

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

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California (Board) 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 4, 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  
9:00 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 2688 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 as follows:

### **INFORMATIVE DIGEST:**

BPC § 163.5 establishes the criteria to determine the delinquency fee for any licensee within the Department of Consumer Affairs.

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 § 2644, specifies that every person practicing physical therapy in California shall pay a biennial renewal fee.

BPC § 2648 -2648.7 identifies those licensees who are exempt from payment of renewal fees.

BPC § 2682, provides that the funds received by the Treasurer under the authority of the Act, shall be placed in the Physical Therapy Fund.

BPC § 2688, sets the physical therapist and physical therapist assistant initial license application fee at \$125 and authorizes the board to increase the amount for administering the application process to no more than \$300; sets the fee for an application for licensure as a physical therapist and physical therapist assistant submitted under BPC § 2653 at \$200 and authorizes the board to increase the amount for administering the application process for those applications submitted under BPC § 2653 to no more than \$300; sets the physical therapist initial license fee at \$100 and authorizes the board to increase the amount to no more than \$150; sets the physical therapist/physical therapist assistant renewal fee at \$200 and authorizes the board to decrease or increase the amount to no more than \$300; and, sets the delinquency fee at 50% of the renewal fee. There is no physical therapist assistant license fee.

Through this rulemaking, the Board will ensure sufficient resources to maintain current Board operations to meet its mandate of consumer protection until such time it can seek legislative authority to increase the caps imposed in current statutory language.

As already noted above, BPC § 2682 directs the Board to establish a fund to carry out the Board's mandate of consumer protection. A review of the Board's fund condition report demonstrates, since the last fee increase (2009), the overall revenue for the Board has increased by \$905,000 (38%), yet expenditures have increased by \$1,541,000 (83%). This creates a structural imbalance that is unsustainable without a fee increase. To emphasize this point, it is estimated that absent a fee increase, the Board's fund condition will be reduced to a deficit of 0.7 months in reserve by the end of fiscal year 2017/18. However, to further exacerbate the problem, the Board anticipates additional expenditures for the implementation of BreEZe, the Department of Consumer Affairs online enterprise licensing and enforcement solution established to improve services to the Board's stakeholders, the Fund condition will be even more foreboding.

Additional factors attributing to the existing structural imbalance of the Physical Therapy Fund are the costs the Board incurs to deliver its services but most notable are Enforcement, Pro Rata and Personnel costs. A comparison of detailed expenditures between fiscal year 2008/09 (the last implementation of a fee increase) and 2013/14 reveal an overall increase in expenditures of 83%. More specifically, the Board has seen tremendous growth in its enforcement related costs which increased from \$371,731 in fiscal year 2008/09 to \$1,339,997 (260%) in fiscal year 2013/14, an increase in pro rata services from \$229,447 in fiscal year 2008/09 to \$422,877 (84%) in fiscal year 2013/14 and personnel expenditures increased from \$955,024 in fiscal year 2008/09 to \$1,340,967 (40%) in fiscal year 2013/14. Eliminating personnel services or enforcement costs is not an option as that would have a significant impact in several areas of the Boards operations thereby hindering its ability to protect consumers.

Finally, effective January 1, 2014, SB 198 (Chapter 389, Statutes of 2013) amended the Physical Therapy Practice Act to allow a license renewal fee exemption of those licensees in the military, disabled, volunteer and retired. Unfortunately this created a revenue loss and generated another source of responsibility for the Board for which it is not staffed.

The revenue generated from these fees is placed in the Physical Therapy Fund and is utilized by the Board to carry out its responsibilities as required by the Physical Therapy Practice Act.

### 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. As stated above, this proposal ensures sufficient resources to maintain current Board operations to meet its 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:

It is anticipated that the proposed fee increase will result in an increase in Board revenues for fiscal year 2016/17 by approximately \$1,838,550 and an increase to ongoing annual revenue by approximately \$1,751,817.

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 cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Physical Therapy Board of California are as follows:

Fee Type	Existing Fee	Proposed Fees
Physical Therapist (PT) Application	\$125	\$300
PT Application (submitted under BPC § 2653)	\$200	\$300
Physical Therapist Assistant (PTA) Application and License	\$125	\$300
PTA Application and License (submitted under BPC § 2653)	\$200	\$300
Initial License for PT's	\$100	\$150
Renewal for Both License Types (PT & PTA)	\$200	\$300

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 this regulation will benefit the health and welfare of California residents if the Board has adequate funding to support its mandated mission to protect California consumers of physical therapy.

**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  
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**Website Access:** Materials regarding this proposal can be found at [www.ptbc.ca.gov](http://www.ptbc.ca.gov)