

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #3

FILED

AUG 5 11 02 AM '99

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: WV Board of Physical Therapy TITLE NUMBER: 16

CITE AUTHORITY WV Code §30-20-1, et. seq.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: Title 16, Series 1, General Provisions

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

*Frankie D. Clayton*

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: August 2, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Board of Physical Therapy

153 W. Main St.; Suite #103

Clarksburg, WV 26301 ph: 304) 627-2251

LEGISLATIVE RULE TITLE: Title 16, Series 1, General Provisions

1. Authorizing statute(s) citation WV Code §30-20-1, et. seq.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 24, 1999

b. What other notice, including advertising, did you give of the hearing?

The WV Physical Therapy Professional Association was informed of the  
thirty-day comment period. Advertising took place in the State  
Registry as well as eight prominent, well circulated WV newspapers.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 26, 1999 at noon.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 5, 1999

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Frankie S. Cayton, Administrator

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WV Board of Physical Therapy

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153 West Main St., Suite #103

ph: 304) 627-2251

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Clarksburg, WV 26301

FAX: 304) 627-2253

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- g. **IF DIFFERENT FROM ITEM 'F'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

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b. Date of hearing or comment period:

June 25, 1999 to Noon on July 26, 1999

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



JOHN F. DEBLASIS  
Chairman of the Board

**WEST VIRGINIA  
BOARD OF PHYSICAL THERAPY**

FRANKIE S. CAYTON  
Executive Secretary

June 22, 1999

TO: Secretary of State's Office  
Legislative Rule-Making Review Committee (LRMRC)

FROM: Frankie S. Cayton, Board Administrator

RE: Proposed Rule

A handwritten signature in black ink, reading "Frankie S. Cayton".

We are hereby submitting for review and approval Title 16, Series 1, Legislative Rule, General Provisions for the WV Board of Physical Therapy.

H.B. 2802 which passed this past Legislative Session and went into effect June 12, 1999, mandated that the Board promulgate Rules by July 1, 1999, to compliment and define the wording as it appears in what is now our Statutory Law.

The proposed Rule defines "supervision", specifically mentions fees that are to be charged for services performed by this office; lists definitions of commonly used terminology; and describes requirements for licensure for Physical Therapists educated in the United States as well as outside the United States; and lists the requirements for licensure for Physical Therapist Assistants.

## **LEGAL NOTICE**

The WV Board of Physical Therapy has submitted proposed Rules and Regulations, Title 16, Series 1, to the Secretary of State's Office. There is a public comment period that will run from **Friday, June 25, 1999 until Noon on July 26, 1999.**

Copies of the proposed Rules and Regulations may be obtained by contacting:

Secretary of State  
Building #1, Suite 157K  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0770  
Phone: (304) 558-6000

**Copying Fees may be assessed.**

Written comments may be submitted to:

WV Board of Physical Therapy  
Attn: Board Administrator  
153 West Main Street, Suite #103  
Clarksburg, WV 26301

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #2

**Do Not Mark In this Box**

FILED

JUN 24 11 27 AM '99

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: WV Board of Physical Therapy TITLE NUMBER: 16  
RULE TYPE: Legislative; CITE AUTHORITY WV Code §30-20-1, et. seq.  
AMENDMENT TO AN EXISTING RULE: YES\_\_\_ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: Title 16, Series 1, General Provi-  
sions.

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 26, 1999 AT Noon. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

WV Board of Physical Therapy  
153 W. Main St., Suite #103  
Clarksburg, WV 26301

**RECEIVED**

JUN 24 1999

**Legislative Rule Making  
Review Committee**

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

*Frankie D. Clayton*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

7711 5110

AUG 5 11 02 AM '99

OFFICE OF THE SECRETARY OF STATE

**§16-1-1. General.**

1.1. Scope. – This legislative rule provides for the procedures of the West Virginia Board of Physical Therapy.

1.2. Authority. – WV Code §30-20-1, et. seq.

1.3. Filing Date. –

1.4. Effective Date. --

1.5. Repeal and Replace – This Rule repeals and replaces Title 16, Series 1, which became effective April 5, 1994.

**§16-1-2. Definitions.**

The following words and phrases as used in these rules shall have the following meanings, unless the context otherwise requires:

2.1. "Board" means the West Virginia Board of Physical Therapy.

2.2. "Physical Therapy" means the care and services provided by or under the direction and supervision of a Physical Therapist licensed by this State.

2.3. The "Practice of Physical Therapy" means:

a. Examining, evaluating and test-

ing individuals with mechanical, physiological and developmental impairments, functional limitations, and disability or other health and movement-related conditions in order to determine a diagnosis, prognosis, plan of therapeutic intervention, and to access the ongoing effects of intervention.

b. Alleviating impairments and functional limitations by designing, implementing, and modifying therapeutic interventions that include, but are not limited to therapeutic exercise; functional training in self care and in home, community or work reintegration; manual therapy including soft tissue and joint mobilization and other manual therapy techniques; therapeutic massage; assistive and adaptive orthotic, prosthetic, protective and supportive devices and equipment; broncho-pulmonary hygiene, debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction.

c. Reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations.

d. Engaging in administration, consultation, education and research.

2.4. "Physical Therapist", means a per-

son who meets all the requirements under WV Code §30-20-1, et. seq., and these Rules and is licensed to practice Physical Therapy by the West Virginia Board of Physical Therapy. An individual who possesses a temporary permit issued by the Board to practice Physical Therapy is not fully licensed to practice Physical Therapy, and as such is subject to the conditions set forth in WV Code §30-20-9 (a) and Section 7 of this Rule.

2.5. "Physical Therapist Assistant" means a person who meets all the requirements under WV Code §30-20-1, et. seq. and these Rules and is licensed to practice by the West Virginia Board of Physical Therapy. The Physical Therapist Assistant performs Physical Therapy procedures and related tasks that have been selected and delegated only by the supervising Physical Therapist. An individual who possesses a temporary permit as a Physical Therapist Assistant is not fully licensed to practice as a Physical Therapist Assistant, and as such is subject to the conditions set forth in WV Code §30-20-9 (b)(1) and (2) and its accompanying Rules and Regulations.

2.6. "Physical Therapy Aide" means a person trained under the direction of a Physical Therapist who performs designated and supervised routine Physical Therapy tasks.

2.7. "Other Assistive Personnel" means other trained or educated health care

personnel, not defined in 2.5 or 2.6 of this section, who perform specific designated tasks related to Physical Therapy under the supervision of a Physical Therapist. At the discretion of the supervising Physical Therapist, and if properly credentialed and not prohibited by any other law, "other assistive personnel" may be identified by the title specific to their training or education.

2.8. Supervision of a Physical Therapist Assistant.

a. When the Physical Therapist and the Physical Therapist Assistant are not within the same physical setting, the performance of the delegated functions by the Physical Therapist Assistant must be consistent with safe and legal Physical Therapy practice as set forth in WV Code §30-20-1, et. seq., accompanying Legislative Rules and Regulations, and established policies of the Board. Said performance shall be predicated on the following factors:

1. Complexity and activity of the patient's needs;
2. Proximity and accessibility to the Physical Therapist;
3. Supervision available in the event of emergencies or critical events; and
4. Type of setting in which the service is rendered.

b. The Physical Therapist Assistant shall not perform the following Physical Therapy activities:

1. Interpretation of referrals;
2. Physical Therapy initial evaluation and re-evaluation;
3. Identification, determination, or modification of plans of care (including goals and treatment programs);
4. Final discharge assessment/evaluation or establishment of the discharge plan; or
5. Therapeutic techniques beyond the education, skill and knowledge of the Physical Therapist Assistant.

c. As contained in this section, the term "supervision" shall mean authoritative procedural guidance by a licensed Physical Therapist for the accomplishment of a function or activity, with initial direction and periodic inspection on a regular basis by a Physical Therapist of the actual act of accomplishing the function or activity. The supervising Physical Therapist is responsible for and as such must participate in the patient's care to the degree specified below depending upon the practice setting.

d. Supervision requirements of a Physical Therapist Assistant depend upon the practice setting in which the care is delivered:

1. When care is delivered in a hospital or other acute-care center, free-standing, or independent practice setting, a Physical Therapist must be on premises at all times.

2. When care is delivered in a skilled/unskilled nursing facility, home health, or school system setting, the following requirements must be observed and documented in the patient records:

A. A Physical Therapist must be accessible by telecommunications to the Physical Therapist Assistant at all times that the Physical Therapist Assistant is treating patients; and available to make a site visit jointly with the Physical Therapist Assistant within twenty-four (24) hours as prudent practice indicates.

B. An initial visit must be made by a Physical Therapist for evaluation of the patient and establishment of a plan of care.

C. A joint visit by the Physical Therapist and the Physical Therapist Assistant must be made on the Physical Therapist Assistant's first visit to the patient.

D. At least once every ten (10) Physical Therapist Assistant visits, or within twenty-one (21) calendar days, whichever occurs first, there must be a joint on-site visit by the licensed Physical Therapist Assistant and the licensed

Physical Therapist. In the event that the supervising Physical Therapist changes, then that Physical Therapist must evaluate the patient with the Physical Therapist Assistant before the next Physical Therapist Assistant visit is made.

E. The Physical Therapist must make the final visit to terminate the plan of care.

F. No more than two (2) persons, Physical Therapist Assistants, foreign-educated Physical Therapists, or other assistive personnel, or any combination thereof, can be supervised by a Physical Therapist at any one time.

**§16-1-3. Fees.**

The applicant shall pay to the Board the fees established by statute and determined by the Board. In addition, the Board may charge fees reasonably related to the cost of providing services to applicants or interested parties. The services for which fees may be collected include, but are not limited to, verification of licensure to another State; duplication of license cards or wall certificates; copying; postage expenses; mailing lists; and processing of returned checks.

a. Physical Therapist Application

.....\$ 25.00

b. Physical Therapist License

.....\$110.00

c. Physical Therapist Temporary

Permit.....\$ 35.00

d. Physical Therapist Biennial

Renewal.....\$120.00

e. Physical Therapist Lapsed License

.....\$250.00

f. Physical Therapist Assistant

Application.....\$ 25.00

g. Physical Therapist Assistant License.....\$ 70.00

h. Physical Therapist Assistant Temporary Permit.....\$ 20.00

i. Physical Therapist Assistant Biennial Renewal.....\$ 80.00

j. Physical Therapist Assistant Lapsed License.....\$170.00

k. Permanent License Verification .....\$ 25.00

l. Duplicate Wallet Card/License .....\$ 5.00

m. Duplicate Wall Certificate .....\$ 15.00

n. Name Change Requiring New Card/License (Outside of Renewal Season) .....\$ 5.00

o. Exam Processing Fee.....\$ 25.00

p. Copy of Statutory & Regulatory Law.....\$ 20.00

q. Mailing List/Directory

1. Label-ready List.....  
Rate @ 10 cents/name and address

2. Hard-copy Directory.....  
Rate @ 15 cents/name and address

3. Labels.....  
Rate @ 30 cents/name and address

r. Continuing Education Course Review (for Company or Facility).....\$ 50.00

s. Continuing Education Course Review (for WV Licensed PT or PTA)\$5.00

t. Continuing Education Course Re-certification (in subsequent yrs.).....\$15.00

u. Bounced Check Fee.....\$10.00

v. Two-Day Priority Mail.....\$ 3.20  
(All special requests for specific mail services are performed on an even exchange basis.)

w. Copying Charges.....\$.20/page

x. All fees not paid by the due date shall be assessed a penalty to be determined

by the Board not to exceed 25% of the original fee required.

**§16-1-4. Licensing individuals outside the United States.**

4.1. A Physical Therapist candidate for licensure in West Virginia who was educated outside of the United States must meet the following criteria in order to be eligible for licensure by the Board:

a. Credentials:

1. The foreign-educated applicant must present a certificate issued by a Board-approved prescreening certification agency.

b. Education.

1. The applicant is to be a Physical Therapy graduate of a foreign institution of higher learning with at least the equivalent of a B. S. Degree in Physical Therapy as determined by the Board.

2. Equivalent education is to be reported to the Board through a Board approved credentialing agency.

c. English Proficiency:

1. Unless the native language is English, the applicant must demonstrate proficiency in English by passing the Test of English as a Foreign Language (TOEFL) with a grade of at least six hundred (600) on the Paper-based Test or at least two hundred

fifty (250) on the Computer-based Test; and Test of Spoken English (TSE) with a total score of at least fifty-five (55), and the Test of Written English (TWE) with a score of at least five (5). These scores will be reviewed periodically and determined by the Board.

**§16-1-5. Scores.**

The applicant must take the examination and obtain a passing score as determined by the Board.

**§16-1-6. Issuance, Renewal or Reinstatement of License.**

6.1. The Board reserves the right to evaluate the applicant according to the testing, licensure, and procedural requirements as initiated by the agency responsible for the ownership and development of the exam.

**§16-1-7. Temporary Permit.**

7.1. An individual possessing a temporary permit issued by the Board to practice Physical Therapy in the State of West Virginia shall practice under the direct supervision of a Physical Therapist.

7.2. While the Physical Therapist is practicing under a temporary permit, a Physical Therapist must be on the premises at all times. All progress notes written by the Physical Therapist with a temporary permit shall be cosigned by a Physical

Therapist supervisor within twenty-four (24) hours.

7.3. A temporary permit may be issued in the following instances only to individuals who have met the eligibility criteria set forth in WV Code §30-20-6, and who have submitted proper application and identification as determined by the Board:

a. Pending examinations, to any Physical Therapist applicant who is a new graduate of a program approved by the Commission on Accreditation in Physical Therapy Education (CAPTE). Said temporary permit shall be valid for a period of ninety (90) consecutive days and said permit may not be renewed or reissued in the same calendar year.

b. To a person who possesses an unencumbered license in another state or territory or possession of the United States and who is a graduate of a program approved by CAPTE. Said temporary permit shall be valid only for a period of ninety (90) consecutive days and said permit may not be renewed or reissued in the same the calendar year.

**§16-1-8. Temporary Permits for Physical Therapy Assistants.**

8.1. Upon proper application and identification as determined by the Board, and the payment of the applicable nonrefundable fee, the Board may issue, without examination, a temporary permit to

act as a Physical Therapy Assistant in this State.

8.2. While the Physical Therapist Assistant is practicing under a temporary permit, a Physical Therapist must be on the premises at all times. All progress notes written by the Physical Therapist Assistant with a temporary permit shall be cosigned by a Physical Therapist supervisor within twenty-four (24) hours.

8.3. Said temporary permit may be issued:

a. Pending examinations, to any Physical Therapist Assistant who meets the requirements of WV Code §30-20-6 (b)(1) and (2). Said temporary permit shall be valid for a period of ninety (90) consecutive days and said permit may not be renewed or reissued in the same calendar year.

b. To a person who possesses an unencumbered license in another state or territory or possession of the United States and who is a graduate of a program approved by CAPTE. Said temporary permit shall be valid only for a period of ninety (90) consecutive days and said permit may not be renewed or reissued in the same calendar year.

**§16-1-9. Applications.**

9.1. The applicant must complete the application form provided by the Board and supply the following:

- a. Personal information;
- b. Educational information;
- c. History of previous work experience, if applicable;
- d. License verification (s) from other State Licensing Boards that have already issued the applicant temporary permits or permanent licenses to practice Physical Therapy in their respective States.
- e. Written responses to questions regarding criminal offenses;
- f. Written responses to questions regarding child support obligations;
- g. Name and address of prospective employer in West Virginia if known;
- h. Photo identification; and
- i. Applicable fee (s).

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** TITLE 16, Series 1, General Provisions

**Type of Rule:** X **Legislative**         **Interpretive**         **Procedural**

**Agency**                    WV Board of Physical Therapy

**Address**                    153 W. Main St., Suite #103  
Clarksburg, WV 26301

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	HEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$	\$	\$	\$	\$
<b>PERSONAL SERVICES</b>	5,512	N/A	54,998	SAME	SAME
<b>CURRENT EXPENSE</b>	105,512	N/A	100,000	SAME	SAME
<b>REPAIRS &amp; ALTERATIONS</b>	N/A	N/A	N/A	N/A	N/A
<b>EQUIPMENT</b>	N/A	N/A	N/A	N/A	N/A
<b>OTHER</b>					

**2. Explanation of above estimates:**

We have expended funds to refurbish office space, purchase furniture and computer equipment. We have added fire-proof file cabinets, leased copying machine and FAX machine. Two full-time employees are overdue for salary increases. Services performed by the office for licensed professionals or interested parties could be charged for which would offset the cost of the service plus allow our account to be replenished.

**3. Objectives of these rules:**

Allows for the charge of fees for services to be performed by this office; lists definitions of commonly used terminology; describes requirements for the licensure of Physical Therapists and Physical Therapist Assistants educated in the United States as well as outside the United States.

Rule Title: TITLE 16, Series 1, General Provisions

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

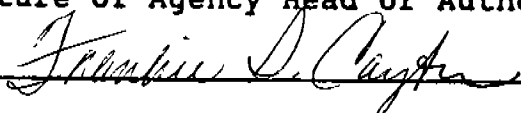
Licensed professionals and interested parties procuring services from the office will be assessed applicable fees for those goods and services to enable that the office will be adequately equipped and staffed.

C. Economic Impact on Citizens/Public at Large.

NONE

Date: June 22, 1999

Signature of Agency Head or Authorized Representative



Frankie S. Cayton  
Board Administrator



**JOHN F. DEBLASIS**  
Chairman of The Board

**WEST VIRGINIA  
BOARD OF PHYSICAL THERAPY**

**FRANKIE S. CAYTON**  
Administrator

August 2, 1999

TO: Secretary of State's Office  
Legislative Rule-Making Review Committee (LRMRC)

FROM: Frankie S. Cayton, Board Administrator

RE: Agency Approved Proposed Rule

A handwritten signature in cursive script, reading "Frankie S. Cayton".

We are hereby submitting for review and approval Title 16, Series 1, Legislative Rule, General Provisions, for the WV Board of Physical Therapy.

We had a thirty-day comment period that ran from June 25, 1999, until noon on July 26, 1999. A "Legal Notice" was published in eight prominent and well circulated WV newspapers as well as Notice being sent to the WV Physical Therapy Professional Association. We received no oral or written comments during the aforementioned comment period.

The original wording of the Proposed Rule has not been amended and stands as originally submitted.

**LEGAL NOTICE IS BEING RUN IN THE FOLLOWING NEWSPAPERS:**

CLARKSBURG EXPONENT/TELEGRAM - CLARKSBURG, WV

MORGANTOWN DOMINION POST - MORGANTOWN, WV

HERALD DISPATCH - HUNTINGTON, WV

CHARLESTON GAZETTE/DAILY MAIL - CHARLESTON, WV

THE INTELLIGENCER/WHEELING NEWS REGISTER - WHEELING, WV