenced "the payment of an additional examination fee charged by the *vendor*," the Board amends § 40.14(a) to specify that the "vendor" is FSBPT.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 12, 2024, the Board submitted a copy of the notice of proposed rulemaking, published at 54 Pa.B. 383 (January 27, 2024) and a copy of a Regulatory Analysis form to IRRC, to the chairpersons of the SCP/PLC and HPLC for review and comment. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of comments received as well as other documents when requested. In preparing the final-form regulation, the Board has considered all comments received from IRRC and the public. The SCP/PLC and the HPLC did not submit comments.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on March 19, 2025, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulation Review Act, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on _____, 202X Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 202X, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Michelle Roberts, Board Administrator, State Board of Physical Therapy, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-PHYSICAL@PA.GOV.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments received were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 54 Pa.B. 383.

(4) This final-form rulemaking is necessary and appropriate for the administration of the act.

Order

The Board, therefore, orders that:

(a) The regulations of the Board at 49 Pa. Code Chapter 40 are amended at §§ 40.1, 40.14, 40.15, 40.61, 40.63, 40.67, 40.163, 40.164, and 40.192 to read as set forth in Annex A.

(b) The Board shall submit the final-form regulation to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall submit the final-form regulation to IRRC, the HPLC and the SCP/PLC as required by law.

(d) The Board shall certify the final-form regulation and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form regulation shall take effect upon publication in the *Pennsylvania Bulletin.*

Geraldine M. Grzybek, PT,
Chairperson
State Board of Physical Therapy

16A-6522 Commenter List

Name	*Email*	*Address*
Leckenby, Joseph	leckenbyj@duq.edu	N/A

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS

GENERAL PROVISIONS

§ 40.1. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

FSBPT—The Federation of State Boards of Physical Therapy.

NPTE—The National Physical Therapy Examination developed, maintained and administered by FSBPT.

Physical therapist—A person licensed under the act and this chapter to provide physical therapy services without restriction in this Commonwealth.

* * * * *

LICENSURE

§ 40.14. Examination; failure; reexamination.

(a) [Applicants shall successfully pass, to the satisfaction of the Board, the examination approved by the Board. 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, with the payment of an additional examination fee charged by the vendor.] Applicants shall successfully pass the NPTE. **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, WITH THE PAYMENT OF AN ADDITIONAL EXAMINATION FEE TO FSBPT.**

(b) [After a second or successive failure to pass the examination, an applicant desiring to take a third or successive examination shall make a new application within the meaning of section 5 of the act (63 P. S. § 1305) within 6 months from the date of the last failure. However, prior to filing a new application for examination, the Board may require evidence of additional training. If the Board determines that the applicant will be permitted to take a third or successive examination, the Board may authorize in connection with a written examination an oral or practical examination, or both, to test the knowledge and competence of the applicant.] [Reserved].

(c) [The granting of permission by the Board to take a third or successive examination is at all times subject to the applicant otherwise qualifying under the requirements in force at the time permission to take the examination is sought.] [Reserved].

(d) An applicant may not take the [examination] NPTE more than three times in a consecutive 12-month period.

(e) An applicant may take the NPTE up to 90 days prior to graduation from a CAPTE accredited program.

§ 40.15. [Examinations.] Licensure by Examination.

(a) [An application for licensure by examination may be obtained from the State Board of Physical Therapy, Post Office Box 2649, Harrisburg, Pennsylvania, 17105-2649.] Applications for licensure by examination must be submitted to the Board in a manner and format prescribed by the Board.

(b) [An applicant may not be admitted to examination who is unable to present, at the time of application, the required credentials of professional education from an approved institution.] Applicants who have graduated from a physical therapy program accredited by CAPTE or by another National organization recognized by the Board that accredits physical therapy programs, shall submit to the Board, at the time of application, the required credentials of professional education from an approved institution.

PRACTICE WITHOUT REFERRAL

§ 40.61. Certificate of authorization to practice physical therapy without a referral.

(a) An applicant for certification of authorization to practice physical therapy without a referral of a licensed physician shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following requirements:

(1) Holds a current license to practice physical therapy in this Commonwealth.

(2) Has done one of the following:

(i) Passed the [National Physical Therapy Examination (NPTE)] NPTE after January 1, 1990.

(ii) Passed the NPTE prior to January 1, 1990, and successfully completed, within 2 years prior to application, a Board approved course consisting of at least 10 hours on the appropriate evaluative and screening procedures to determine the need for further examination or consultation by a physician, dentist or podiatrist prior to initiating treatment without a referral. The Board will maintain a list of currently approved courses.

* * * * *

§ 40.63. Continuing education for direct access certificateholder.

* * * * *

(i) *General continuing education requirement.* Hours of continuing education applied to satisfy the requirement of this section may also be applied to satisfy the requirement of § 40.67 (relating to continuing education for licensed physical therapist). Satisfaction of the continuing education requirement in this section will be deemed to establish satisfaction of the continuing education requirement in § 40.67.

(j) *Continuing education credit for clinical instruction.* A certificate-holder who provides clinical instruction to students in a clinical facility affiliated with a physical therapy program accredited by CAPTE, or by another National organization recognized by the Board that accredits physical therapy programs, may receive credit for 1 contact hour of continuing education for each 40 hours of clinical instruction up to a maximum of 4 contact hours per biennial period. Credits earned under this subsection will not count toward credits required under § 40.61(a)(2)(ii) (relating to certificate of authorization to practice physical therapy without a referral).

CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

* * * * *

(c) *Credit for approved continuing education.* Credit for continuing education will be determined in accordance with the following.

(1) Credit for continuing education will be granted only for [courses or programs offered by providers preapproved under subsection (d)(1) or approved by the Board under subsection (d)(2) or for authoring publications as authorized under subsection (e).] the following:

(i) Clinical instruction provided to students under paragraph (7).

(ii) Courses or programs offered by providers preapproved under subsection (d)(1).

(iii) Courses or programs approved by the Board under subsection (d)(2).

(iv) Authoring publications as authorized under subsection (e).

(2) Unless limited by this section, continuing education credit may be earned in a course or program or authoring a publication relating to any of the following:

* * * * *

(6) If a course or program extends beyond a single biennial renewal period, credit will be awarded in the period in which the course or program is finally completed.

(7) A licensee providing clinical instruction to students in a clinical facility affiliated with a physical therapist program or physical therapist assistant program accredited by CAPTE or by another National organization recognized by the Board that accredits physical therapy

programs or physical therapist assistant programs may receive credit for 1 contact hour of continuing education for each 40 hours of clinical instruction up to a maximum of 4 contact hours per biennial period.

(d) *Approval of continuing education courses and programs*. Continuing education courses and programs may be approved in accordance with this subsection.

* * * * *

Subchapter C. PHYSICAL THERAPIST ASSISTANTS

CERTIFICATION

§ 40.163. Requirements for certification.

(a) Under section 9.1(a) of the act (63 P.S. § 1309.1(a)), an applicant for certification by examination shall pay the fee in § 40.5 (relating to fees) for initial application for physical therapist assistant certification by exam or endorsement and submit evidence of the following:

(1) Graduation from a physical therapist assistant program which has been approved for the education and training of physical therapist assistants by CAPTE.

(2) A passing grade on the [physical therapist assistant certification examination] NPTE.

(b) Under section 6(d.1) of the act (63 P.S. § 1306(d.1)), an applicant for reciprocal certification shall submit evidence of a valid license, certificate or registration as a physical therapist assistant issued by another state, territory or the District of Columbia, where the requirements for licensure, certification or registration were on the date of issuance substantially the same as those required by this Commonwealth, and which accords similar privileges to persons certified as physical therapist assistants in this Commonwealth.

§ 40.164. Physical therapist assistant certification examination.

(a) *Application procedure.* An applicant applying for certification by examination shall [take the physical therapist assistant certification examination. The applicant who is taking the examination in this Commonwealth shall] comply with the following:

(1) [The applicant shall complete application forms for admission to the examination obtained from the Board and return the completed form with a check or money order for the appropriate fee.] [Reserved].

(2) [The applicant shall present the required credentials of professional education at the time of application.] [Reserved].

(3) An applicant shall successfully pass the NPTE.

(4) An applicant may take the NPTE up to 90 days prior to graduation from a CAPTE accredited program.

(b) *Failure and re-examination*. In the case of failure of examination, [the following apply:] an applicant may retest, but may not take the NPTE more than three times in a consecutive 12-month period.

(1) [After failing the first examination, the applicant has, after the expiration of 60 days and within 1 year of the date of the first failure, the privilege of a second examination upon the filing of a new application under subsection (a) and payment of the appropriate fee.] ~~[Reserved].~~ **AFTER FAILING THE FIRST EXAMINATION, THE APPLICANT HAS, AFTER THE EXPIRATION OF 60 DAYS AND WITHIN 1 YEAR OF THE DATE OF THE FIRST FAILURE, THE PRIVILEGE OF A SECOND EXAMINATION UPON THE FILING OF A NEW APPLICATION UNDER SUBSECTION (A) AND PAYMENT OF THE APPROPRIATE FEE TO FSBPT.**

(2) [After a second or successive failure to pass the examination, an applicant desiring to take a third or successive examination shall file a new application. The Board may require evidence of additional training prior to allowing a candidate to take a third or successive examination.] [Reserved].

(3) [The granting of permission to take a third or successive examination is subject to:

(i) Authorization by the Board at its discretion to include an oral or practical examination, or both, in connection with the written examination to further test the knowledge, skills and competence of the applicant.

(ii) The applicant otherwise qualifying under requirements in force at the time that permission to take the examination is sought.] [Reserved].

CONTINUING EDUCATION

§ 40.192. Continuing education for certified physical therapist assistant.

* * * * *

(c) *Credit for approved continuing education.* Credit for continuing education will be determined in accordance with the following.

(1) Credit for continuing education will be granted only for [courses or programs offered by providers preapproved under subsection (d)(1) or approved by the Board under subsection (d)(2) or for authoring publications as authorized under subsection (e).] the following:

(i) Clinical instruction provided to students under paragraph (7).

(ii) Courses or programs offered by providers preapproved under subsection (d)(1).

(iii) Courses or programs approved by the Board under subsection (d)(2).

(iv) Authoring publications as authorized under subsection (e).

(2) Unless limited by this section, continuing education credit may be earned in a course or program or authoring a publication relating to any of the following:

* * * * *

(6) If a course or program extends beyond a single biennial renewal period, credit will be awarded in the period in which the course or program is finally completed.

(7) A certified physical therapist assistant providing clinical instruction to students in a clinical facility affiliated with a physical therapist program or physical therapist assistant program accredited by CAPTE or by another National organization recognized by the Board that accredits physical therapy programs or physical therapist assistant programs shall receive credit for 1 contact hour of continuing education for each 40 hours of clinical instruction up to a maximum of 4 contact hours per biennial period.

(d) *Approval of continuing education courses*. Continuing education courses or programs may be approved in accordance with this subsection.

* * * * *

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

March 19, 2025

The Honorable George D. Bedwick, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Rulemaking
State Board of Physical Therapy
16A-6522: Early Exam and CE for Clinical Instruction

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Physical Therapy pertaining to 16A-6522: Early Exam and CE for Clinical Instruction.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

Geraldine M. Grzybek

Geraldine M. Grzybek, PT, Chairperson
State Board of Physical Therapy

GG/tmd/mas
Enclosure

cc: Arion Claggett, Acting Commissioner of Professional and Occupational Affairs
K. Kalonji Johnson, Deputy Secretary for Regulatory Programs
Andrew LaFratte, Deputy Policy Director, Department of State
Jason C. Giurintano, Deputy Chief Counsel, Department of State
Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State
Thomas M. Davis, Regulatory Counsel, Department of State
Sean C. Barrett, Board Counsel, State Board of Physical Therapy
State Board of Physical Therapy

Sheehe, Melanie

From: Monoski, Jesse <Jesse.Monoski@pasenate.com>
Sent: Wednesday, March 19, 2025 9:37 AM
To: Sheehe, Melanie; Dimm, Ian; joseph.kelly; Vazquez, Enid
Subject: Re: DELIVERY NOTICE: REGULATION: 16A-6522

RECEIVED
Independent Regulatory Review Commission
March 19, 2025

Received. Thank you.

-Jesse

Get Outlook for Android

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Wednesday, March 19, 2025 9:35:47 AM
To: Monoski, Jesse <Jesse.Monoski@pasenate.com>; Dimm, Ian <Ian.Dimm@pasenate.com>; Kelly, Joseph <joseph.kelly@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>
Subject: DELIVERY NOTICE: REGULATION: 16A-6522

■ EXTERNAL EMAIL ■

Please provide a written (email) confirmation of receipt of delivery of the attached rulemaking.

Please be advised that the State Board of Physical Therapy is delivering the below final rulemaking.

Thank you for your attention to this matter.

- 16A-6522 – State Board of Physical Therapy – Early Exam and CE for Clinical Instruction

  This final-form rulemaking of the State Board of Physical Therapy allows: 1) physical therapist (PT) and physical therapist assistant (PTA) students to take the requisite examinations up to 90 days prior to graduating from their respective programs; 2) PT licensees and PTA certificate holders working as clinical instructors to receive continuing education credit hours for teaching PT and PTA students; and 3) applicants to directly register for the national examination with the examination provider, rather than by seeking the Board's permission, via the Board's participation in the Federation of State Boards of Physical Therapy's (FSBPT's) Alternative Approval Pathway (AAP).

Melanie A. Sheehe | Legal Assistant II
Office of Chief Counsel | Department of State
Governor's Office of General Counsel
2400 Thea Drive
P.O. Box 69523 | Harrisburg, PA 17106-9523
Office Phone 717.710.2749 | Fax: 717.787.0251
msheehe@pa.gov | www.dos.pa.gov
Preferred Pronouns: She, Her, Hers
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The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this

Sheehe, Melanie

From: Nicole Sidle <Nsidle@pahousegop.com>
Sent: Wednesday, March 19, 2025 11:12 AM
To: Sheehe, Melanie; Cindy Sauder
Subject: RE: [EXTERNAL]: DELIVERY NOTICE: REGULATION: 16A-6522

RECEIVED
Independent Regulatory Review Commission
March 19, 2025

This has been received.

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Wednesday, March 19, 2025 9:41 AM
To: Nicole Sidle <Nsidle@pahousegop.com>; Cindy Sauder <Csauder@pahousegop.com>
Subject: [EXTERNAL]: DELIVERY NOTICE: REGULATION: 16A-6522
Importance: High

Please provide a written (email) confirmation of receipt of delivery of the attached rulemaking.

Please be advised that the State Board of Physical Therapy is delivering the below final rulemaking.

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Independent Regulatory Review Commission
March 19, 2025

Sheehe, Melanie

From: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Sent: Wednesday, March 19, 2025 9:54 AM
To: Sheehe, Melanie
Subject: RE: DELIVERY NOTICE: REGULATION: 16A-6522

Received.

Jennifer Smeltz, Executive Director
Consumer Protection and Professional Licensure Committee
Office of Senator Pat Stefano
Phone: (717) 787-7175

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Wednesday, March 19, 2025 9:43 AM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: DELIVERY NOTICE: REGULATION: 16A-6522
Importance: High

◉ CAUTION : External Email ◉

Please provide a written (email) confirmation of receipt of delivery of the attached rulemaking.

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Melanie A. Sheehe | Legal Assistant II
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Sheehe, Melanie

RECEIVED
Independent Regulatory Review Commission
March 19, 2025

From: Orchard, Kari L. <KOrchard@pahouse.net>
Sent: Wednesday, March 19, 2025 9:47 AM
To: Sheehe, Melanie; Barton, Jamie; Brett, Joseph D.
Subject: RE: DELIVERY NOTICE: REGULATION: 16A-6522

Received. Thank you!

Kari Orchard
Executive Director (D) | House Professional Licensure Committee
Chairman Frank Burns, 72nd Legislative District

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Wednesday, March 19, 2025 9:38 AM
To: Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>
Subject: DELIVERY NOTICE: REGULATION: 16A-6522
Importance: High

Please provide a written (email) confirmation of receipt of delivery of the attached rulemaking.

Please be advised that the State Board of Physical Therapy is delivering the below final rulemaking.

Thank you for your attention to this matter.

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