

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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JUL 19 3 39 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Board of Physical Therapy TITLE NUMBER: 16

CITE AUTHORITY West Virginia 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: 1

TITLE OF RULE BEING PROPOSED: General Provisions

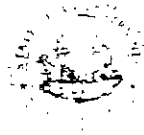
THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Chuck Polan, Cabinet Secretary

745-4161

6-90



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

June 14, 1993

Honorable Ken Hechler
Secretary of State
Suite 157-K
Capitol Building
Charleston, West Virginia 25305

Re: Legislative Rules
for Board of Physical Therapy

Dear Mr. Hechler:

Approval is hereby given for filing of the enclosed rules and regulations of the West Virginia Board of Physical Therapy, entitled "General Provisions" are in accordance with the West Virginia Code.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Polan".

Chuck Polan
Secretary

CP:tj

Attachment

DATE: July 19, 1993

FILED

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

JUL 19 3 39 PM '93

FROM: West Virginia Board of Physical Therapy

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

LEGISLATIVE RULE TITLE: 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
June 14, 1993

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

None

c. Date of Hearing(s) None

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

Attached X No comments received

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

July 19, 1993

f. Name and phone number(s) of agency person(s) to
contact for additional information:

Frankie Cayton

WV Board of Physical Therapy

Rt. 1, Box 306

Lost Creek, WV 26385

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

b. Date of hearing: N/A

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

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JUL 19 3 39 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SUMMARY

Comments were received from Frankie Cayton of the West Virginia Board of Physical Therapy on July 16, 1993. There is only one change to be made from her comments. The first sentence in the section entitled "Issuance, Renewal or Reinstatement of License", §16-1-6, needs to read as follows: "The Board reserves the right to evaluate the applicant according to the testing licensure or procedural requirements as initiated by the agency (Federation of State Board of Physical Therapy) responsible for administrating the exam."

The applicant must pass with a score that is within the standard deviation established by the Board. The Board will review this standard deviation periodically.

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

a) The Board reserves the right to evaluate the ~~application~~ acceptable applicant according to the testing licensure or procedural requirements as initiated by the agency (Federation of State Board of Physical Therapy) responsible for administering the exam.

b) With regard to the renewal or reinstatement of said licenses to practice as a physical therapist or physical therapy assistant, the Board may at its discretion charge administrative fees as are reasonable to applicants or other interested parties. All such fees and assessments will be published to the applicant for renewal or reinstatement, reviewed by the Board periodically and adjusted as deemed necessary by the Board.

§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 supervision of a licensed physical therapist.

7.2. A temporary permit may be issued in the following instances only to individuals who have met the eligibility criteria set forth in § 30-20-6 (a) (1) through (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

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JUL 19 3 39 PM '93

TITLE 16
LEGISLATIVE RULES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA BOARD OF PHYSICAL THERAPY

SERIES 1

GENERAL PROVISIONS

§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. --- W. Va. Code §§ 30-20-1 et seq.

1.3. Filing Date. --- _____, 1993

1.4. Effective Date. --- _____, 1993

§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. "Licensed physical therapist" means any physical therapist holding a license issued 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 West Virginia Code § 30-20-9(a) (1) and (2) and its accompanying Legislative Rules and Regulations.

2.2. "Licensed therapy assistant" means a physical therapy assistant holding a license issued by the West Virginia Board of Physical Therapy. An individual who possesses a temporary permit as a physical therapy assistant is not fully licensed to practice as a physical therapy assistant, and as such is subject to the conditions set forth in West Virginia Code § 30-20-9(b) (1) and (2) and its accompanying Rules and Regulations.

2.3. "Physical therapy" shall include but shall not be limited to the examination, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, movement dysfunction, bodily injury, disease, and any other bodily and mental conditions and structures; the planning, administration, evaluation, and modification of treatment and instruction, including the use of physical measures, activities, and devices, for preventative and therapeutic purposes; and the provision of consultative, educational, and other advisory services for the purpose of reducing the incidence and severity of physical disability, movement dysfunction, bodily dysfunction, and pain.

2.4. "Physical therapist assistant" means a health-care worker who assists the licensed physical therapist in the provision of physical therapy. The physical therapist assistant is required to work under the direction and supervision of the licensed physical therapist. The physical therapist assistant may also carry out routine operational functions, including supervision of the physical therapy aide or equivalent, and documentation of

treatment progress. The ability of the physical therapist assistant to perform selected and delegated tasks shall be assessed on an ongoing basis by the supervising licensed physical therapist. The physical therapist assistant may, with prior approval by the supervising licensed physical therapist, adjust a specific treatment procedure in accordance with changes in patient status. In addition, the physical therapist assistant shall function within the following guidelines:

(i) When the licensed 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 West Virginia 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:

- (a) Complexity and activity of the patient's needs;
- (b) proximity and accessibility to the licensed physical therapist
- (c) supervision available in the event of emergencies or critical events; and
- (d) type of setting in which the service is rendered.

(ii) The physical therapist assistant shall not perform the following physical therapy activities:

- (a) interpretation of referrals;
- (b) physical therapy initial evaluation and re-evaluation;

(c) identification, determination, or modification of plans of care (including goals and treatment programs);

(d) final discharge assessment/evaluation or establishment of the discharge plan; or

(e) therapeutic techniques beyond the education, skill and knowledge of the physical therapist assistant.

(iii) 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 licensed physical therapist of the actual act of accomplishing the function of activity. The supervising licensed 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.

(iv) Varying degrees of supervision of the physical therapist assistant are required depending upon the practice setting in which the care is delivered:

(a) when care is delivered in a hospital or other acute-care center, free-standing, or independent practice setting, a licensed physical therapist must be on premises at all times.

(b) 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:

(1) a licensed physical therapist must be accessible by telecommunications to the physical therapist assistant at all times that the physical therapist assistant is treating patients.

(2) an initial visit must be made by a licensed physical therapist for evaluation of the patient and establishment of a plan of care.

(3) a joint visit by the licensed physical therapist and the physical therapist assistant must be made on the physical therapist assistant's visit to the patient.

(4) at least once every ten (10) physical therapist assistant visits, or within fifteen (15) calendar days, there must be a joint on-site visit by the licensed physical therapist assistant.

(5) the licensed physical therapist must make the final visit to terminate the plan of care.

(v) The abbreviation "P.T.A" denotes by statute "Physical Therapy Assistant", however it may also denote "Physical Therapist Assistant", as the two terms are considered by the Board to indicate the same level of practice.

§16-1-3. Fees.

The Board may at its discretion charge administrative, processing, and tracking fees to applicants or interested parties. All such fees and assessments will be reviewed by the Board periodically.

§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:

4.1.1. Credentials:

(1) Education.

(a) 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.

(b) Equivalent education is to be reported to the Board through a Board approved credentialing agency.

(2) English Proficiency:

(a) Unless the native language of the applicant must demonstrate proficiency in English by passing the Test of English as a Foreign Language (TOEFL) with a grade of at least five hundred fifty (550), and Test of Spoken English (TSE) with a total score of at least two hundred twenty (220), and the Test of Written English (TWE) with a score of at least four (4).

4.1.2. Supervised Practice.

(a) The applicant must successfully complete a period of supervised practice under a licensed physical therapist. Said period shall be a minimum of six (6) months, and shall not differ in length based upon the nationality of said foreign graduates.

§16-1-5. Scores.

The applicant must pass with a score that is within the standard deviation established by the Board. The Board will review this standard deviation periodically.

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

a) The Board reserves the right to evaluate the application acceptable to the testing licensure or procedural requirements as initiated by the agency (Federation of State Board of Physical Therapy) responsible for administering the exam.

b) With regard to the renewal or reinstatement of said licenses to practice as a physical therapist or physical therapy assistant, the Board may at its discretion charge administrative fees as are reasonable to applicants or other interested parties. All such fees and assessments will be published to the applicant for renewal or reinstatement, reviewed by the Board periodically and adjusted as deemed necessary by the Board.

§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 supervision of a licensed physical therapist.

7.2. A temporary permit may be issued in the following instances only to individuals who have met the eligibility criteria set forth in § 30-20-6 (a) (1) through (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

accrediting body of the APTA. Said temporary permit shall expire thirty (30) days after the Board gives written notice of the results of the examination held next following the issuance of such temporary permit. Upon such expiration, no additional temporary permit may be obtained by such applicant.

(b) 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 the accrediting body of the APTA. Said temporary permit shall be valid only for a period of ninety (90) days in the calendar year in which issued and such permit may not be renewed, nor another thereof issued to the same person in the same calendar year.

(c) A foreign-trained physical therapist who possesses an unencumbered license in another state or territory or possession of the United States and who meets all other West Virginia requirements. Said temporary permit may be issued during the period of supervised practice as set forth in § 30-20-6 (a) (5). Said period of supervised practice shall be at least six (6) months and shall not be based upon the nationality of said foreign graduate.

(d) A foreign-trained physical therapist who has never been licensed in another state or territory or possession of the United States and who meets all other West Virginia requirements. Said temporary permit may be issued during the period of supervised practice as set forth in § 30-20-6 (a) (5). Said period of

supervised practice shall be at least six (6) months and shall not be based upon the nationality of said foreign graduate.

§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 licensed 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 consigned by a licensed 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 § 30-20-6 (b) (1) through (3). Said temporary permit shall expire thirty (30) days after the Board gives written notice of the results of the examination held next following the issuance of such temporary permit. Upon such expiration, no additional temporary permit may be obtained by such applicant.

(b) 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 the accrediting body of the APTA. Said temporary permit shall be valid only for a period of ninety (90) days in the calendar year in which issued and such

permit may not be renewed, nor another thereof issued to the same person in the same calendar year.

§16-1-9. Direct Access.

Regarding "direct access": House Bill 1410 which passed March 13, 1982, and became effective July 1, 1983, was an act to amend and re-enact section three, article twenty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one of the code of West Virginia, as amended, relating to the licensing of physical therapists and removing the restriction that physical therapists may only treat persons referred to them by a licensed physician or surgeon, dentist, osteopathic physician and surgeon, or chiropodist-podiatrist.

STATEMENT OF THE CIRCUMSTANCES

This rule provides clarification for the general procedures pertaining to the Board of Physical Therapy.

SUMMARY

This rule is to provide the general procedures for the Board of Physical Therapy.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: General Provisions: Title 16; Series 1

Type of Rule: X Legislative Interpretive Procedural

Agency West Virginia Board of Physical Therapy

Address Route 1, Box 306

Lost Creek, West Virginia 26385

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

3. Objectives of these rules:

These rules will establish gnereal provisions and procedures for the Board of Physical Therapy.

Rule Title: General Provisions; Title 16; Series 1

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.

None

C. Economic Impact on Citizens/Public at Large.

None

Date: June 14, 1993

Signature of Agency Head or Authorized Representative

Chuck Polan

Chuck Polan, Cabinet Secretary