



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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Agenda Item # 16

Issue Paper

Date: October 31, 2012

Prepared for: PTBC Members

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Subject: Proposed Physical Therapy Practice Act

Purpose:

To inform the Board of changes made to the proposed Physical Therapy Practice Act (Act) since its last review at the February 2012 meeting, and identify specific provisions for Board consideration to provide direction to staff.

Background:

The Board last reviewed the proposed Act at the February 2012 meeting in anticipation of the Board's sunset review. The Board's sunset review was postponed one year, and staff was unsuccessful in seeking an author prior to last year's deadline to introduce bills.

The proposed Act is one of the "New Issues" identified in the Board's 2012 Sunset report addendum (also included in the 2011 Sunset report). The Board has struggled to get the proposed Act introduced; however, the Senate Committee on Business, Professions, and Economic Development staff are receptive to reviewing the proposed Act to determine the Board's options.

Analysis:

The changes made to the proposed Act at the February 2012 meeting are identified by the use of notes in the margin. Additional changes have been made since that meeting, which are identified by the use of notes in the margin and blue text. Staff would also like to bring the Board's attention to specific provisions of the proposed Act for consideration, and those items are outlined below, as well as identified by the use of notes in the margin and blue text.

1. Sections 2630.5, 2639, 2639.1 and 2653

Consideration:

Sections affected	2630.5	Licensure exemptions
	2639	License applicant status
	2639.1	Equivalency
	2653	Foreign educated applicants

In these sections the education programs are referred to as “physical therapy programs.” Is it appropriate to combine physical therapist education programs and physical therapist assistant education programs?

Reference:

The Model Practice Act for Physical Therapy, 5th Edition, published by the FSBPT, uses the term “physical therapy education program” in listing the requirements to apply for physical therapist licensure; however, uses the term “physical therapist assistant education program” when listing the requirements to apply for physical therapist assistant licensure.”

2. Section 2646: License Renewal

Consideration:

In 2005, the Board proposed to reduce the time period to allow licensure renewal from five years to three years pursuant to the FSBPT Model Practice Act for Physical Therapy (Model Practice Act) at that time. Since then, the FSBPT has updated the Model Practice Act, and now recommends a four-year time period.

Reference:

Commentary

When a license has been allowed to lapse for a lengthy period of time it shall be an indication of a break in continuity of practice and professional development, and potentially, a loss of ongoing competence. It is recommended that a four-year time period be used to determine when the further requirement of reapplication for licensure should be instituted. The board should have the discretion to assess continuing competence to practice physical therapy in the case of a lapse in practice of four or more years. Competence assessment shall include the options of 1) a supervised internship, 2) remedial or refresher coursework, and 3) retesting, or 4) any combination of these options. Further provisions for applicant interview by the board should be specified.

FSBPT Model Practice Act for Physical Therapy. 5th ed. 1 Nov. 2012.

Staff Recommendation:

The current time period allowed for licensure renewal is not a vast departure from the FSBPT's recommendation. Also, this amendment is considered controversial because it may inhibit employment opportunities for physical therapists and physical therapist assistants in California. For these reasons, staff recommends keeping the current language allowing a five-year time period for licensure renewal before a license becomes cancelled.

3. Section 2655.2: Use of PTA's

Consideration:

Current section 2655.2, which establishes a limit on the number of PTA's a PT may supervise, is being repealed in the proposed Act; however, it is not addressed elsewhere in statute or regulation. Does the Board want to keep current Section 2655.2?

Reference:

2655.2. A physical therapist shall not supervise more physical therapist assistants at any one time than in the opinion of the board can be adequately supervised. Two physical therapist assistants shall be the maximum number of physical therapist assistants supervised by a physical therapist at any one time, but the board may permit the supervision of a greater number by a physical therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case, however, shall the total number of physical therapist assistants exceed twice the number of physical therapists regularly employed by a facility at any one time.

4. Section 2660.3: Public letter of reprimand

Consideration:

Currently, the Board does not have the authority to include terms in a public letter of reprimand; therefore, to add terms to require completion of specified training or education when issuing a public letter of reprimand, the Board has to refer the case to the Attorney General's Office (AG). Due to the current state of the Board's budget, specifically, the over-expenditure of the AG budget line item, adding this authority would allow Board staff to include terms in the a public letter of reprimand in-house, avoiding expenses incurred by referring these cases to the AG.

Reference:

The Medical Board of California currently has this authority in Business and Professions Code section 2233.

2233. The board may, by stipulation or settlement with the affected physician and surgeon, issue a public letter of reprimand after it has conducted an investigation or inspection as provided in this article, rather than filing or prosecuting a formal accusation. The public letter of reprimand may, at the discretion of the board, include a requirement for specified training or education. The affected physician and surgeon shall indicate agreement or nonagreement in writing within 30 days of formal notification by the board of its intention to issue the letter. The board, at its option, may extend the response time. Use of a public reprimand shall be limited to minor violations and shall be issued under guidelines established by regulations of the board. A public letter of reprimand issued pursuant to this section may be disclosed to an inquiring member of the public.

Staff recommendation:

Adopt the proposed Section 2660.3 as presented by staff, which adds authority for the Board to include terms in a public letter of reprimand requiring completion of specified training or education.

5. All sections affected by moving requirements to regulation –

Consideration:

The Board approved amending specific provisions of the Act to move documentation, supervision, licensure, and renewal requirements into regulation at the February 2012 meeting. This was recommended by staff to provide more accessibility in maintaining the noted requirements; it is easier to amend a regulation than a statute. However, drafting regulations require staffing and time, which are both limited resources for the Board. Should the Board choose to proceed with moving requirements into regulation, the Board would need to immediately request additional temporary staff to complete this project. This project would coincide with revising all the Application and Licensing Services regulations.

Reference:

Below is a break-down of what would be proposed regulations if removed from statute. As you will see, the supervision requirements, for the most part, are already addressed in regulation; however the majority of the licensure and renewal requirements are not. The sections are listed in order by B&P Code section number.

Section	Topic	Moving to Regulation	Existing Regulations
2620.7	Patient records	Documentation requirements	CCR sections 1398.13: Patient Records, and

			1398.44: Adequate Supervision Defined
2622	Identifying physical therapists (PT) are responsible for all care	Specific responsibilities	
2630.3	Physical therapist assistants (PTA)	Supervision requirements for PTA's	CCR section 1398.44: Adequate Supervision Defined
2630.4	Aides	Supervision requirements for aides	CCR section 1399: Requirements for Use of Aides
2633	Identification of physical therapy students during clinical practice		CCR section 1398.37: Identification of Students and Interns
2635	PT licensure requirements	Licensure requirements	
2635.5	PTA licensure requirements	Licensure requirements	
2636.5	Reciprocity PT and PTA licensure requirements	Licensure requirements	
2639	PTLA and PTALA status	Supervision requirements for license applicants	CCR sections 1399.10: Supervision of Physical Therapist License Applicants, and 1399.12: Supervision of Physical Therapist Assistant License Applicants
2639.1	Equivalency PTA licensure requirements	Licensure requirements	
2644	PT and PTA license renewal requirements	Renewal requirements	
2653	Foreign educated PT licensure requirements	Licensure Requirements	
2654	Foreign educated PTA licensure requirements *Includes foreign PTA applicants educated who completed a PT program	Licensure requirements	

Action Requested:

To provide direction to staff, and adopt the proposed Act, as amended, for submission to the Senate Committee on Business, Professions, and Economic Development with the 2012 Sunset report addendum.

Also, amendments may need to be made to the proposed Act for it to move forward in the legislative process; therefore, the Board may wish to delegate to the Board President the authority to amend the proposed Act as needed.