

## **TITLE 16. Physical Therapy Board of California**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under contact person in this Notice must be received by the Physical Therapy Board of California at its office not later than **5:00 p.m. on May 11, 2015.**

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Loma Linda University  
11072 Anderson Street  
Loma Linda, California 92350  
on  
Wednesday, May 13, 2015  
9:15 a.m.**

The Physical Therapy Board of California upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### **AUTHORITY AND REFERENCE:**

Pursuant to the authority vested by Section 2615 of the Business and Professions Code, and to implement, interpret or make specific Section 2653 of said Code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations.

### **INFORMATIVE DIGEST:**

Business and Professions Code Section (BPC §) 2615, authorizes the Board to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable the Board to carry out the provisions of the Physical Therapy Practice Act.

BPC § 2653 authorizes the Board to establish in regulation credential evaluation criteria and to set a passing score on the Test of English as a Foreign Language (TOEFL).

SB 198 amended Business and Professions Code (BPC) §2653 (b) of the Physical Therapy Practice Act (Act) when it was chaptered into law. The amendment requires an applicant for a license as a physical therapist who has graduated from a physical therapist education program, that is not approved by the Board and is not located in the United States, demonstrate proficiency in English by achieving a score specified by the Board on the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Services (ETS) or such other examination as may be specified by the Board by regulation.

Since TOEFL was required by statute prior to the promulgation of regulation, the Board deferred to the examination score minimums set by the United States Citizenship and Immigration Services (USCIS) for immigrants seeking to come into the United States to practice physical therapy; though, the Board finds the score minimums acceptable by USCIS for immigration purposes outdated and insufficient for consumer protection. Additionally, federal regulations allow for combining of scores of the multiple part exam from multiple sittings which the Board also finds insufficient for consumer protection. Although, consistent with federal regulation the Board proposes to define in regulation those considered to be exempt from the TOEFL requirement for having studied in countries where English is not a foreign language. Finally, the CES reporting scores to the Board are doing so voluntarily since it is not mandated in regulation.

#### Anticipated Benefits of Proposed Regulations

The Board considered specific benefits anticipated by the proposed amendment of the section described, including, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things. The Board considered the assurance that a physical therapy practitioner is proficient in English and is capable of communicating effectively with not only the patient, but other health care professionals, insurance companies, etc. is a benefit to the consumer and meets the Board's consumer protection mandate.

#### Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Physical Therapy Board of California conducted a search of any similar regulations on this topic and has concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

#### **FISCAL IMPACT ESTIMATES:**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:                      None

The Board does not anticipate any impact on federal funding.

This proposal does not impact any government owned business.

Nondiscretionary Costs/Savings to Local Agencies:                      None

Local Mandate:                      None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement:                      None

#### Business Impact:

The Board has made an initial determination the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Effect on Housing Costs:       None

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

The Physical Therapy Board of California has determined this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Effect on Small Business:

The Physical Therapy Board of California has determined the proposed regulations could have an effect on small business if the small business physical therapist owner elected to pay the renewal fees of its employees.

Benefits of Regulation:

The Physical Therapy Board of California has determined these regulations will benefit the health and welfare of California residents by ensuring physical therapists educated in a program not approved by the Board nor located in the United States is able to listen, speak, write and read the English language proficiently.

**CONSIDERATION OF ALTERNATIVES:**

The Physical Therapy Board of California must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Physical Therapy Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815 or on the website at: [http://www.ptbc.ca.gov/laws/prop\\_regs/index.shtml](http://www.ptbc.ca.gov/laws/prop_regs/index.shtml).

## **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

## **CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Brooke Arneson  
2005 Evergreen Street, Suite 1350  
Sacramento, California 95815  
Telephone: (916) 561-8260  
Fax: (916) 263-2560  
Email Address: [Brooke.Arneseon@dca.ca.gov](mailto:Brooke.Arneseon@dca.ca.gov)

The backup contact person is:

Liz Constancio  
2005 Evergreen Street, Suite 1350  
Sacramento, California 95815  
Telephone: (916) 561-8274  
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**Website Access:** Materials regarding this proposal can be found at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).