

Wisconsin Department of Safety and Professional Services
Division of Policy Development
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Scott Walker, Governor
Dave Ross, Secretary

PHYSICAL THERAPY EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Katie Paff (608) 261-4472
May 28, 2015
8:30 A.M.

Public Hearing on Administrative Rule to repeal PT 1.02 (2), and 3.02; to amend PT 1.04 and 8.02; to repeal and recreate PT 8.05, relating to temporary reentry licensure.

ALL HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed in conjunction with hearings are approximate and depend on the length of discussion and testimony. In order to confirm a hearing or to request a complete copy of rules relating to this hearing, please call the listed contact person. All hearings are held at 1400 East Washington Avenue; Madison Wisconsin, unless otherwise noted. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

Notice of Hearing

The Physical Therapy Examining Board announces that it will hold a public hearing on a permanent rule to repeal PT 1.02 (2), and 3.02; to amend PT 1.04 and 8.02; to repeal and recreate PT 8.05, relating to temporary reentry licensure at the time and place shown below.

Hearing Information

Date: May 28, 2015

Time: 8:30 A.M.

Location: 1400 East Washington Avenue, Room 121A, Madison WI

Appearances at the Hearing and Submittal of Written Comments

The rule may be reviewed at <http://dsps.wi.gov/Boards-Councils/Rulemaking/Public-Hearing-Comments/>.

Comments may be submitted to Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received on or before the public hearing to be included in the record of rule-making proceedings.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

Agency Small Business Regulatory Coordinator

Eric Esser, Eric.Esser@wisconsin.gov, (608) 267-2435.

STATE OF WISCONSIN
PHYSICAL THERAPY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PHYSICAL THERAPY EXAMINING
PHYSICAL THERAPY EXAMINING	:	BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Physical Therapy Examining Board to repeal PT 1.02 (2), and 3.02; to amend PT 1.04 and 8.02; to repeal and recreate PT 8.05, relating to temporary reentry licensure.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 448.53 and 448.55, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 448.55 (3), Stats.

Explanation of agency authority:

Pursuant to ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., the Physical Therapy Examining Board (Board) is generally empowered to promulgate rules that will provide guidance within the profession and that interpret the statutes it enforces or administers. Pursuant to s. 448.55 (3), Stats., the Board has express authority to, “promulgate rules that require an applicant for renewal of a license to demonstrate continued competence as a physical therapist or physical therapist assistant.” These proposed rules will give guidance within the profession regarding the requirements for renewing a license. Therefore, the Board is empowered both generally and specifically to promulgate the proposed rule.

Related statute or rule:

Wis. Admin Code chs. PT 1, 2 and 8

Plain language analysis:

The Physical Therapy Examining Board (Board) reviewed its rules and determined that certain provisions needed clarifying. First, s. PT 1.04 was amended by removing

language regarding the application deadline date. By requiring the completed application include all required documents including verified documentary evidence of graduation from a school of physical therapy by the application deadline date the Board is in fact requiring applicants to complete their postsecondary education as a condition of taking the exam. The deadline date was removed in keeping with 2013 Wisconsin Act 114 which required boards to refrain from requiring the completion of postsecondary education before an applicant is eligible to take a credentialing examination. Secondly, the Board decided to repeal the temporary reentry license found in s. PT 3.02 and the term candidate for reentry in s. PT 1.02 (2). These provisions were originally designed to allow persons who had not practiced as a physical therapist for a period of 3 years or more an opportunity to gain clinical experience while waiting for full licensure. However, s. PT 2.01 (h) already addresses applicants returning to the practice of physical therapy after a 3 year absence by requiring an oral examination. Lastly, the Board revised requirements for reinstatement of a license found in s. PT 8.05 by adding conditions applicants need to follow if their license has been surrendered, revoked, or has unmet disciplinary requirements.

SECTION 1. repeals the term candidate for reentry from the Definitions section.

SECTION 2. removes the deadline date from the s. PT 1.04.

SECTION 3. repeals the temporary reentry license.

SECTION 4. removes the application form language from s. PT 8.02.

SECTION 5. amends the reinstatement language found in s. PT 8.05 by adding a provision on unmet discipline.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Illinois allows restoration of license which has been expired or on inactive status for more than 5 years. Ill Admin. Code tit. 68 §1340.60 a). Licensees must do one of the following to restore their license: (1) submit certification of current licensure from another state or territory, (2) submit an affidavit attesting to military service, (3) pass the National Physical Therapy Examination, or (4) submit evidence of recent attendance at an educational program in physical therapy.

Iowa: Iowa allows reactivation of a license that has been on inactive status for more than five years. Licensees must provide verification of a license from every jurisdiction in which the licensee was licensed or has practiced during the time period that the licensee's Iowa license was inactive. The licensee must also provide verification of completion of

80 hours of continuing education within 2 years of the application for reactivation. 645 Iowa Admin. Code 200.15.

Michigan: Michigan allows relicensure of a license that has lapsed for 3 years or more. Licensees must: (1) submit a completed application on a form provided by the department, (2) pass an examination of Michigan laws and rules related to the practice of physical therapy, and (3) either establish that licensee has been employed as a physical therapist in another jurisdiction or pass the National Physical Therapy Examination. Mich. Admin. Code R.338.7137 (2).

Minnesota: Minnesota does not renew, reissue, reinstate, or restore a license that has lapsed or has not been renewed within two annual license renewal cycles. A licensee whose license has been cancelled for nonrenewal must obtain a new license and fulfill all the current requirements for licensure at that time. Minn. Statutes 148.737.

Summary of factual data and analytical methodologies:

The methodologies used in developing this proposed rule include reviewing administrative rules and statutes of other states and comparing them to current Wisconsin Administrative Code.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days and no comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received on or before the public hearing to be held on May 28, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. PT 1.02 (2) is repealed.

SECTION 2. PT 1.04 is amended to read:

PT 1.04 Application deadline and fees. The completed application and all required documents must be received by the board ~~at its office not less than 30 days prior to the date of the examination. The~~ along with the required fees specified in s. 440.05 (1), Stats., ~~shall accompany the application.~~

SECTION 3. PT 3.02 is repealed.

SECTION 4. PT. 8.02 is amended to read:

PT 8.02 Renewal required; method of renewal. Each licensee shall renew his or her license biennially with the department. ~~On or before February 1 of each odd-numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for renewal.~~ Each licensee shall complete a renewal application form and return it with the required fee to the department prior to the next succeeding March 1.

SECTION 5. PT 8.05 is repealed and recreated to read:

PT 8.05 Requirements for late renewal and reinstatement. A license shall expire if it is not renewed by March 1 of each odd-numbered year, except for temporary licenses granted pursuant to ch. PT 3. A licensee who allows their license to expire may apply to the board to renew or reinstate their license by completing one of the following:

(1) **RENEWAL BEFORE 5 YEARS.** If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and completion of the continuing education requirements.

(2) **RENEWAL AFTER 5 YEARS OR MORE.** If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on renewal of the license, including oral

examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants. This section does not apply to licensees who have unmet disciplinary requirements or whose licenses have been surrendered or revoked.

(3) REINSTATEMENT. A licensee who has unmet disciplinary requirements and failed to renew within 5 years of the renewal date or whose license has been surrendered or revoked, may apply to have the license reinstated in accordance with all of the following:

(a) Evidence of the completion of the requirements under s. PT 8.05 (2).

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances warranting reinstatement of the license.

SECTION 6. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Physical Therapy Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

PT 1, 3, 8

3. Subject

Temporary Reentry Licensure

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Physical Therapy Examining Board (Board) reviewed its rules and determined that certain provisions needed clarifying. First, s. PT 1.04 was amended by removing language regarding the application deadline date. By requiring the completed application include all required documents including verified documentary evidence of graduation from a school of physical therapy by the application deadline date the Board is in fact requiring applicants to complete their postsecondary education as a condition of taking the exam. The deadline date was removed in keeping with 2013 Wisconsin Act 114 which required boards to refrain from requiring the completion of postsecondary education before an applicant is eligible to take a credentialing examination.

Secondly, the Board decided to repeal the temporary reentry license found in s. PT 3.02 and the term candidate for reentry in s. PT 1.02 (2). These provisions were originally designed to allow persons who had not practiced as a physical therapist for a period of 3 years or more an opportunity to gain clinical experience while waiting for full licensure. However, s. PT 2.01 (h) already addresses applicants returning to the practice of physical therapy after a 3 year absence by requiring an oral examination.

Lastly, the Board revised requirements for reinstatement of a license found in s. PT 8.05 by adding conditions applicants need to follow if their license has been surrendered, revoked, or has unmet disciplinary requirements.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule was posted for a period of 14 days to solicit comments from the public. No businesses, business sectors, associations representing businesses, local governmental units, or individuals contacted the department about the proposed rule during that time period.

11. Identify the local governmental units that participated in the development of this EIA.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None. This rule does not affect local government units.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will not have an economic or fiscal impact on businesses, business sectors, public utility rate payers, local government units, or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefits of implementing the rule include bringing the current administrative code in line with statute as impacted by 2013 Wisconsin Act 114 and clarifying the processes for returning to the practice of physical therapy, late renewal, and reinstatement. The alternative to implementing the rule would be to leave the administrative code in conflict with statute and to leave these processes unclarified

14. Long Range Implications of Implementing the Rule

Clearer, more consistent examination and application processes.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois allows restoration of license which has been expired or on inactive status for more than 5 years. Ill Admin. Code tit. 68 §1340.60 a). Licensees must do one of the following to restore their license: (1) submit certification of current licensure from another state or territory, (2) submit an affidavit attesting to military service, (3) pass the National Physical Therapy Examination, or (4) submit evidence of recent attendance at an educational program in physical therapy.

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Minnesota does not renew, reissue, reinstate, or restore a license that has lapsed or has not been renewed within two annual license renewal cycles. A licensee whose license has been cancelled for nonrenewal must obtain a new license and fulfill all the current requirements for licensure at that time. Minn. Statutes 148.737.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

17. Contact Name

Katie Paff

18. Contact Phone Number

(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.