WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In This Box

FILED

2010 JUL 30 PM 12:59

OFFICE WEST VIRGINIA SECRETARY OF STATE

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: TITLE 16

CITE AUTHORITY: 30-20-6

AMENDMENT TO AN EXISTING RULE: YES X NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: SERIES 1

TITLE OF RULE BEING AMENDED: GENERAL PROVISIONS FOR PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ____

TITLE OF RULE BEING PROPOSED: ____

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.

Leslyn Sprouse, PT, DPT

Authorized Signature

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: GENERAL PROVISIONS FOR PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

Type of Rule: [X] Legislative [ ] Interpretive [ ] Procedural

Agency: WV BOARD OF PHYSICAL THERAPY

Address: 101 DEE DRIVE
CHARLESTON, WV 25311

Phone Number: 304-558-0367 Email: WVBOPT@WV.GOV

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

THIS RULE WILL HAVE NO IMPACT ON COSTS OR REVENUES OF STATE GOVERNMENT; OR THE AGENCY ITSELF.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: GENERAL PROVISIONS FOR PHYSICAL THERAPIST AND PHYSICAL

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

THE CHANGES IN THIS RULE WILL NOT INCUR ANY COSTS ASSOCIATED WITH PHYSICAL THERAPIST OR PHYSICAL THERAPIST LICENSE.

Date: July 29, 2010

Signature of Agency Head or Authorized Representative

Leslie Sprague, PT, DPT

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: JULY 30, 2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) WV BOARD OF PHYSICAL THERAPY
101 DEE DRIVE
CHARLESTON ,WV 25311

(304) 558-0367

LEGISLATIVE RULE TITLE:
GENERAL PROVISIONS FOR PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

1. Authorizing statute(s) citation
30-20-6

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

06/29/10

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

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

07/29/10 10:00 AM

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)

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

LESLEIGH SPROUSE, BOARD CHAIR
WV BOARD OF PHYSICAL THERAPY

101 DEE DRIVE CHARLESTON, WV

(304) 558-0367 PHONE (304) 558-0369 FAX
WVBOPT@WV.GOV

g. **<u>IF DIFFERENT</u> 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)

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.

b. Date of hearing or comment period:

_____

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

_____

d. Attach findings and determinations and reasons:

Attached _____

TITLE 16
LEGISLATIVE RULE
WV BOARD OF PHYSICAL THERAPY

SERIES 1
GENERAL PROVISIONS
FOR
PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

SUMMARY OF PROPOSED RULE

The WV Board of Physical Therapy's statue §30-20 was amended through the legislative process and H.B. 4140 passed March 13, 2010. The Rules need to be amended to implement the provisions of the statue §30-20.

TITLE 16
LEGISLATIVE RULE
WV BOARD OF PHYSICAL THERAPY

SERIES 1
GENERAL PROVISIONS
FOR
PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

§16-1-1. General.

1.1. Scope. -- This legislative rule describes and defines requirements for licensure as well as nature of practice for Physical Therapists, Physical Therapist Assistants and support personnel.

1.2. Authority. -- W. Va. Code §30-20-1, et. seq.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Amendment -- This Rule amends Title 16, Series 1, which was repealed and replaced effective

§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 Therapist" means a person engaging in the practice of physical therapy who holds a license or permit issued under the provisions of ~~who meets all the requirements under~~ WV. Code §30-20-1, et. seq., and this Rule ~~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 W. Va. Code §30-20-9 (a) and Section 7 of this Rule~~.

2.3. "Physical Therapist Assistant" means a person holding a license or permit issued under the provisions of W. Va. Code §30-20-1, et. seq., and this Rule who assists in the practice of physical therapy by performing patient related activities delegated to him or her by a physical therapist and performs under the supervision of a physical therapist and which patient related activities commensurate with his or her education and training, including physical therapy procedures, but not the performance of evaluative procedures or determination and modification of the patient plan of care. ~~who meets all the requirements under W. Va. Code §30-20-1, et. seq. and this Rule 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 W. Va. Code §30-20-9 (b)(1) and (2) and its accompanying Rules and Regulations.~~

2.4. "Physical Therapy Aide" means a person trained under the direction of a physical therapist who performs designated and routine tasks related to physical therapy services under the direct supervision of a physical therapist., ~~other than a physical therapy assistant, who assists a licensed physical therapist in the practice of physical therapy under the direct supervision of such licensed physical therapists and who also performs activities supportive of but not involving assistance in the practice of physical therapy.~~

2.4. a. A physical therapy aide works under the direction supervision of a physical therapist.

2.5. "On-site supervision" means the supervising physical therapist is continuously on-site and present in the building where services are provided, is immediately available to the person being supervised, and maintains continued involvement in appropriate aspects of each treatment session.

2.6. "Direct supervision" means the actual physical presence of the physical therapist in the immediate treatment area where the treatment is being rendered. Immediate treatment area is defined as direct line of sight or within audible distance and the ability to immediately respond to calls from the patient or Physical Therapist Aide.

2.7. "General supervision" means the physical therapist must be available at least by telecommunications.

2.8. "Practice of physical therapy" or "physiotherapy" means the care and services as described in the WV Code §30-20-1, et. seq.

2.9. "License" means a physical therapist license or license to act as a physical therapist assistant issued under the provisions of the WV Code §30-20-1, et. seq.

2.10. "Licensee" means a person holding a license under the provisions of the WV Code §30-20-1, et. seq.

2.11. "Permit" or "temporary permit" means a temporary permit issued under the provisions of the WV Code §30-20-1, et. seq.

2.12. "Permittee" means any person holding a temporary permit issued pursuant to the provisions of the WV Code §30-20-1, et. seq.

2.13. "Applicant" means any person making application for an original or renewal license or a temporary permit under the provisions of the WV Code §30-20-1, et. seq.

2.14. "Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity providing physical therapy services.

2.15 "Consultation" means a physical therapist renders an opinion or advice to another physical therapist or health care provider through telecommunications.

2.16. "Telecommunication" means audio, video or data communication.

§16-1-3. Applications.

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

3.1.a. Personal information;

3.1.b. Educational information;

3.1.c. History of previous work experience, if applicable;

3.1.d. License verification (s) from other State Licensing Boards that regulate Physical Therapy in their respective States.

3.1.e. Written responses to questions regarding criminal offenses;

3.1.f. Written responses to questions regarding child support obligations;

3.1.g. Name and address of prospective employer in West Virginia if known;

3.1.h. Photo identification; and

3.1.i. Applicable fee(s).

§16-1-4. Scores.

4.1. The applicant must take the National Physical Therapy Exam (NPTE) and obtain a passing score as determined by the Board.

§16-1-5. Issuance, Renewal or Reinstatement of License.

5.1. 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 National exam.

5.2. Licenses expiring on December 31, of each particular year must be renewed by payment of applicable fee along with completed renewal application. Failure to renew a license or place a license on "inactive" status will render that license delinquent.

5.3. All licensees desiring to remain "active" and in good standing must complete ~~ten~~ 20 contact hours of Board approved ~~of~~ continuing education ~~per calendar year~~ within the two year licensing period. If the licensee does not complete the 20 contact hours within the license period, that licensee will be placed on delinquent status and will be subject to all fees associated with delinquent status.

5.4. A license not renewed with no specific request to place it in "inactive" status will automatically "~~lapse~~ be placed on delinquent status".

5.5. Delinquent licensee is responsible for penalty fees including but not limited to: application fee, delinquent license fee, and the current year renewal fee. A licensee must also complete and show proof of Board approved continuing education requirements.

5.6. To reinstate an "inactive" license, the licensee must submit an application for renewal along with a non-refundable application fee and license renewal fee.

5.7. A volunteer license will be marked as a "volunteer" license and is restricted to practicing in accordance with §30-20-13.

5.8. Any change in personal contact and employer/supervisor information must be submitted in writing to the Board as changes occur.

§16-1-6. Temporary Permit for Physical Therapists and Physical Therapist Assistants.

6.1. An individual possessing a temporary permit issued by the Board to practice Physical Therapy in the State of West Virginia shall practice under the on-site supervision of a Physical Therapist. All progress notes written by the Physical Therapist or Physical Therapist Assistant with a temporary permit shall be cosigned by ~~a~~ the supervising Physical Therapist for that therapy session ~~supervisor~~ within twenty-four (24) hours.

6.2. A temporary permit may be issued in the following instances only to individuals who have met the eligibility criteria set forth in W. Va. Code §30-20-~~6~~ 8, §30-20-10, and §30-20-12, and who have submitted proper application and identification as determined by the Board:

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

6.2.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, the temporary permit is valid only for a period of ninety (90) consecutive days and the permit ~~may~~ shall not be renewed.

~~**§16-1-7. Temporary Permits for Physical Therapy Assistants.**~~

~~7.1. Upon proper application and identification as determined by the Board, and the payment of the applicable non-refundable fee, the Board may issue, without examination, a temporary permit to act as a Physical Therapy Assistant in this State.~~

~~7.2. While the Physical Therapist Assistant is practicing under a temporary permit, a Physical Therapist must provide on-site supervision. 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.~~

~~7.3. A temporary permit may be issued:~~

~~7.3.a. Pending examinations, to any Physical Therapist Assistant who meets the requirements of W. Va. Code §30-20-6 (b)(1) and (2) The temporary permit is valid for a period of ninety (90) consecutive days and the permit may not be renewed; or,~~

~~7.3.b. To a person who possesses an unencumbered license in another jurisdiction and who is a graduate of a program approved by CAPTE. The temporary permit is valid only for a period of ninety (90) consecutive days and the permit may not be renewed~~.

§16-1-~~8~~7. ~~Nature~~ Scope of Practice for Physical Therapists.

~~8~~7.1. A physical therapist may perform the following:

87.1.a. ~~Examining, evaluating and testing 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.~~ Examine, evaluate and test patients/clients with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement related conditions in order to determine a diagnosis, prognosis and plan of treatment intervention, and to assess the ongoing effects of intervention: Provided, that electromyography examination and electro diagnostic studies other than the determination of chronaxia and strength duration curves shall not be performed except under the supervision of a physician electromyographer and electro diagnostician;

87.1.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; bronchopulmonary hygiene, debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient related instruction.~~ Alleviate impairments, functional limitations and disabilities by designing, implementing and modifying treatment intervention that may include, but are not limited to: therapeutic exercise, functional training in self-care in relation to motor control function; mobility; and in home, community or work integration or re-integration;manual therapy techniques including mobilization of the joints, therapeutic massage; fabrication of assistive; adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; patient-related instruction, mechanical and electrotherapeutic modalities, and physical agent or modalities including, but not limited to, heat, cold, light, air, water, and sound;

87.1.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.~~ Reduce the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health and wellness in population of all ages; and,

87.1.d. Engage~~ing~~ in administration, consultation, ~~education~~ and research.

7.2 A Licensee shall adhere to the standards of ethical practice by practicing in a manner that is moral and honorable.

7.3 A Licensee shall not cheat or assist others in conspiring to cheat on the National Physical Therapy Exam.

7.4 A Licensee shall not falsify, alter, or destroy patient/client records, medical records, or billing records without authorization . The licensee shall maintain accurate patient and/or billing records.

7.5 A Licensee shall not practice physical therapy while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.

7.6 A Licensee shall adhere to the minimal standard of acceptable prevailing practice. Failure to adhere to the minimal standards of practice, whether or not actual injury to a patient occurred, includes, but is not limited to:

7.6. a. Failing to assess and evaluate a patient's status;

7.6. b. Performing or attempting to perform techniques, procedures, or both in which the licensee is untrained by education of experience;

7.6. c. Delegating physical therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the functions or responsibility in question;

7.6. d. Causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of the individual's dignity;

7.6. e. Providing treatment interventions that are not warranted by the patient's condition or continuing treatment beyond the point of reasonable benefit to the patient with the intent to defraud;

7.6. f. Practicing in a pattern of negligent conduct, which means a continued course of negligent conduct or of negligent conduct in performing the duties of the profession;

7.6. g. Providing substandard care as a physical therapist assistant by exceeding the authority to perform components of physical therapy interventions selected by the supervising physical therapist or through a deliberate or negligent act or failure to act, whether or not actual injury to any person occurred;

7.6. h. Abandoning the patient by inappropriately terminating the patient practitioner relationship by the licensee;

7.6. i. Documenting or billing for services not actually provided; or documenting or billing services with the intent to defraud;

7.6. j. A licensee shall not maliciously cause harm to another licensee.

§16-1-9~~8~~. Supervision of a Physical Therapist Assistant.

~~8~~.1. In all practice settings, the following are required:

~~8~~.1.a. An initial visit must be made by a Physical Therapist for evaluation of the patient and establishment of a plan of care.

~~8~~.1.b. The Physical Therapist must make the final visit to terminate the plan of care unless the patient or physician terminates the plan of care.

~~8~~.1.c. No more than four (4) Physical Therapist Assistants, Physical Therapist Assistants holding a temporary permit, or physical therapy aides, or any combination thereof, can be supervised by a Physical Therapist at any one time.

8.1.d. The only exceptions to the level of supervision or supervisory ratio are defined under subsections 8.5, 8.6, 8.7 of this section.

~~9~~8.~~1~~2. Supervision requirements of a Physical Therapist Assistant depend upon the practice setting in which the care is delivered:

~~9~~8.~~1~~2.a. When care is delivered in a hospital or other acute-care center, free-standing, or independent practice setting, a Physical Therapist must provide on-site supervision with general provision in an outpatient or acute care, general supervision 20% of time with 1000 hours of PTA experience with proper documents when it has been used unless it violates federal guidelines.

~~9~~8.~~1~~2.b. When care is delivered in a skilled/unskilled nursing facility, distinct part skilled/unskilled nursing unit or swing-bed unit in an acute-care hospital, home health, or school system setting, the following requirements must be observed and documented in the patient records:

~~9~~8.~~1~~2.b.1. 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.

~~9~~8.~~1~~2.b.2. 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.

~~9~~8.~~1~~2.b.3. 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 new supervising Physical Therapist ~~Assistant~~ must discuss the patient's diagnosis and plan of care with the previous supervising Physical Therapist before the next Physical Therapist Assistant visit is made. Either Physical Therapist must document such communication.

~~9.1.c. In all practice settings, the following are required:~~

~~9.1.c.1. An initial visit must be made by a Physical Therapist for evaluation of the patient and establishment of a plan of care.~~

~~9.1.c.2. The Physical Therapist must make the final visit to terminate the plan of care.~~

~~9.1.c.3. No more than two (2) persons, Physical Therapist Assistants, Physical Therapist Assistants holding a temporary permit, foreign educated Physical Therapists, or physical therapy aides, or any combination thereof, can be supervised by a Physical Therapist at any one time.~~

~~9~~8.2~~3~~. 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 W. Va. 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:

~~9~~8.~~2~~3.a. Complexity and activity of the patient's needs;

~~9~~8.~~2~~3.b. Proximity and accessibility to the Physical Therapist;

~~9~~8.~~2~~3.c. Supervision available in the event of emergencies or critical events; and

~~9~~8.~~2~~3.d. Type of setting in which the service is rendered.

~~9~~8.3~~4~~. The Physical Therapist Assistant shall not perform the following Physical Therapy activities:

~~9~~8.~~3~~4.a. Interpretation of referrals;

~~9~~8.~~3~~4.b. Physical Therapy initial evaluation and re-evaluation;

~~98~~.~~34~~.c. Identification, determination, or modification of plans of care (including goals and treatment programs);

~~98~~.~~34~~.d. Final discharge assessment/evaluation or establishment of the discharge plan; or

~~98~~.~~34~~.e. Therapeutic techniques beyond the education, skill and knowledge of the Physical Therapist Assistant.

8.5. In an emergency situation, such as serious illness of the therapist or death of a family member, which causes the unanticipated absence of the supervising Physical Therapist for not more than 3 consecutive days, a licensed Physical Therapist Assistant may continue to render services, under the supervision of another Physical Therapist, to only those patients for which the licensed Physical Therapist Assistant has previously participated in the intervention for established plans of care not to exceed the regularly scheduled operational hours of the particular day or days the supervising Physical Therapist is absent. Every effort shall be made by the licensed Physical Therapist or licensed Physical Therapist Assistant to obtain supervision in the care described in this section. A licensee utilizing this section shall maintain a written record noting the dates and the emergency and shall submit a report to the board not more than 2 weeks after the emergency, setting forth each day absent under this paragraph and the reason for such absence. A licensed Physical Therapist may utilize this emergency provision no more than 10 days per calendar year. The Physical Therapist Assistant must be supervised as described in section §16-1-8.2 of this Rule.

8.6. In an emergency situation, such as serious illness of the therapist or death of a family member, which causes the unanticipated absence of the supervising Physical Therapist for up to 1 day, a licensed Physical Therapist Assistant may continue to render services, under the general supervision of the supervising Physical Therapist, to only those patients for which the licensed Physical Therapist Assistant has previously participated in the intervention for established plans of care not to exceed the regularly scheduled operational hours of the particular day the supervising Physical Therapist is absent. Every effort shall be made by the licensed Physical Therapist or licensed Physical Therapist Assistant to obtain supervision in the care described in this section. A licensee utilizing this section shall maintain a written record noting the dates and the emergency and shall submit a report to the board not more than 2 weeks after the emergency, setting forth each day absent under this paragraph and the reason for such absence. A licensed Physical Therapist may utilize this emergency provision no more than 40 hours per calendar year. Under this rule a Physical Therapy Aid can only participate in non-patient care tasks.

8.7. A Physical Therapist Assistant may directly supervise a Physical Therapy Aide only in an emergency situation necessary to assure patient's safety.

§16-1-~~10~~9. Licensing Individuals Outside the United States.

~~10~~9.1. 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:

~~10~~9.1.a. Credentials:

~~10~~9.1.a.1. The foreign-educated applicant must present a certificate issued by a Board approved prescreening certification agency.

~~10~~2.1.b. Education.

~~10~~2.1.b.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.

~~10~~2.1.b.2. Equivalent education is to be reported to the Board through a Board approved credentialing agency.

~~10~~2.1.c. English Proficiency:

~~10~~2.1.c.1. Unless the native language is English, the applicant must demonstrate proficiency in English by passing the Test at one setting, of English as a Foreign Language iBT (TOEFL iBT) and the Test of Spoken English (TSE) and the Test of Written English (TWE) with passing scores as determined by the Board.

~~§16-1-11. Fees.~~

~~11.1. The West Virginia Board of Physical Therapy is an autonomous State Licensing Board Agency and as such receives no monies from the State's general revenue fund; nor does it receive any Federal money. All money necessary to efficiently staff and equip a public office must be generated by services performed by the Board in behalf of its licensees or other interested parties.~~

~~11.2. Applicants shall pay to the Board the fees established and authorized by statute.~~

~~11.2.a. Physical Therapist Application.....$ 25.00~~

~~11.2.b. Physical Therapist License.....$220.00~~

~~11.2.c. Physical Therapist Temporary Permit.....$35.00~~

~~11.2.d. Physical Therapist Biennial Renewal.....$120.00~~

~~11.2.e. Physical Therapist Lapsed License.....$250.00~~

~~11.2.f. Physical Therapist Assistant Application.....$25.00~~

~~11.2.g. Physical Therapist Assistant License.....$140.00~~

~~11.2.h. Physical Therapist Assistant Temporary Permit.....$20.00~~

~~11.2.i. Physical Therapist Assistant Biennial Renewal.....$80.00~~

~~11.2.j. Physical Therapist Assistant Lapsed License.....$170.00~~

~~11.2.k. Permanent License Verification.....$25.00~~

~~11.2.l. Duplicate Wallet Card/License.....$5.00~~

~~11.2.m. Duplicate Wall Certificate.....$15.00~~

~~11.2.n. Name Change Requiring New Card/License (Outside of Renewal Season).....$5.00~~

~~11.2.o. Exam Processing Fee.....$25.00~~

~~11.2.p. Mailing List/Directory~~

~~11.2.p.1. Label-ready List Rate @ 10 cents/name and address~~

~~11.2.p.2. Hard-copy Directory Rate @ 15 cents/name and address~~

~~11.2.p.3. Labels Rate @ 30 cents/name and address~~

~~11.2.q. Continuing Education Course Review.....$50.00~~

~~11.2.r. 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.~~

West Virginia Board of Occupational Therapy

RECEIVED

JUL 23 2010

3041 University Avenue
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150 (fax & phone)
www.wvbot.org

July 22, 2010

WV Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

Re: Comments to proposed Legislative Rules

To Whom It May Concern:

Upon review of the proposed Legislative Rules of the Board of Physical Therapy, the WV Board of Occupational Therapy submits the following comments.

Title 16, Series 1:
§16-1-2.4 "Physical Therapy Aide" means a person trained under the direction of a physical therapist who performs designated and routine tasks related to physical therapy services under the direct supervision of a physical therapist.
Comment: "Designated and routine tasks" need to be clearly defined.

§16-1-7.1.b. Scope of Practice for Physical Therapists.
Comment: "airway clearance techniques" needs to be better defined within the scope of physical therapy.

§16-1-8. Supervision of a Physical Therapist Assistant.
Comment: How is the supervision of PTA's documented? Co-signatures of progress notes by temporary permit holders is indicated in 16-1-6.1, but there is no such requirement to document that supervision of PTA's has occurred.

Title 16, Series 8:
§16-8-5.1. Any person, firm, corporation, member of the Board, or public officer may make a complaint to the Board which charges a Registrant or Applicant with a violation of W. Va. Code §30-20A-1 et seq. *The Board may provide a form for that purpose, but a complaint may be filed in any written form.*
Comment: suggest adding, "Anonymous complaints will be accepted."

Thank you for your consideration of these comments. If you have any questions, please contact the WVBOT office at the number shown above.

Sincerely,

Kathy J. Quesenberry, MSM, OTR/L

Kathy Quesenberry, MSM, OTR/L
President

Willows Center
Genesis HealthCare℠

723 Summers Street
Parkersburg, WV 26101
Tel 304 428 5573
Fax 304 428 7784

July 27, 2010

In regards to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support of the rule as amended. More specifically, section 16-1-98. "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.
Many patients requiring Physical Therapy services just simply would not have received them prior to the current "emergency rule" being put in place. In many communities across the state the supervision requirement could not be met under the previous rule, thus patients were placed "on hold" until the required Physical Therapy supervision was available. Delays in services result in setbacks to patient progress. This is particularly true in our rural counties where the number of Physical Therapists is fewer.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

Sincerely,

Chris McBee, NHA

Teays Valley Center
Genesis HealthCare℠

RECEIVED
JUL 27 2010

July 26, 2010

590 North Poplar Fork Road
Hurricane, WV 25526
Tel 304 757 7826
Fax 304 757 8861

In regards to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charlston WV 25311

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support of the rule as amended. More specifically, section 16-1-98. "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.
Many patients requiring Physical Therapy services just simply would not have received them prior to the current "emergency rule" being put in place. In many communities across the state the supervision requirement could not be met under the previous rule, thus patients were placed "on hold" until the required Physical Therapy supervision was available. Delays in services result in setbacks to patient progress. This is particularly true in our rural counties where the number of Physical Therapists is fewer.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

Sincerely,

Matthew Keefer
Administrator

RECEIVED
JUL 27 2010

WVOTA
West Virginia Occupational Therapy Association

July 26, 2010

WV Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311
Re: Comments to Proposed Legislative Rules

Upon review of the proposed Legislative Rules of the Board of Physical Therapy, the West Virginia Occupational Therapy Association must submit the following Comments:

Title 16, Series 1:
§16-1-2.4 "Physical Therapy Aide" means a person trained under the direction of a physical therapist that performs ***designated and routine*** *tasks related to physical therapy services under the direct supervision of a physical therapist.*

WVOTA continues to insist that "designated and routine tasks" requires clear definition. During the Legislative Session during January to March, 2010, numerous assurances were given that the role of the physical therapy aide would be more clearly defined within the rules. In comparison to the previous rule, the definition appears more lenient.

Previous definition prior to passing of HB 4140:
"Physical therapy aide" means a person, other than a physical therapy assistant, who assists a licensed physical therapist in the practice of physical therapy under the direct supervision of such licensed therapist and who also ***performs activities supportive of but not involving assistance in the practice of physical therapy.***

Validation for this request:

- APTA stipulates that a physical therapy aide performs duties within line-of-sight direct supervision from a physical therapist. The duties of the physical therapy aide are to be supportive to the care of the client without performing skilled physical therapy services.
- Present definition including the term **designated and routine tasks** allows interpretation for the aide to provide skilled physical therapy services as **directed** by the physical therapist.
- Job description of the physical therapy aide requires the minimum of a high school education. Therefore, an individual does not have the knowledge or background to assist a physical therapist in the delivery of any skilled physical therapy service or treatment procedure.
- The present definition would allow a physical therapist to instruct a physical aide to provide **designated or routine** skilled treatment under the physical therapist's direction which could include Hands-on treatment applications and techniques, traction, ultrasound, electrical stimulation, diathermy, iontophoresis, biofeedback, and other skilled services relative to the physical therapy. **This allowance would expedite the ability for delivery of physical therapy services at higher volume within a treatment setting at the risk of the client.**

Thank you for your attention to this matter and comments. If you have questions, please contact WVOTA at (304) 541-3853.

Sincerely,

Deborah Shamblin, OTR/L, CHT
WVOTA President

PHYSICAL THERAPY & SPORTS REHAB.

MASTERWORKS, INC

1 JOHN RAINE DR., RAINELLE, WV. 25962
PH 304-438-9225 FAX 304-438-9226

07-19-10

Re: General Supervision

WVBOPT,

First, I would like to thank the Board for their time and commitment to the profession of physical therapy and to our great state. I would also like to thank the Board for recognizing the need for improving the access to physical therapy by increasing the supervision ratio across all setting. I am strongly recommending and requesting that the Board take the next very needed step in allowing for a general supervision provision across all settings which should be based on the supervising physical therapist discretion.

General supervision would benefit the profession and the access to very needed care in a number of ways all of which I am quite sure that you are aware of. General supervision is very important for me for a number of reason, but one very important to me is for reason of survival. I own and work in a small, rural town where staffing is very difficult due to the geographical location insurance reimbursement. Realizing that a general supervision provision does not apply to certain insurance carriers it would allow for me to be away from my clinic for personal Doctor visits, days off, and community service, etc without putting my practice in financial jeopardy . Currently, I have to close the clinic to attend these day to day activities which is a hardship to the practice and the clients.

Again, I appreciate all that the Board does to maintain safe physical therapy practice in our State, but I am strongly requesting that the Board continuing moving our profession and State forward by make general supervision the law, not just a thought.

Sincerely,

Greg S. Syvertson, PT, DPT, CFT, CCI
Doctor of Physical Therapy
President/CEO

WV Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

Jeffery Bailey, PTA
President, Wyoming County Physical Therapy
117 Howard Ave.
Mullens, WV 25882

Dear members of the Board

I am a licensed PTA with 13+ years of experience. I am a native West Virginian and have lived my entire life in southern West Virginia.

I would like to first thank the Board on their tireless efforts to update the Physical Therapy rules for WV to bring them more in line with the national standards and those of the surrounding states.

I respectfully request that the Board also consider the supervision issue. In rural areas that are drastically underserved, it is impossible to provide badly needed services because of the restrictive nature of the direct supervision rules.

There is no clinical justification why a PTA should not be allowed to perform their duties in an outpatient clinic with the same supervision requirements that are allowed in home health or nursing home settings. In the majority of cases the patients that are seen in an outpatient setting are functionally better and more medically stable than the ones seen in home health and the nursing home. The level of supervision should be determined by the needs of the patient and is already subject to limitations under the ethical guidelines and standards of care.

These "indirect supervision" cases where the PT would be available by phone and the patient is known to the PTA, would allow the PT to attend to duties outside the facility. This would allow the PT to expand the amount of services available to areas that are underserved and still maintain quality services in the clinic. I know that the school system in my county needs additional physical therapy services and I have even gotten calls at home with former patients asking about home health services. This "indirect supervision" would allow increased availability of physical therapist for these types of services.

This is consistent with the Federation of State Board language and I strongly support this change.

Please consider this change. Thank You.

Sincerely,
Jeffery Bailey, PTA

Jeffery Bailey PTA

WV Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

Paula Harman Gallimore, PTA
109 Rollingwood Drive
Beckley, WV 25801

Dear members of the Board,

I am a license Physical Therapist Assistant that has been working in the state of West Virginia for the past 13 years in an outpatient clinic. I also teach in the PTA program at Mountain State and I have a BS in Exercise Physiology.

First I'd like to thank the board of Physical Therapy for modernizing the Physical Therapy rules for West Virginia to make them more consistent with the other surrounding states and national standards.

Second, I'd like to request that the Board consider one additional change. There is no clinical reason why the Physical Therapist's that works in an outpatient clinics or hospitals should be required to provide on site supervision at all times. The level or supervision should be determined by the needs of the patient as is already subject to limitations under the ethical guidelines and standards of care because Physical Therapist's are the only ones that can evaluate, change plans of care and discharge patients.

This restriction is excessive and prevents Physical Therapists from being able leave the clinic/hospital, evaluate patients and provides Physical Therapy services in home health or nursing homes. When a Physical Therapist is not physically present in a clinic/hospital the clinic has to close and/or a Physical Therapist Assistant is unable to provide services. This occurs even though the Physical Therapist can be reached by phone, the patient is familiar with the Physical Therapist Assistant and most likely drove themselves to the clinic or in a hospital bed where there are physicians on sight. This makes no sense at all.

Increasing the ratio for Physical Therapist Assistant's increases the access to Physical Therapist Assistant's but does not increase access to Physical Therapist's if they can't leave the building to supervise. Increasing the ratio without having general supervision, with guidelines related to experience, will only serve to stretch those Physical Therapist's that work in home health, nursing homes and schools even further.

This is consistent with Federation of State Board language and strongly support this change.

Please consider this change or provide an explanation as to why this inconsistency in standards applies.

Sincerely,

Paula Gallimore, B.S. (Exercise Physiology) PTA

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

Tammy Radford
147 Walnut Street
Daniels W.V.25832

Dear Members of the Board

I have a license PT/A that has been working for 6 years.

I'd like to thank the board of PT for updating the PT rules for WV. They are now more consistent with surrounding states, Federation of State Board language and APTA guidelines.

I'd like to respectfully ask that the Board consider an additional change to improve the access to Physical Therapists in WV and in particular in rural parts of the state were it is hard to get adequate PT supervision.

There is no clinical reason why the PT's that work in outpatient clinics or hospital should be required to provide on site supervision at all times. The level or supervision should be determined by the needs of the patient not what setting is worked in. Complex patients are seen in all setting. Some of the most medically unstable and challenging patients are in home health and skilled nursing facilities where only general supervision is currently required.

There as is already restrictions under the new ethical guidelines and standards of care because PT's are the only ones that can evaluate, change plans of care and discharge patients.

Requiring onsite rather than general supervision in outpatient clinics and hospitals prevents PT's from being able to evaluate patients and supervise PTA's in home health or nursing homes because PTA's can't work when the PT leave the clinic or hospital.

Increasing the ratio for PTA's increases the access to PTA's but does not increase access to PT's if they can't leave the building to supervise. Increasing the ratio without having general supervision will only serve to increase the work load on PT's that work in home health, nursing homes and schools even further.

Please consider having consistent supervision guidelines across all settings and improve the access to physical therapy services by having general supervision apply to all settings.

Sincerely,

Tammy Radford

Tammy Radford PTA

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

Lynette Thompson
209 Angels Rest
Beckley W.V.25801

Dear Members of the Board

I have a license PT/A that has been working for 4 years.

I'd like to thank the board of PT for updating the PT rules for WV. They are now more consistent with surrounding states, Federation of State Board language and APTA guidelines.

I'd like to respectfully ask that the Board consider an additional change to improve the access to Physical Therapists in WV and in particular in rural parts of the state were it is hard to get adequate PT supervision.

There is no clinical reason why the PT's that work in outpatient clinics or hospital should be required to provide on site supervision at all times. The level or supervision should be determined by the needs of the patient not what setting is worked in. Complex patients are seen in all setting. Some of the most medically unstable and challenging patients are in home health and skilled nursing facilities where only general supervision is currently required.

There as is already restrictions under the new ethical guidelines and standards of care because PT's are the only ones that can evaluate, change plans of care and discharge patients.

Requiring onsite rather than general supervision in outpatient clinics and hospitals prevents PT's from being able to evaluate patients and supervise PTA's in home health or nursing homes because PTA's can't work when the PT leave the clinic or hospital.

Increasing the ratio for PTA's increases the access to PTA's but does not increase access to PT's if they can't leave the building to supervise. Increasing the ratio without having general supervision will only serve to increase the work load on PT's that work in home health, nursing homes and schools even further.

Please consider having consistent supervision guidelines across all settings and improve the access to physical therapy services by having general supervision apply to all settings.

Sincerely,

Lynette Thompson

Lynette Thompson PTA

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

Arlie T Conner
113 Lode Drive
Beckley, W.V.25801

Dear Members of the Board

I am a licensed PTA and have been working for 13 years.

I'd like to thank the board of PT for updating the PT rules for WV. They are now more consistent with surrounding states, Federation of State Board language and APTA guidelines.

I'd like to respectfully ask that the Board consider an additional change to improve the access to Physical Therapists in WV and in particular in rural parts of the state were it is hard to get adequate PT supervision.

There is no clinical reason why the PT's that work in outpatient clinics or hospital should be required to provide on site supervision at all times. The level or supervision should be determined by the needs of the patient not what setting is worked in. Complex patients are seen in all setting. Some of the most medically unstable and challenging patients are in home health and skilled nursing facilities where only general supervision is currently required.

There as is already restrictions under the new ethical guidelines and standards of care because PT's are the only ones that can evaluate, change plans of care and discharge patients.

Requiring onsite rather than general supervision in outpatient clinics and hospitals prevents PT's from being able to evaluate patients and supervise PTA's in home health or nursing homes because PTA's can't work when the PT leave the clinic or hospital.

Increasing the ratio for PTA's increases the access to PTA's but does not increase access to PT's if they can't leave the building to supervise. Increasing the ratio without having general supervision will only serve to increase the work load on PT's that work in home health, nursing homes and schools even further.

Please consider having consistent supervision guidelines across all settings and improve the access to physical therapy services by having general supervision apply to all settings.

Sincerely,

Arlie T Conner PTA

Arlie T Conner, PTA

Dr. Eric Tarr, PT, OCS – 530 Span Oaks Dr. – Milton WV 25541

WVBOPT
101 Dee Dr.
Charleston, WV 25311

RECEIVED
JUL 20 2010

Dear Members of the Board,

Thank you for your hospitality in our discussions over the past year with regards to changes in physical therapy regulation. In all of our previous conversations, I have been present as the representative of the West Virginia Physical Therapy Association. This letter is on my own behalf and behalf of the citizens I serve as a physical therapist. Since this comment will become a matter of public comment, anyone who reads this should know that I consider myself a very dedicated, socially responsible, and ethical physical therapist that treats the citizens of West Virginia on a full time basis. As such I have been twice certified as an Orthopedic Specialist, been appointed to the Academy of Content Experts for the American Board of Physical Therapy Specialties, served as a committee member for continuing competence with the Federation of State Boards of Physical Therapy, served on the Advisory Committee for Marshall University's PTA program, served as adjunct faculty for West Virginia University's PT program, been credentialed as an Advanced Clinical Instructor by the APTA, served two terms as Secretary for the West Virginia Physical Therapy Association, served one term as VP of the WVPTA, held several committee positions and chair positions with the WVPTA, and currently serve as their liaison to your Board.

I strongly encourage you to add language to your suggested rules that permits general supervision of physical therapists assistants in all physical therapy settings based on the discretion of the physical therapist. This can be done by enforcing ethical and safe decision making rather than using "onsite" language. Current language of onsite supervision in out-patient and hospital settings is not consistent with language for our other settings or even neighboring states and limits the ability of the physical therapist to make supervision decisions based on each individual patient's needs. It also disregards the skill and education of physical therapist assistants. My personal experience with this limitation in the late 90's caused me to stop providing home health services to rural Lincoln, Mason, Kanawha, Putnam, and Cabell counties due to the inability of me and my employed therapists to leave my out -patient practice in order to provide evaluations and supervisory visits unless I closed the out-patient clinic or did the visits in the evenings or weekends. I have resented having to make that decision ever since it happened, as many of these citizens still have limited access to services. The citizens of WV, rural or otherwise are no less deserving of access to physical therapists than those of our neighboring states.

Thank you again for your consideration and hearing my personal position on this issue.

Sincerely,

Dr. Eric Tarr, PT, OCS
Doctor of Physical Therapy
Board Certified Orthopedic Specialist

Jason Anders, PT, DPT WV #1945
307 Circle Street
Beckley, WV 25801

Members of the WV Board of PT:

Thank you for your efforts in modernizing the West Virginia Physical Therapy Practice Act in conjunction with the West Virginia Physical Therapy Association and legislators in Charleston with HB 4140. I am writing this letter to respond to some concerns that many clinicians have raised regarding these issues so that it may serve as a matter of public record. I have been a physical therapist for 13 years and have practiced for 11 years in West Virginia.

I am in favor of the "emergency rules" section that will allow a physical therapist assistant to treat patients on an emergency basis if a physical therapist is ill or has an emergency and cannot be there. Although new patient assessments could not be performed on that day, the PTA could see the returning patient caseload that they were familiar with without needing to cancel patients or send them home. This is also consistent with surrounding states' practice acts such as Pennsylvania's act.

The next issue involves PT to PTA supervision. Previously, the ratio was 2 to 1. This provided a fairly good level of supervision. Unfortunately, with the growing demand for physical therapy services and shortage of clinicians, many patients in rural areas had difficulty obtaining physical therapy services as a result. The current update is to expand the ratio to 4 to 1. While I understand the need for expansion, 4 people to supervise seems a little bit hard to manage. I think ultimately the physical therapy needs of the state and the communities we serve can be met by a ratio of 3 to 1. A 3 to 1 ratio would expand physical therapy services in West Virginia without "overwhelming" the supervising physical therapist. A 3 to 1 ratio is also consistent with surrounding states' acts such as Pennsylvania's act.

The final issue involves PT supervision of physical therapist assistants according to practice setting. The current and previous versions of the act have remained unchanged except for the fact that "direct," "on-site" and "general" supervision have been defined in more direct language. I agree with the on-site supervision requirement for acute care settings and inpatient rehabilitation hospitals. Many of these patients are critically ill, and I believe that they need the skill and supervision of a PT on-site in order to reassess and modify the PT plan of care accordingly as these patients' medical statuses change very quickly. Currently, skilled and home health settings require only general supervision with

regular co-visits and accessibility by telecommunications. I understand this in terms of skilled nursing and rehabilitation settings. There are plenty of registered nurses and licensed practical nurses on-site at a skilled facility in case of an emergency.

Home health settings, on the other hand, can often present an inexperienced clinician with a patient that has just been released from the hospital with multiple medical issues. I think there should be an experience requirement for PTA's to treat under general supervision in these cases. Pennsylvania's practice act requires 3 years of experience by a PTA before treating a patient unsupervised, and I agree with that.

Currently, outpatient settings require on-site supervision of the physical therapist assistant by the physical therapist. I agree that there needs to be some amount of supervision provided in this setting. However, many of these patients are medically stable and have progressed in their rehabilitative programs quite well. I think this level of supervision could be looked at. I could see a supervision requirement of between 50% to 75% serving the needs of the clinic and outpatient population adequately. The PT could see the evaluations and mange the more difficult patients while allowing the PTA to mange some of the more independent patients who have progressed well independently. This would also allow the physical therapist more flexibility in scheduling if the PT had to be away from the clinic for either personal, medical, or other work issues. This is also supported in Pennsylvania's act.

In any case, I think the board needs to look at all avenues before proceeding without discretion. Physical therapists have given up a lot to other professions over the years to chiropractors, respiratory therapists, and occupational therapists and occupational therapy assistants. Now it seems that we are divided again into groups of private practice owners, practicing clinical physical therapists, and physical therapist assistants. At the end of the day, we need to all be in support of the most important aspect of all of this, which is to protect the general welfare and safety of the public. Unfortunately, money and politics often get in the way of this tenet. The board also needs to be careful to make sure that any new rules are also ethically sound.

I have discussed these issues with multiple physical therapists and physical therapist assistants, and the majority of them share my concerns.

Sincerely,

Jason Anders, PT, DPT – WV #1945

Jason Anders, PT, DPT – WV #1945
307 Circle Street
Beckley, WV 25801
(304)253-4646; jaypex1@suddenlink.net

RECEIVED
JUL 20 2010

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

Mick Bates
800 Woodlawn Ave.
Beckley, WV. 25801.

Dear Members of the Board :

It has been a pleasure working with the Board in my legislative and health care policy roles as a Physical Therapist and with the WVPTA. In that capacity, I'd like to thank the Board of PT for its work on modernizing the Physical Therapy rules for WV to make them more consistent with other surrounding states and national standards.

I write this letter as an individual and a concerned citizen and business owner.

As you are aware, the WV Board of PT is charged **with protecting the public health, safety and welfare**, and to **assure the availability** of high quality Physical Therapy services to the citizens of West Virginia.

The counties of southern WV have the highest rates of disability and disease in the nation. Many of these counties do not have a single Physical Therapy provider. I have made it my life's work to improve the health and lives of my friends and neighbors. The people that live in Raleigh, Wyoming and surrounding deserve the same level of care that is available to those in more urban and developed parts of state and nation.

I am prepared to invest time, money and resources and bring Physical Therapy, health, fitness and rehabilitation to critically under served parts of the state, specifically the southern coal fields. This is a region, that in addition to great health needs, is in need of economic development and investment. I am prepared to put people to work and provide employment in an area that need good jobs that provide benefits like health insurance.

Regretably I, nor can or will anyone else, do this under the existing and proposed legislative rules for PT. Unless there is consistency and flexibility in the supervisory requirements across settings for PTA's. It is not an economically viable proposition to do so. Unless, you can operate a clinic or an outpatient clinic at a hospital that can be open at least on a limited basis while the PT is serving the local nursing home or school or home health care needs and the clinic or hospital Unless facilities can be open if and when a PT needs to be off work for an hour or a day or even 2 ½ days with general rather than direct supervision as patient need rather than rule dictate it just won't happen. Without this consistancy and flexability, it just doesn't make financial sense now and will make even less sense in the years ahead with the challenges in health care reform. Therefore, I recommend changing the supervision standard to general supervision for outpatient PT clinics.

It is not possible to recruit highly educated professionals to work in these regions if they must be "married" to the clinic, can't get a day off or take a child to a doctors appointment. They will take a job in a large urban facility where they can get coverage or go work in a neighboring state that is more rational work life friendly regulations. This is a fact.

The level of supervision should be determined by the needs of the patient as determined by the professional judgement of the PT and is already subject to limitations under the ethical guidelines and standards of care. PT's are the only ones that can evaluate, change plans of care and discharge patients. It can be done and it is being done in other rural parts of the country effectively and safely. West Virginian's deserve the same access to care. There is no clinically justifable reason for general supervision to not be consistant across settings.

Increasing the ratio for PTA's increases the access to PTA's but does not increase access to PT's if they can't leave the building to supervise PTA's and there for does not **assure the availability** of high quality physical therapy services to the citizens of West Virginia.

I'd like to respectfully request that the Board consider this one specific additional change to improve the access to Physical Therapy services and amend this Section to make it consistant with Federation of State Board language by changing 8.2.a from "on-site supervision" to "general supervision".

I strongly support amendment to do so and ask if one is not offered and approved the Board be be prepared to provide justification to the Legislature for not doing so, based on some objective standard or reasoning.

Please consider this change. Thank you.

Sincerely,

Mick Bates

J. Eric Shaw PT
7 New England Circle
Fairmont, WV 26554

West Virginia Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

Dear Members of the WVBOPT:

I am writing this letter to comment on Proposed Rules by the West Virginia Board of Physical Therapy Title 16, Series 1: General Provisions. I appreciate the opportunities that I have had to present information to the Board over the last two years regarding rules that would benefit the practice of physical therapy; I find it imperative to make my personal comments public at this time.

The majority of my comments will pertain to 16-1-8: Supervision of a Physical Therapist Assistant. However, this section went into effect on July 15, 2010 as an emergency rule, and remains in effect up to 15 months. Enactment of the entirety of section 8 goes beyond the scope of House Bill 4140 pertaining to 30-20-6-b. This sub-section required the WVBOPT only to "promulgate emergency rules ...to establish a maximum ratio of physical therapist assistants, or physical therapy aides involved in the practice of physical therapy, or any combinations that can be supervised by a physical therapist at any one time." Enactment of all of 16-1-8 would be out of order unless the WVBOPT established that an emergency existed to change other parts of the rule and was approved by the Secretary of State. The WVBOPT in its rule filing did not establish that any emergency existed.

I would like to see a separate series of rules on continuing education requirements that would more clearly define what "Board approved" continuing education would consist of. This is consistent with Federation of State Boards of Physical Therapy recommendations ("Criteria that the board uses for determining continuing competence requirements associated with licensure or certification renewal should be clearly outlined in rules."). Requiring individuals to pay a $50 fee to have a course reviewed and approved is a financial burden to each licensee especially if the WVBOPT does not approve the course. It also would decrease the likelihood of a licensee from having a course disallowed during a continuing education audit for license renewal.

The change in language under 16-1-6.1from "shall be co-signed by a physical therapist" to "shall be co-signed by the supervising physical therapist..." This holds a specific physical therapist to a higher standard of responsibility than defined in the previous sentence which states: "...shall practice under the on-site supervision of a physical therapist." In my practice setting a graduate PT/PTA with a temporary permit may work with more than one PT in a day as they gain work experience in different settings (acute care, skilled nursing, and outpatient settings). I would not want this new language to

limit the number of work experiences a PT/PTA could have based on the "supervising" PT. Recommend striking and inserting so that it reads "~~the~~ a supervising physical therapist..."

16-1-7 Scope of Practice for Physical Therapists now includes ethical standards which I support. However in 7.2 it states "... practicing in a manner that is moral and honorable." There is no basis for morality and honor defined in the rules. I would recommend that this be removed from the rules as 16-1-7.6 provides for a better definition and basis "minimal standard of acceptable prevailing practice."

16-1-8 Supervision of a Physical Therapist Assistant

This section is the most important area of the proposed rules and could significantly help physical therapists meet the growing health care demands of West Virginians or it can continue to further impede our ability to provide needed care.

16-1-8.2 Supervision requirements of a Physical Therapist Assistant: It is imperative to allow general supervision of the physical therapist assistant across all practice settings after reaching a certain level of work experience (1000 hours) in order to meet the health care needs of our population. A recent article in the Morgantown Dominion Post places Physical therapists as the 11th highest demand job in West Virginia through 2014. It also predicts there will be nearly 687 openings for physical therapist assistants by 2014. It is clear based on these predictions that there is a growing need for our services with the aging of our population and the ever increasing rise of chronic diseases.

Physical therapist education has changed dramatically since the early 1990's when the current rules were written. Physical therapists are now trained at the doctorate level. With this advanced education come greater autonomy and the ability to make decisions about when care can be delegated to a physical therapist assistant. This decision is based on individual patient needs and not an arbitrary site restriction.

General supervision across all settings is the standard for other practitioners such as physician assistants, occupational therapist assistants and chiropractic assistants. It is also the standard for all of our neighboring states. It is not a concept pulled out of thin air.

We currently work under a system that has physical therapist assistants working in settings with some of the sickest patients under general supervision. With the continued advent of shorter hospital stays, and same day surgical procedures, the sickest patients are in nursing homes, skilled nursing facilities, and home health. The same is true for the school systems where children with significant disability are seen by physical therapist assistants under general supervision. The physical therapists and physical therapist assistants have done very well over the years working with general supervision with a low number of incidents compared to the number of people served in these settings.

It makes little sense to require a physical therapist to be on site at all times in a hospital where a physical therapist assistant would have the greatest amount of support in case of emergency including nurses, physicians, code teams, and equipment such as defibrillators.

The arbitrary restriction on outpatient clinics is counterintuitive. West Virginians who go to outpatient physical therapy clinics are more often than not, ambulatory and have an orthopedic diagnosis versus a more life threatening diagnosis.

The final point I would make is that physical therapist assistants are well trained to make the decision whether to carry out a plan of care or seek out the assistance of a physical therapist should there be any "red flags".

16-1-8.1.b: By requiring the physical therapist to "make the final visit to terminate the plan of care" we waste the physical therapists time, and the financial resources of the patient. The decision to terminate the plan of care is based on many factors. Much of this decision making can be done through the review of medical records, and assessing the patient status. There remains a need to allow the physical therapist to determine if a "visit" is reasonable and necessary. An example is a patient who has been treated by a PTA, has progressed well and met all goals. It is not imperative that the physical therapist make an extra visit to determine the goals are met and the course of physical therapist treatment is ended. I would recommend a change in the language to read: "The physical therapist must make the final decision to terminate the plan of care."

16-1-8-1.c now states "No more than four (4) persons, physical therapist assistants ... can be supervised by a physical therapist at any one time." The increase in the number of physical therapist assistants a PT may supervise was greatly needed. However, I remain concerned about the word "persons" in the definition. Persons can be interpreted to mean any other people that a PT may have in their practice or may employ including office personnel, patient transporters in a hospital, custodians, and other support persons. This interpretation could include student physical therapists and physical therapist assistants. By limiting the number of students we could do harm to our clinical experience sites and limit the number available. In addition, if one must count "persons" such as transporters, aides not directly involved in treatment and others, it decreases the number of direct therapy providers that may be in the ratio. I would suggest striking the word persons.

16-1-8.2.b.2 continues to require an unnecessary and wasteful joint visit by the PT and PTA on the PTA's first visit to the patient. Arbitrarily requiring joint visits is a waste of resources and time unless the physical therapist determines there is a specific need for such. All communication can be made through the medical record as to plan of care, precautions, goals, outcomes, and exercise parameters. Physicians do not make a joint visit with their mid-level practitioners to initiate care, nor are any other providers required to do so. This sub-section should be removed to allow the physical therapist to make the decision as to whether a joint visit is medically necessary on the PTA's first visit.

16-1-8-2.b.3 also continues to require an unnecessary "joint on-site visit by the licensed PTA and the licensed PT." at a frequency of every 10 visits or 21 calendar days. I do agree that the physical therapist should provide direct treatment to a patient being treated by a PTA under general supervision; I would suggest that the physical therapist determine when a joint visit is required. To provide consistency with Medicare I would recommend we change the requirement for the physical therapist visit and treatment to every 10 treatment days or 30 calendar days whichever occurs first. This is consistent with requirements for progress reports required by Medicare.

16-1-8.2.b.3 also tries to handle what should occur when the supervising physical therapist changes. While it is understandable that the WVBOPT wants to make a paper trail as to who the supervising physical therapist is, the requirement to discuss and document is not practical. To create the desired paper trail of who the supervising PT is, the on-site PTA could simply document this in the patient's medical record. The patient's medical record should suffice to supply the new supervising physical therapist with all the needed information to make decisions about the PT plan of care. The new PT would simply read the chart, or have the PTA read the chart and using the telecommunications section of these rules discuss any problems. If this did not sufficiently answer the question, the new supervising PT would make a visit within 24 hours.

I recommend striking the last 2 sentences of this section and creating 16-1-8.2.b.4 to read: In the event the supervising physical therapist changes the physical therapist assistant on-site will document the change in the patient's medical record.

16-1-8.5 pertains to "The only exceptions to the level of supervision or supervisory ratio." In the absence of general supervision across all settings the exceptions put forth in the proposed rules are far too restrictive and gives the practicing physical therapist little or no relief. Emergency situation is not defined in the proposed rule. With no definition it is up to the individual PT to determine their emergency. The problem here is that the WVBOPT may not agree once the PT reports their absence. The WVBOPT could rule against the PT and then begin some type of disciplinary proceeding. Otherwise to exceed the level of supervision the PT must have a "serious illness" which again is not defined. The PT must be better in 72 hours and back to work. This exception only works if there is another PT on site to supervise the one or more PTA's. This does not really account for serious illness that does not get better in 72 hours such as surgery, cancer, heart attack etc. Up to 4 PTA's could be out of work after 3 days, and patients would go without needed physical therapy treatment. If there is not another PT on-site a seriously ill PT has only 24 hours to get better, as they do not meet the on-site supervision requirements. Then they will have to close their practice and not allow their licensed physical therapist assistant to provide needed physical therapy to established patients under general supervision. The requirement to make every effort to obtain supervision is unrealistic as well. Can one realistically fight through serious illness to call and beg your unemployed physical therapist friend to go to work and cover your patients, but only after you give the new supervising PT a rather lengthy dissertation about the condition of your patients that

you have memorized. I would suggest the WVBOPT allow general supervision across all settings to allow the decision be made by the physical therapist when it is appropriate for the PTA to work under general supervision, and not worry about disciplinary action because you or you spouse, or child were sick. General supervision would allow an acute care or outpatient physical therapist a chance to take a vacation day without completely closing their clinic and depriving their patients of care.

We have been unfair to the patients and physical therapists in these settings for far too long. It is time to remedy this situation and move the practice of physical therapy along the path to Vision 2020.

Sincerely,

J. Eric Shaw PT 1157

J. Eric Shaw PT
Director of Rehabilitation Services
Grafton City Hospital

West Virginia Physical Therapy Association

A chapter of the American Physical Therapy Association

The Science of Healing. The Art of Caring.

RECEIVED

JUL 23 2010

July 21, 2010

West Virginia Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

Dear Members of the WVBOPT:

On behalf of the members of the West Virginia Physical Therapy Association, I would like to thank you for considering our suggestions into the development of the proposed rule changes governing the practice of physical therapy. The WVBOPT has adopted some of our suggestions including increasing the number of physical therapist assistants a physical therapist may supervise, separating fees into a separate series of rules, incorporating ethical standards into rules, and clarifying that volunteer licenses will be marked as such.

However, we do not feel that the WVBOPT proposed rule changes go far enough in meeting the current and future demand for physical therapist services, allow the physical therapist enough flexibility to adequately meet the needs of patients, establish sufficient guidelines for continuing education, as well as other changes we feel are appropriate in the provision of physical therapy. I would like to detail some of those changes supported by the WVPTA.

The WVPTA would like to see a separate series of rules on continuing education requirements that would more clearly define what "Board approved" continuing education would consist of. This is consistent with Federation of State Boards of Physical Therapy recommendations ("Criteria that the board uses for determining continuing competence requirements associated with licensure or certification renewal should be clearly outlined in rules."). We have had complaints from members regarding how continuing education situations have been handled, including denying Board approval, and requiring individuals to pay a $50 fee to have a course approved. Additionally the recommendation from our practice committee was to increase the number of hours required, as well as to give continuing education hours for being a clinical instructor, completing competency tools, and passing specialization examinations.

In Title 16 series 1-2.4 the definition of "physical therapy aide" is different from 30-20-3-12. We would recommend that the Board use the identical definition, which would entail changing "under the direct supervision" to "under the direction supervision".

Suite 220 • 2110 Kanawha Blvd., East • Charleston, WV 25311
866-401-1810 toll free • 304-345-6808 voice • 304-344-4139 fax • wvpta@wvtmg.com • www.wvpta.org

The WVPTA supports the addition of 16-1-2.4.a that clarifies that a physical therapy aide works under the direct supervision of a physical therapist.

The WVPTA supports the addition of 16-1-5.7 which states a volunteer license will be marked as "volunteer" and is restricted to practicing in accordance with 30-20-13.

WVPTA is concerned about the change in language under 16-1-6.1from "shall be co-signed by a physical therapist" to "shall be co-signed by the supervising physical therapist..." This holds a specific physical therapist to a higher standard of responsibility than defined in the previous sentence which states: "...shall practice under the on-site supervision of a physical therapist." It is conceivable that a graduate PT/PTA with a temporary permit works with more than one PT in a day as they gain work experience in different settings. We would not want this new language to limit the number of work experiences a PT/PTA could have based on the "supervising" PT. Recommend striking and inserting so that it reads "~~the~~ a supervising physical therapist..."

16-1-7 Scope of Practice for Physical Therapists now includes ethical standards which we support. However in 7.2 it states "... practicing in a manner that is moral and honorable." There is no basis for morality and honor defined in the rules. We would recommend that this be removed from the rules as 16-1-7.6 provides for a better definition and basis "minimal standard of acceptable prevailing practice."

16-1-8 Supervision of a Physical Therapist Assistant

While we recognize that section 8 has gone into effect as an emergency rule, the WVPTA felt it is appropriate to comment on the certain aspects of this section. It is probably the most important area of rules revision, and can either help physical therapists meet the growing health care demands of West Virginians or it can continue to further impede our ability to provide needed care. It will be best to address the specific subsections.

16-1-8.1.b: By requiring the physical therapist to "make the final visit to terminate the plan of care" we continue to waste the physical therapists time. The decision to terminate the plan of care is based on many factors. Much of this decision making can be done through the review of medical records, and assessing the patient status. We acknowledge the attempt by the WVBOPT to carve out two incidences where the PT would not be required to make this final visit ("unless the patient or physician terminates the plan of care.") there remains a need to allow the physical therapist to determine if a "visit" is reasonable and necessary. An example is a patient who has been treated by a PTA, has progressed well and met all goals. It is not imperative that the physical therapist make an extra visit to determine the goals are met and the course of physical therapist treatment is ended. We would recommend a change in the language to read: "The physical therapist must make the final decision to terminate the plan of care."

16-1-8-1.c now states "No more than four (4) persons, physical therapist assistants, ... can be supervised by a physical therapist at any one time." The WVPTA supports the increase in the number of physical therapist assistants a PT may supervise. However, we

remain concerned about the word "persons" in the definition. Persons can be interpreted to mean any other people that a PT may have in their practice or may employ including office personnel, patient transporters in a hospital, custodians, and other support persons. This interpretation could include student physical therapists and physical therapist assistants. By limiting the number of students we could do harm to our clinical experience sites and limit the number available. The WVPTA recommends simply striking the word persons so that the ration includes only PTA's, PTA with a temporary permit and physical therapy aides. These are the providers who would take part in direct patient care and as such should be limited to the 4:1 ratio.

16-1-8.2 Supervision requirements of a Physical Therapist Assistant: The WVPTA continues to recommend general supervision across all practice settings once the PTA reaches a determined level of work experience of 1000 hours. Prior to attaining the required work experience they would require on-site supervision. We recommend general supervision for a number of reasons:

- Allows greater access to physical therapist treatment and physical therapists. Recent articles in the Morgantown Dominion Post places Physical therapists as the 11th highest demand job in West Virginia through 2014. It also predicts there will be nearly 687 openings for physical therapist assistants by 2014. It is clear based on these predictions that there is a growing need for our services with the aging of our population and the ever increasing rise of chronic diseases.

- Physical therapist education has changed dramatically since the early 1990's when the current rules were written. Physical therapists are now trained at the doctorate level. With this advanced education come greater autonomy and the ability to make decisions about when care can be delegated to a physical therapist assistant. This decision is based on individual patient needs and not an arbitrary site restriction on the PT's decision making.

- Having general supervision in all settings would place physical therapists on an "even playing field" with other practitioners such as physician assistants, chiropractic assistants, and occupational therapist assistants.

- The nature of physical therapist practice has changed. With the continued advent of shorter hospital stays, and same day surgical procedures, often times the sickest patients are in nursing homes, skilled nursing facilities, and home health. The same is true for the school systems where children with significant disability are seen. All of these are general supervision settings and have been since the early 1990's. We feel safe in writing that the physical therapists and physical therapist assistants have done very well over the years working with general supervision with a low number of incidents compared to the number of people served.

- Hospital physical therapist assistants often have the greatest amount of support in case of emergency including nurses, physicians, code teams, and equipment such as defibrillators.

- West Virginians who access outpatient clinics are often ambulatory and more often than not have an orthopedic diagnosis versus a more life threatening diagnosis.

- Physical therapist assistants are well trained to make the decision whether to carry out a plan or care or seek out the assistance of physical therapist should there be any "red flags".

Section 16-1-8.2.b does not specifically state that supervision in the settings mentioned should be general. Recommend adding "General supervision may be utilized..." at the beginning of the section

16-1-8.2.b.2 continues to require an unnecessary and wasteful joint visit by the PT and PTA on the PTA's first visit to the patient. As noted above joint visits are a waste of resources and time unless the physical therapist determines there is a specific need for such. All communication can be made through the medical record as to plan of care, precautions, goals, outcomes, and exercise parameters. It is hard to imagine a physician and a physician assistant making a visit to a nursing home patient at the same time to initiate treatment. That is what this section continues to ask PT's and PTA's to do. We recommend striking this section.

16-1-8-2.b.3 also continues to require an unnecessary "joint on-site visit by the licensed PTA and the licensed PT." at a frequency of every 10 visits or 21 calendar days. While the WVPTA does agree that the physical therapist should provide direct treatment to a patient being treated by a PTA under general supervision, we would use the same argument as noted above when asked to provide joint visits. We recommend striking "joint on site" and "by the licensed physical therapist assistant and ". We also recommend a change in how often visits by the physical therapist should be made to every 10 treatment days or at least every 30 calendar days. This is consistent with requirements for progress reports required by Medicare.

16-1-8.2.b.3 also tries to handle what should occur when the supervising physical therapist changes. The WVPTA recommends creating a new sub-section (16-1-8.2.b.4). While it is understandable that the WVBOPT wants to make a paper trail as to whom the supervising physical therapist is, the requirement to discuss and document is not practical. Where would this documentation occur? The patient's medical record should suffice to supply the new supervising physical therapist with all the needed information should a problem occur. The new PT would simply read the chart, or have the PTA read the chart using the telecommunications section of these rules. If this did not sufficiently answer the question, the new supervising PT would make a visit within 24 hours.

Recommend striking the last 2 sentences of this section and creating 16-1-8.2.b.4 to read: In the event the supervising physical therapist changes the physical therapist on-site will document the change in the patient's medical record.

16-1-8.5 pertains to "The only exceptions to the level of supervision or supervisory ratio." The WVPTA believes that in the absence of general supervision across all settings that the exceptions put forth in the proposed rules are far too restrictive and gives the practicing physical therapist little or no relief. To exceed the level of supervision the PT must have a serious illness which must be better in 72 hours if the PTA still has some form of supervision from another PT. However, a seriously ill PT has only 24 hours to get better, or they will have to close their practice and not allow their licensed physical therapist assistant to provide needed physical therapy to established patients under general supervision. That is unless you can fight through serious illness to call and beg your unemployed physical therapist friend to go to work and cover your patients, but only after you give the new supervising PT a rather lengthy dissertation about the condition of your patients that you have memorized. Of course the exceptions do not pertain to a seriously ill child, spouse, or parent. They actually have to die before you can exceed the level of supervision or supervisory ratio.

The WVPTA recommends the following language:

EMERGENCY—CAUSES UNANTICIPATED ABSENCE OF SUPERVISING PT FOR NOT MORE THAN 3 CONSUECUTIVE DAYS (SUCH AS ILLNESS OF THE PT OR FAMILY MEMBER. A LICENSED PTA MAY CONTINUE TO RENDER SERVICES TO ONLY THOSE PATIENTS TO WHOM THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTERVENTION FOR ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGULARLY SCHEDULED HOURS AND PARTICULAR DAY(S) THE SUPERVISING PT IS ABSENT.
(DELETE EVERY EFFORT SHALL BE MADE BY THE LICENSED PT OR PTA TO OBTAIN SUPERVIOSN I NTHE CARE DESCRIBED IN THIS SECTION.)

TEMPORARY SITUATION—WHICH REQUIRES THE ABSENCE OF SUPERVISING PT FOR NOT MORE THAN 3 CONSUECUTIVE DAYS (SUCH AS A CONTINUING EDUCATION PROGRAM) A LICENSED PTA MAY CONTINUE TO RENDER SERVICES TO ONLY THOSE PATIENTS TO WHOM THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTERVENTION FOR ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGULARLY SCHEDULED HOURS AND PARTICULAR DAY(S) THE SUPERVISING PT IS ABSENT.

SAFETY SITUATION—WHICH REQUIRES THE ABSENCE OF THE SUPERVISING PT FOR UP TO ONE DAY A LICENSED PTA MAY CONTINUE TO RENDER SERVICES TO ONLY THOSE PATIENTS TO WHOM THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTERVENTION FOR ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGULARLY

SCHEDULED HOURS AND PARTICULAR DAY(S) THE SUPERVISING PT IS ABSENT.

8.5 SUGGESTED LANGUAGE CHANGES
IN AN EMERGENCY SITUATION, TEMPORARY SITUATION OR SAFETY SITUATION THAT REQUIERS THE ABSENSE OF THE SUPERVISING PT, A LICENSED PTA MAY CONTINUE TO RENDER SERVICES UNDER THE GENERAL SUPERVISION OF THE SUPERVISING PT TO ONLY THOSE PATIENTS FOR WHICH THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTEVENTION FOR THE ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGUARLY SCHEDULED OPERATIONAL HOURS OF THE PARTICULAR DAY THE SUPERVISING PT IS ABSENT. A LICENSEE UTILIZING THIS SECTION SHALL MAINTAIN A WRITTEN RECORD NOTING THE DATES AND SITUATION, SETTING FORTH EACH DAY ABSENT UNDER THIS PARAGRAPH AND THE REASON FOR SUCH ABSENCE. A LICENSED PT MAY UTILIZE THIS PROVISION NO MORE THAN EIGHTY HOURS PER CALENDAR YEAR. UNDER THIS RULE A PT AIDE CAN ONLY PARTICIPATE IN NON-PATIENT CARE TASKS.

In 16-1-8.7 the WVPTA would recommend the following language: A physical therapist assistant may utilize a physical therapy aide under direct supervision only in an emergency situation as defined above. The aide may not provide any separately billable services or interventions, but would act to assist the PTA in activities such as gait training, transfer training, balance training to provide for patient safety.

30-20-6-14 Limits the PTA to supervising the aide in emergency situations only, and by definition in code and rule supervision of an aide is only by a PT.

As noted in the opening paragraph the WVPTA supports the establishment of Title 16 series 4 rules pertaining to fees.

Additionally the WVPTA supports the proposed rules Title 16 Series 5, 7, and 8 pertaining to the registration of athletic trainers.

Sincerely,

Nancy S. Tonkin

Nancy S. Tonkin
Executive Director
West Virginia Physical Therapy Association

To The West Virginia Board of Physical Therapy,

As a physical therapist practicing in primarily SNFs and ALFs in rural WV I recognize the need for an expanded supervision ratio of PT to PTAs. However, I feel that a

3:1 ratio provides increased access to PT services while maintaining good quality of care as well as meeting the needs of the state. I feel a 4:1 ratio sets up an environment

where as a PT I am unable to meet the needs of individual patients to the best of my ability. It is highly likely that with a 4:1 ratio that an individual PT could be supervising

the care of up to 80 patients at any given time. This is a great responsiblility and provides increased room for error as well as PTA driven POCs. It is my experience that

many newer graduates enter the SNF and require more one on one supervision and hands on training that could not be as well provided with a 4:1 ratio.

I also see the need for PTAs to be able to practice in an outpatient setting for short periods during a day without a PT on site. I feel that these PTAs should have at

least 3 years of experience and should have a PT on site at least 50% of the time to ensure that patients are frequently being reassed by the therapist. In SNFs and the

home health care setting PTAs have the support of nursing staff in the event of medical crisis. In a free standing outpatient clinic it is the role of the PT to assess and manage

any potential medical crisis and to perform differential diagnosis of potential medical vs musculoskelatal issues.

Sincerely,

R. Anders DPT

Rebecca Anders, DPT
WV #2280

RECEIVED
JUL 28 2010

Genesis HealthCare℠

Southern Area / Morgantown Field Office
1369 Stewartstown Road
Morgantown, WV 26505
Tel 304 599 0395
Fax 304 599 7069

July 27, 2010

WV Board of Physical Therapy
101 Dee Drive
Charleston,WV 25311

RE: PT Rule

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia legislative rule.

I am in support of the rule, specifically, Section 16-1-98, "Supervision of a Physical Therapist Assistant." This section of the rule is critical to our patients in West Virginia that need access to Physical Therapy services. Many patients requiring Physical Therapy services simply would not have received treatment prior to the current emergency rule being put in place. As the largest long term care provider in West Virginia, the prior supervision requirement was difficult, if not impossible, to meet. This is particularly true in our rural counties where the number of Physical Therapists is fewer. Delays in services result in setbacks to patient progress.

I support adoption of the current emergency rule thus allowing for more patients to receive treatment performed by a professional Physical Therapy Assistant.

Sincerely,

Bill Mason SVP

Bill Mason
Senior Vice President of Operations

Marmet Center
Genesis HealthCare℠

#1 Sutphin Drive
Marmet, WV 25315
Tel 304 949 2000
Fax 304 949 4880

July 26, 2010

In regards to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support of the rule as amended. More specifically, section 16-1-98. "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.
Many patients requiring Physical Therapy services just simply would not have received them prior to the current "emergency rule" being put in place. In many communities across the state the supervision requirement could not be met under the previous rule, thus patients were placed "on hold" until the required Physical Therapy supervision was available. Delays in services result in setbacks to patient progress. This is particularly true in our rural counties where the number of Physical Therapists is fewer.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

Sincerely,

G. A. Barker

George Barker, NHA
Marmet Center

Valley Center
Genesis HealthCare℠

1000 Lincoln Drive
South Charleston, WV 25309
Tel 304 768 4400
Fax 304 768 4416

July 26, 2010

In regards to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charlston WV 25311

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support of the rule as amended. More specifically, section 16-1-98. "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.
Many patients requiring Physical Therapy services just simply would not have received them prior to the current "emergency rule" being put in place. In many communities across the state the supervision requirement could not be met under the previous rule, thus patients were placed "on hold" until the required Physical Therapy supervision was available. Delays in services result in setbacks to patient progress. This is particularly true in our rural counties where the number of Physical Therapists is fewer.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

Sincerely,

Shayne Hutchinson
Administrator

RECEIVED
JUL 28 2010

Canterbury Center
Genesis HealthCare℠

80 Maddex Drive
Shepherdstown, WV 25443
Tel 304 876 9422
Fax 304 876 6869
TDD 304 876 6497

July 26, 2010

In regard to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charlston WV 25311

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support of the rule as amended. More specifically, section 16-1-98. "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

I want to make sure our patients who require physical therapy services continue to receive them as they do with the current "emergency rule" being put in place. We don't want to see our patients placed on hold until the required physical therapy supervision is available. Please help us maintain the quality of consistent care our patients deserve.

Thank you for being responsive to the unique needs of residents and patients in the West Virginia long term care environment.

Sincerely,

Monica Lockett, NHA
Canterbury Center

RECEIVED
JUL 28 2010

Tygart Center
Genesis HealthCare℠

1539 Country Club Road
Fairmont, WV 26554
Tel 304 366 9100
Fax 304 363 2384

July 26, 2010

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

RE: PT Rule

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support for the amendment of section 16-1-98; "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.

Many patients requiring Physical Therapy services just simply would not have received these services prior to the current "emergency rule" put in place. In many communities across the state, the supervision requirement could not be met under the previous rule, thus patients were placed "on hold" until the required Physical Therapy supervision was available. These delays in service resulted in setbacks to patient progress; this is particularly true in our rural counties where the number of Physical Therapists is fewer.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

Sincerely,

Cathy Fleece
Administrator

Sistersville Center
Genesis HealthCare℠

July 26, 2010

201 Wood Street
Sistersville, WV 26175
Tel 304 652 1032
Fax 304 652 2214

In regards to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charleston WV 25311

To Whom It May Concern:

I am writing to express my support of section 16-1-98 of the Physical Therapy Rule; Title 16, Series 1 of the West Virginia Legislative Rules. This section removes the unnecessary barriers to needed therapeutic treatment experienced by many in our state.

The current emergency rule will allow for the needed treatment to be provided by a professional Physical Therapy Assistant thereby preventing delays, patient declines and potential private insurance denials due to lack of progress.

I support the adoption of the current emergency rule to ensure that access to needed services remains available to the citizens of West Virginia.

Sincerely,

Jody Mohr

Jody Mohr, NHA
Administrator
Sistersville Center
201 Wood Street
Sistersville, WV 26175

Pierpont Center
Genesis HealthCare℠

1543 Country Club Road
Fairmont, WV 26554
Tel 304 363 2273
Fax 304 363 2384

July 26, 2010
In regards to: "PT Rule"

WV Board of Physical Therapy
101 Dee Drive
Charleston, WV 25311

To Whom It May Concern:

I would like to comment on the "PT Rule" Title 16 Series 1 of the West Virginia Legislative rule.

I maintain a position of support of the rule as amended. More specifically, section 16-1-98. "Supervision of a Physical Therapist Assistant". This section of the rule is critical to the people in the state of WV needing access to Physical Therapy services.
Many patients requiring Physical Therapy services just simply would not have received them prior to the current "emergency rule" being put in place. In many communities across the state the supervision requirement could not be met under the previous rule, thus patients were placed "on hold" until the required Physical Therapy supervision was available. Delays in service result in setbacks to patient progress. This is particularly true in our rural counties where the number of Physical Therapists is fewer.

I support adoption of the current "emergency rule" thus allowing for more patients in our rural state to receive a professional Physical Therapy Assistant performed treatment.

Sincerely,

Beth Harris, NHA

Beth Harris, NHA
Pierpont Center

From: Rob Acciavatti [mailto:racciavatti@gmail.com]
Sent: Wednesday, July 28, 2010 10:04 PM
To: WVBOPT
Subject: Statute 30-20 question

Hello --

I recently received a copy of the amendments to statute 30-20 as passed by HB 4140 and found section 8.5 and 8.6 to be very confusing. Could you please clarify what is expected of a PT and PTA in the instance of an absence by the primary PT?

This is very confusing and appears to mean that if a PT in my practice is out sick for 1-3 days I have to submit a report to the board explaining the sickness and that during that time a PTA can only see patients that he/she has treated before and only under the supervision of another PT. Is that correct?

What if I have a PT out sick who does not normally work w/ a PTA but in order to provide coverage to the sick PT's patients I ask a PTA in my practice (under the supervision of a PT) to help provide some of the treatment interventions for that day or days even though the PTA has never worked w/ those patients before. It sounds like this is a violation of the practice act. Is that true?

What about absences greater than 3 days?

What about non-emergency situations that call for absences such as vacations?

Thanks for your time.

Rob Acciavatti, MPT, OCS, CSCS

WVBOPT

From: Rob Acciavatti [racciavatti@gmail.com]
Sent: Thursday, July 29, 2010 8:59 AM
To: WVBOPT
Subject: Re: Statute 30-20 question

Yes, please do include my previous comments and those that follow for discussion today. Obviously if my interpretation is correct this is going to greatly and adversely affect our ability to provide patient coverage in those instances in which a PT must be absent from the clinic. Of course, this limited access would then subsequently and negatively impact patient outcomes. Moreover, I believe the requirement that absence reports be filed with the board would place undue burden on the PT especially in a time when the regulations imposed upon us by managed care companies and CMS already require our staff to devote, in my opinion, an excessive amount of time to paperwork. Futher, if my interpretation is correct, this rule would have a negative financial impact on a company such as ours as it would most likely result in a number of lost visits in the case of an absence by one of our PTs. My impression during the discussion period leading up to the release of this proposed rule was that section 8 was designed to allow for a PTA to provide treatment to those patients with whom he/she has treated in the past without the presence of a PT. I would also hope that section 8 could be amended to allow a PTA (keeping in mind this is a licensed, educated healthcare professional) to provide treatment to patients during the emergency absence of a PT even if he/she has not provided treatment in the past so long as the PTA remains within the scope of the plan of care designed by the PT during the evaluation process. Thank you for your time and consideration of these requests.

Sincerely,
Rob Acciavatti, MPT, OCS, CSCS
Practice Manager
Dynamic Physical Therapy

On Thu, Jul 29, 2010 at 8:26 AM, WVBOPT <wvbopt@wv.gov> wrote:

Rob,

This is a proposed rule and has not been passed. The Board is currently accepting comments regarding this rule until 10:00 AM today (July 29, 2010). Would you like this comment to be added for discussion? I need to know before 10:00 AM today.

Thank you,

Summar

Regarding the Ratio Emergency Rule

We believe this rule significantly jeopardizes quality of care and patient safety. This rule does not directly compel any business entity to adopt the 4:1 rule in guiding their hiring and staffing practices. The reality is that many business entities will chose to staff as cheaply as possible and therefore will chose to adopt the 4:1 ratio. In effect, this might have a PT managing the care of 80 patients or more on a particular day between their direct patient schedule and patients seen by subordinates and even a greater number of individuals over the course of a week. Although the law clearly states that the PT is in all instances responsible for determining the suitability of delegating care of a patient to a subordinate, the reality again is that if you work in a facility that decides to adopt the ratio, you may be compelled to delegate the majority of patients or lose your position. Likewise if you are responsible for the treatment of all these patients, and a number of the subordinate personnel are PT aides, the PT will be responsible for all paperwork associated with the treatment of those patients, further diminishing the amount of time that the most qualified person will be involved in direct patient care.

If care occurs in an acute care hospital, where medically fragile or unstable patients are the norm, the result of patients being treated by less qualified personnel on an ongoing basis, the result could very realistically be patient injury or death. In a setting where the patients are more medically stable, the risk of injury is still real: given the sheer volume of patients the ability to monitor changes and simply mentally recall a full patient profile of history, relevant medical issues and precautions, the likelihood of error increases exponentially. In a nursing home setting, the 4:1 ratio, might mean the PT is physically present half the amount of time they would have been just a month earlier.

We urge you to remember there is absolutely no uniform standard of competency, nor any method for the public or the WVBOPT to assess the competency of PT aides. A person could be working in a completely unrelated field yesterday, and be designated as a PT aide today. Thus, we should not set the bar for acceptable physical therapy services so low that the only caveat is "do no harm". We all know that frank injury or death rarely occurs from physical therapy treatment even when done incompetently. We should demand effective treatment delivered by individuals who have demonstrated at least minimal universally accepted competence. Although people may find the original 2:1 rule too restrictive we would like to remind the board that other states are as restrictive or more restrictive. For example, California is a 1:1 rule.

Comment on Additional Proposed Rule Changes

16. 1-5.7 Please define volunteer license in this passage. This was terminology unfamiliar to anyone on our large staff and we were unable to find reference to it in 30-20-13

16-1-8.5 Typo in line 5 Physical Therapist "Assistance" for Assistant

16-1-8.6 We would like more explanation as to what would constitute "patients" safely is temporarily at jeopardy: When would it be appropriate for a PT continue to assign care of a patient who might be in jeopardy from such an arrangement to

an aide, and then place that aide under the supervision of a PTA, rather than provide direct care to that patient him/herself, or at least assign a PTA to care of that patient.

Regarding 1-1-8.7 We would like more explanation to be included as to exactly what would constitute a situation where "patient's safety is temporarily at jeopardy". When would it be appropriate for a PT to continue to assign care of a patient who might be in jeopardy from such an arrangement to a PT aide. And then place that aide under the supervision of a PTA, rather than (a) assume direct care of the patient him/herself, (b) assign the direct care of that patient to a PTA or (c) directly monitor the care provided by the aide him/herself as they would normally be doing. In what circumstance would there be less risk involved by having a less qualified licensee serve as supervisor?

Finally, regarding 16-1-2.6 "Direct supervision" means the actual physical presence of the physical therapist in the immediate treatment are where the treatment is being rendered". We urge you to use this opportunity to provide some true guidance as to what this actually means in a more concrete and unequivocal manner. For example WV code for occupation therapist provides for line of supervision. This is clear and unequivocal. California code for example, while not providing for line of sight supervision, does give more detail as to what immediate presence might entail. Traditionally in WV, within easy and continuous auditory reach without use of electronic devices (for example if the aide can shout out and the supervising PT can hear and immediately respond, you are in compliance. I believe that the majority of licensees are looking for clarification in order to stay in compliance, than make an end-run around the regulations. We respectfully submit these comments in an effort to improve physical therapy services for the people of our state and to keep WV as place where the profession of physical therapy continues to be rewarding and where physical therapists will continue to be happy to live and work.

Name	Address	phone number	Signature
Cynthia Fox PT, NCS Licence #712	8 Charleston Ave Morgantown WV	304 291 6439	Cynthia Fox PT
Ruth HeavenerPT WV License#000799	1145 Louise Ave, Morgantown WV 26505	304-292-5216	Ruth HeavenerPT
Chris Simons, SPT	1503 N. Wilkey St Morgantown, WV 26505	304-281-0449	SPT
Jessica Koerner, SPT	1 James Ct Apt G Buckhannon, WV 26201	304-613-1473	Jessica Koerner, SPT
Cheryl Murto	376 Jacobs Dr.	304-598-7274	Cheryl Murto
Emily Downton Hard copy to follow	525 Pinnacle Heights Dr Morgantown, WV 26505	301-616-8166	Emily Downton, PTA

Name	Address	Phone Number	Signature
Thomas J Bruce PT	245 Webster Ave Morgantown, WV	304-291-3784	Thomas J Bruce PT
William Walter PT	113 Scenery Dr. Morgantown, WV	304 599-0002	W Walter PT
Wenonah Shipley PT	317 Fern St Morgantown WV 26501	304-284-0783	Wenonah Shipley PT
John C Wilson PT	392 Laurel St Mat N WV	304-599-5944	John C Wilson PT
Sandra E. Gates PT	1120 Ruckle St Morgantown, WV 26505	304-296-1839	Sandra E. Gates, PT
David Felton PT	128 Queen Anne Colony Morgantown, WV 26505	301-268-0595	David Felton
Kimberly S. Kreider MLT	100 Joe's Run Rd. Morgantown, WV	304 296 4521	Kimberly S Kreider
Ashleigh Lang	1293 Van Voorhis Rd Morgantown, WV 26505	814-404-9170	Ashleigh Lang
Jackie Leonard	839 Oden St Confluence Pa 15424	304-598-4118	Jackie Leonard
W. N. Schoetz PT	1026 Greystone Cir Morgantown, W.V.	304-288-4491	W Schoetz
DH Owens	1279 Mason Dixon Hwy Core WV 26541	304 879 4545	DH Owens
[illegible]	RehabTech 502 2nd St Smithfield Pa 15478	7248807234	[illegible]

Hard copy to follow

WVBOPT

From: Chris Ude [chrisheidiude@yahoo.com]
Sent: Thursday, July 29, 2010 10:09 AM
To: WVBOPT
Subject: Rule changes and question

To whom this may concern,
My name is Chris Ude, PT and am a strong proponent of the PTA change. In addition, I have a question. Recently, we had a medicare review and they stated that the same PT had to supervise the same PTA. I ahd never heard this before, and could you please comment. Thank you

TITLE 16
LEGISLATIVE RULE
WV BOARD OF PHYSICAL THERAPY
SERIES 1
GENERAL PROVISIONS FOR
PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

RESPONSE TO COMMENTS THAT RESULTED WITH AMENDMENTS TO PROPOSED RULE

GENERAL SUPERVISION

COMMENTS (1)

Comment: Eric Tarr, PT, OCS

- Wants language added that permits general supervision of a PTA in all physical therapy settings based on the discretion of the PT by enforcing ethical and safe decision making rather than using "onsite" language. Current language of onsite supervision in out-patient and hospital settings is not consistent with language for our other settings or even neighboring states and limits the ability of the PT to make supervision decisions based on each individuals patient's needs. It also disregards the skill and education of PTA's.

Comment: Paula Gallimore, B.S. (Exercise Physiology), PTA

- Increasing the ratio for Physical Therapist Assistant's increases the access to Physical Therapist Assistant's but does not increase access to Physical Therapists if they can't leave the building to supervise.

Comment: Jason Anders, PT, DPT

- Agrees with the on-site supervision requirement for acute settings and impatient rehabilitation hospitals.
- Home health settings, can often present an inexperienced clinician with a patient that has just been released from the hospital with multiple medical issues. They think there should be an experience requirement for ZPTA's to treat under general supervision in these cases. PA act requires 3 years of experiences of a PTA before treating a patient unsupervised (they agree with that).
- Currently outpatient settings require on-site supervision of the PTA by PT. They agree that there needs to be some amount of supervision. They could see a supervision requirement of 50-75% serving the needs of the clinic and outpatient adequately.

Comment: Tammy Radford, PTA; Lynette Thompson, PTA; Arlie T Conner, PTA

- There is no clinical reason why the PT's that work in outpatient clinics or hospital should be required to provide onsite supervision at all times. The level of supervision should be determined by the needs of the patient not what setting is worked in. Complex patients are seen in all setting. Some of the most medically unstable and challenging patients are in home health and skilled nursing facilities where only general supervision is currently required. Requiring onsite rather than general supervision in outpatient clinics and hospitals prevents PT's from being able to evaluate patients and supervise PTA's in a home health or nursing homes because PTA's can't work when the PT leave the clinic or hospital.

- Increasing the ratio without having general supervision will only serve to increase the work load on PT's that wok in home health, nursing homes, and schools.

Comment: Jeffery Bailey, PTA

- There is no clinical justification why a PTA should not be allowed to perform their duties in an outpatient clinic with the same supervision requirements that are allowed in home health or nursing home settings. The level of supervision should be determined by the needs of the patient and is already subject to limitations under the ethical guidelines and standards of care. These "indirect supervision" cases where the PT would be available by phone and the patient is known to the PTA, would allow the PT to attend to duties outside the facility. This would allow the PT to expand the amount of services available to areas that are underserved and still maintain quality services in the clinic.

Comment: Mick Bates

- Unless you can operate a clinic or an outpatient clinic at a hospital that can be open at least on a limited basis while the PT is serving the local nursing home or school or home health care needs and the clinic or hospital, unless facilities can be open if and when a PT needs to be off work for an hour or a day or even 2 ½ days with general rather than direct supervision as patient need rather that rule dictate it just won't happen. Without the consistency and flexibility, it just doesn't make financial sense now and will make less sense in the years ahead. Therefore I recommend changing the supervision standard to general supervision for outpatient PT clinics. The level of supervision should be determined by the professional judgment of the PT and is already subject to limitations under the ethical guidelines and standards of care. Requesting to change 8.2.a from "on site supervision" to "general supervision".

Comment: Paula Gilmore, B.S. (Exercise Physiology) , PTA

- There is no clinical reason why the Physical Therapist's that works in an outpatient clinics or hospitals should be required to provide onsite supervision at all times. The level of supervision should be determined by the needs of the patient as is already subject to limitations under the ethical guidelines and standards of care because Physical Therapists are the only ones that can evaluate, change plans of care and discharge patients.
- This restriction is excessive and prevents Physical Therapists from being able to leave the clinic/hospital, evaluate patients and provides Physical Therapy services in home health or nursing homes.

Comment: Greg S. Syvertson, PT, DPT, CFT, CCI

- Strongly recommending and requesting that the Board take the next very needed step in allowing for a general supervision provision across all settings which should be based on the supervising physical therapist discretion.
- General supervision would benefit the profession and the access to very needed care in a number of way, all of which I am quite sure that you are aware of.

Comment: Nancy S. Tonkin, Executive Director; WV Physical Therapy Association combined with J. Eric Shaw, PT

- Section 16-1-8.2 The WVPTA continues to recommend general supervision across all practice settings once the PTA reaches a determined level of work experience of 1000 hours. Prior to attaining the required work experience they would require on-site supervision.

- Section 16-1-8.2.b does not specifically state that supervision in the settings mentioned should be general. Recommend adding "General supervision may be utilized..." at the beginning of the section.

Comment: Rebecca Anders, DPT

- Sees the need for PTA's to be able to practice in an outpatient setting for short periods during a day without a PT on site. Feels that these PTA's should have at least 3 years of experience and should have PT on site at least 50% of the time to ensure that patients are frequently being reassed by the therapist.

ANSWER (1)

Section 16-1-8.2a. Add language "with general provision in an outpatient or acute care, general supervision 20% of time with 1000 hours of PTA experience with proper documents when it has been used unless it violates federal guidelines.

DIRECT SUPERVISION

COMMENT (2)

- **Comment: Cynthia Fox, PT, NCS; Ruth Hearener, PT; Chris Simons, SPT; Jessica Koerner, SPT, Cheryl Murto; Emily Downtown; Thomas Druge, PT; William Walter, PT; Wenonah Shirley, PT; John C. Wilson, PT; Sandra E. Gates, PT; David Ferton, PT; Kimberly S. Kreider,**
- 16-1.2.6 Urge to use this opportunity to provide some true guidance as to what this actually means in a more concrete and unequivocal manner.

ANSWER (2)

- Section 16-1-2.5. Add language "Immediate treatment area is defined as direct line of sight or within audible distance and the ability to immediately respond to calls from the patient or Physical Therapist Aide."

TEMPORARY PERMIT

COMMENT (3)

Comment: Nancy S. Tonkin, Executive Director; WV Physical Therapy Association; J. Eric Shaw, PT

- WVPTA is concerned about the change in language under 16-1-6.1 from "shall be co-signed by a physical therapist" to "shall be co-signed by the supervising physical therapist..." This holds a specific physical therapist to a higher standard of responsibility than defined in the previous sentence which states: "...shall practice under the on-site supervision of a physical therapist." It is conceivable that a graduate PT/PTA with a temporary permit works with more than one PT in a day as they gain work experience in different settings. We would not want this new language to limit the number of work experiences a PT/PTA could have based on the "supervising" PT. Recommend striking and inserting so that it reads "~~the~~ a supervising physical therapist..."

ANSWER (3)

- Section 16-1-6.1. Add language "for that therapy session"

SUPERVSION OF A PTA

COMMENT (4)

Comment: Nancy S. Tonkin, Executive Director; WV Physical Therapy Association combined with J. Eric Shaw, PT

- In regards to 16-1-8-1.c. The WVPTA supports the increase in the number of physical therapist assistants a PT may supervise. However, we remain concerned about the word "persons" in the definition. Persons can be interpreted to mean any other people that a PT may have in their practice or may employ...
- By limiting the number of students we could do harm to our clinical experience sites and limit the number available. The WVPTA recommends simply striking the word persons so that the ratio includes only PTA's, PTA with a temporary permit and physical therapy aides. These are the providers who would take part in direct patient care and as such should be limited to the 4:1 ratio.

ANSWER (4)

- Section 16-1-8.1.C. Remove "persons" from language

EMERGENCY

COMMENT (5)

Comment: Nancy S. Tonkin, Executive Director; WV Physical Therapy Association combined with J. Eric Shaw, PT

- 16-1-8.5 pertains to "The only exceptions to the level of supervision or supervisory ratio." The WVPTA believes that in the absence of general supervision across all settings that the exceptions put forth in the proposed rules are far too restrictive and gives the practicing physical therapist little or no relief. To exceed the level of supervision the PT must have a serious illness which must be better in 72 hours if the PTA still has some form of supervision from another PT. However, a seriously ill PT has only 24 hours to get better, or they will have to close their practice and not allow their licensed physical therapist assistant to provide needed physical therapy to established patients under general supervision. **The WVPTA recommends the following language:**
  - EMERGENCY—CAUSES UNANTICIPATED ABSENCE OF SUPERVISING PT FOR NOT MORE THAN 3 CONSUECUTIVE DAYS (SUCH AS ILLNESS OF THE PT OR FAMILY MEMBER. A LICENSED PTA MAY CONTINUE TO RENDER SERVICES TO ONLY THOSE PATIENTS TO WHOM THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTERVENTION FOR ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGULARLY SCHEDULED HOURS AND PARTICULAR DAY(S) THE SUPERVISING PT IS ABSENT.
  - (DELETE EVERY EFFORT SHALL BE MADE BY THE LICENSED PT OR PTA TO OBTAIN SUPERVIOSN I NTHE CARE DESCRIBED IN THIS SECTION.)

- TEMPORARY SITUATION—WHICH REQUIRES THE ABSENCE OF SUPERVISING PT FOR NOT MORE THAN 3 CONSUECUTIVE DAYS (SUCH AS A CONTINUING EDUCATION PROGRAM) A LICENSED PTA MAY CONTINUE TO RENDER SERVICES TO ONLY THOSE PATIENTS TO WHOM THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTERVENTION FOR ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGULARLY SCHEDULED HOURS AND PARTICULAR DAY(S) THE SUPERVISING PT IS ABSENT.
    - SAFETY SITUATION—WHICH REQUIRES THE ABSENCE OF THE SUPERVISING PT FOR UP TO ONE DAY A LICENSED PTA MAY CONTINUE TO RENDER SERVICES TO ONLY THOSE PATIENTS TO WHOM THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTERVENTION FOR ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGULARLY SCHEDULED HOURS AND PARTICULAR DAY(S) THE SUPERVISING PT IS ABSENT.
- 8.5 SUGGESTED LANGUAGE CHANGES.
    - IN AN EMERGENCY SITUATION, TEMPORARY SITUATION OR SAFETY SITUATION THAT REQUIERS THE ABSENSE OF THE SUPERVISING PT, A LICENSED PTA MAY CONTINUE TO RENDER SERVICES UNDER THE GENERAL SUPERVISION OF THE SUPERVISING PT TO ONLY THOSE PATIENTS FOR WHICH THE LICENSED PTA HAS PREVIOUSLY PARTICIPATED IN THE INTEVENTION FOR THE ESTABLISHED PLANS OF CARE NOT TO EXCEED THE REGUARLY SCHEDULED OPERATIONAL HOURS OF THE PARTICULAR DAY THE SUPERVISING PT IS ABSENT. A LICENSEE UTILIZING THIS SECTION SHALL MAINTAIN A WRITTEN RECORD NOTING THE DATES AND SITUATION, SETTING FORTH EACH DAY ABSENT UNDER THIS PARAGRAPH AND THE REASON FOR SUCH ABSENCE. A LICENSED PT MAY UTILIZE THIS PROVISION NO MORE THAN EIGHTY HOURS PER CALENDAR YEAR. UNDER THIS RULE A PT AIDE CAN ONLY PARTICIPATE IN NON-PATIENT CARE TASKS.
    - In 16-1-8.7 the WVPTA would recommend the following language: A physical therapist assistant may utilize a physical therapy aide under direct supervision only in an emergency situation as defined above.

ANSWER (5)

Section 16-1-8.7. Change language "A Physical Therapist Assistant may directly supervise a Physical Therapy Aide only in an emergency situation necessary to assure patient's safety."

TYPO'S

COMMENT (6)

Comment: Cynthia Fox, PT, NCS; Ruth Hearener, PT; Chris Simons, SPT; Jessica Koerner, SPT, Cheryl Murto; Emily Downtown; Thomas Druge, PT; William Walter, PT; Wenonah Shirley, PT; John C. Wilson, PT; Sandra E. Gates, PT; David Ferton, PT; Kimberly S. Kreider,

- 16-1.8.5 Typo in line 5 Physical Therapist "Assistance" for Assistant

ANSWER (6)

Section 16-1-8.5 & 16-1.8.6 Change "Assistance "to "Assistant"

COMMENT (7)

Comment: Nancy S. Tonkin, Executive Director; WV Physical Therapy Association

- In Title 16 series 1-2.4 the definition of "physical therapy aide" is different from 30-20-3-12. We would recommend that the Board use the identical definition, which would entail changing "under the direct supervision" to "under the direction supervision".

ANSWER (7)

Section 16.1.2.4 Change "direct "to "direction"

TITLE 16
LEGISLATIVE RULE
WV BOARD OF PHYSICAL THERAPY
SERIES 1
GENERAL PROVISIONS FOR
PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

RESPONSE TO COMMENTS THAT DID NOT AMEND THE RULE

Comment: Jason Anders, PT, DPT

- States the previous ratio of 2 to 1 is a fairly good level of supervision. States that 4 people to supervise seems a little bit hard to manage and thinks ultimately the PT needs of the state and the communities we serve can be met by a ratio of 3 to 1. A 3 to 1 ratio would expand PT services in WV without "overwhelming" the supervising PT. A 3 to 1 ratio is also consistent with surrounding states' acts such as PA's act. Although new patient assessments could not be performed on that day, the PTA could see the returning patient caseload that they were familiar with without needing to cancel patients or send them home. This is also consistent with surrounding states' practice acts such as Pennsylvania's act.
- Is in favor of the Emergency Rules section that will allow a physical therapist assistant to treat patients on an emergency basis if a PT is ill or has an emergency and cannot be there.

Comment: Rebecca Anders, DPT

- Recognizes the need for an expanded supervision ratio of PT to PTA's; however, feels that a 3:1 ratio provides increased access to PT services while maintaining good quality of care as well as meeting the needs of the state. Feels a 4:1 ratio sets up an environment where as a PT I am unable to meet the needs of individual patients to the best of my ability.

Comment: Cynthia Fox, PT, NCS; Ruth Hearener, PT; Chris Simons, SPT; Jessica Koerner, SPT, Cheryl Murto; Emily Downtown; Thomas Druge, PT; William Walter, PT; Wenonah Shirley, PT; John C. Wilson, PT; Sandra E. Gates, PT; David Ferton, PT; Kimberly S. Kreider, MLT; Ashleigh Lang, Jackie Leopard; W.N. Schoetz, PT; DH Owens; Kari Ann Radiac

- Believes this rule significantly jeopardizes quality of care and patient safety. This rule does not directly compel any business entity to adopt the 4:1 rule in guiding their hiring and staffing practices. In effect this might have a PT managing the care of 80 patients or more on a particular day between their direct patient schedule and patients seen by subordinates and even a greater number of individuals over the course of a week.
- If care occurs in an acute care hospital, where medically fragile or unstable patients are the norm, the result of patients being treated by less qualified personnel on an ongoing basis, the result could very realistically be patient injury or death. In a setting where the patients are more medically stable, the risk of injury is still real.
- Urges to remember there is absolutely no uniform standard competency nor any method for the public or the WVBOPT to assess the competency of PT aides.
- Although people may find the original 2:1 rule too restrictive, we would like to remind the Board that other states are as restrictive or more restrictive. For example CA is a 1:1 rule.
- 16.1.5.7 Please define volunteer license in this passage. This was terminology unfamiliar to anyone on our large staff and we were unable to find reference to it in 30-20-13.
    - 16-1-8.6 Would like more explanation as to what would constitute "patients" safely is temporarily at jeopardy. When would it be appropriate for a PT continue to assign care of a patient who might be in jeopardy from such

an arrangement to and aid, and then place that aide under the supervision of a PTA, rather than provide direct care to that patient him/herself, or at least assign PTA to care of that patient.

- 16-1-8.7 Would like more explanation to be included as to exactly what would constitute a situation where "patients' safety is temporary at jeopardy". When would it be appropriate for a PT to continue to assign care of a patient who might be in jeopardy from such an arrangement to a PT aide? In what circumstance would there be less risk involved by having a less qualified licensee serve as supervisor?

Comment: Chris Ude, PT

- Is a strong proponent of the PTA change. Recently, we had a Medicare review and they stated that the same PT had to supervise the same PTA. I had never heard this before, and could you please comment.

Comment: Rob Acciavatti, MPT, OCS, CSCS

- Found section 8.5 and 8.6 to be very confusing. Could you please clarify what is expected of a PT and PTA in the instance of an absence by the primary PT?
    - This is very confusing and appears to mean that if a PT in my practice is out sick for 1-3 days I have to submit a report to the board explaining the sickness and that during that time a PTA can only see patients that he/she has treated before and only under the supervision of another PT. Is that correct?
    - What if I have a PT out sick who does not normally work w/ a PTA but in order to provide coverage to the sick PT's patients I ask a PTA in my practice (under the supervision of a PT) to help provide some of the treatment interventions for that day or days even though the PTA has never worked w/ those patients before. It sounds like this is a violation of the practice act. Is that true?
    - What about absences greater than 3 days?
    - What about non-emergency situations that call for absences such as vacations?
- Believe the requirement that absence reports be filed with the board would place undue burden on the PT especially in a time when the regulations imposed upon us by managed care companies and CMS already require our staff to devote, in my opinion, an excessive amount of time to paperwork.
- Would also hope that section 8 could be amended to allow a PTA to provide treatment to patients during the emergency absence of a PT even if he/she has not provided treatment in the past so long as the PTA remains within the scope of the plan of care designed by the PT during the evaluation process.

Comment: Debbrah Shamblin, OTR/L, CHT

- 16-1-2-.4 WVOTA continues to insist that "designated and routine tasks" requires clear definition. In comparison to the previous rule, the definition appears more lenient.

Comment: (Genesis Health Care) Chris McBee, NHA; Matthew Keefer, Administrator; Bill Mason, SVP of Operations; George Barker, NHA; Shayne Hutchinson, Administrator; Monica Lockett, NHA; Cathy Fleece, Administrator; Jody Mohr, NHA; Beth Harris, NHA

- Supports 16-1-8 of the current "emergency rule' thus allowing for more patients in our rural state to receive a professional PTA performed treatment.

Comment: Nancy S. Tonkin, Executive Director; WV Physical Therapy Association; J. Eric Shaw, PT

- The WVPTA would like to see a separate series of rules on continuing education requirements that would more clearly define what "Board approved" continuing education would consist of.
- We have had complaints from members regarding how continuing education situations have been handled, including denying Board approval, and requiring individuals to pay a $50 fee to have a course approved.

- Recommendation from our practice committee was to increase the number of hours required, as well as to give continuing education hours for being a clinical instructor, completing competency tools, and passing specialization examinations.
- The WVPTA supports the addition of 16-1-2.4.a that clarifies that a physical therapy aide works under the direct supervision of a physical therapist.
- The WVPTA supports the addition of 16-1-5.7 which states a volunteer license will be marked as "volunteer" and is restricted to practicing in accordance with 30-20-13.
- 7.2 states "... practicing in a manner that is moral and honorable." There is no basis for morality and honor defined in the rules. We would recommend that this be removed from the rules as 16-1-7.6 provides for a better definition and basis "minimal standard of acceptable prevailing practice."
- 16-1-8.1.b: By requiring the physical therapist to "make the final visit to terminate the plan of care" we continue to waste the physical therapists time. We acknowledge the attempt by the WVBOPT to carve out two incidences where the PT would not be required to make this final visit ("unless the patient or physician terminates the plan of care.") There remains a need to allow the physical therapist to determine if a "visit" is reasonable and necessary. We would recommend a change in the language to read: "The physical therapist must make the final decision to terminate the plan of care."
- 16-1-8.2.b.2 continues to require an unnecessary and wasteful joint visit by the PT and PTA on the PTA's first visit to the patient. As noted above joint visits are a waste of resources and time unless the physical therapist determines there is a specific need for such. All communication can be made through the medical record as to plan of care, precautions, goals, outcomes, and exercise parameters. We recommend striking this section.
- 16-1-8-2.b.3 also continues to require an unnecessary "joint on-site visit by the licensed PTA and the licensed PT." at a frequency of every 10 visits or 21 calendar days. While the WVPTA does agree that the physical therapist should provide direct treatment to a patient being treated by a PTA under general supervision, we would use the same argument as noted above when asked to provide joint visits. We recommend striking "joint on site" and "by the licensed physical therapist assistant and ". We also recommend a change in how often visits by the physical therapist should be made to every 10 treatment days or at least every 30 calendar days.
- The WVPTA recommends creating a new sub-section (16-1-8.2.b.4). The new PT would simply read the chart, or have the PTA read the chart using the telecommunications section of these rules. If this did not sufficiently answer the question, the new supervising PT would make a visit within 24 hours. Recommend striking the last 2 sentences of this section and creating 16-1-8.2.b.4 to read: In the event the supervising physical therapist changes the physical therapist on-site will document the change in the patient's medical record.
- 30-20-6-14 Limits the PTA to supervising the aide in emergency situations only, and by definition in code and rule supervision of an aide is only by a PT.

Comment: Kathy Quesenberry, MSM, OTR/L, President of the WV Board of Occupational Therapy

- "airway clearance techniques" needs to be better defined within the scope of physical therapy.
- Suggest adding, "Anonymous complaints will be accepted."
- 16-1-2.4 …."Designated and routine tasks" need to be clearly defined.
- How is the supervision of PTA's documented? Co-signatures of progress notes by temporary permit holders is indicated in 16-1-6.1, but there is no such requirement to document that supervision of PTA's has occurred.

ANSWER TO COMMENTS THAT DID NOT AMEND THE RULE:

The Board took into consideration the comments and has decided to not use these comments in the Rule Proposal.

TITLE 16
LEGISLATIVE RULE
WV BOARD OF PHYSICAL THERAPY

SERIES 1
GENERAL PROVISIONS
FOR
PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

AMENDMENTS MADE TO RULE AS A RESULT OF COMMENTS

AMENDMENT (1)

Section 16-1-8.2.a. Add language "with general provision in an outpatient or acute care, general supervision 20% of time with 1000 hours of PTA experience with proper documents when it has been used unless it violates federal guidelines.

REASON FOR AMENDMENT (1)

Clarify definition.

AMENDMENT (2)

Section 16-1-2.6. Add language "Immediate treatment area is defined as direct line of sight or within audible distance and the ability to immediately respond to calls from the patient or Physical Therapist Aide."

REASON FOR AMENDMENT (2)

Clarify definition of immediate treatment area.

AMENDMENT (3)

Section 16-1-6.1. Add language "for that therapy session"

REASON FOR AMENDMENT (3)

Clarify definition.

AMENDMENT (4)

Section 16-1-8.1.C. Remove "persons" from language

REASON FOR AMENDMENT (4)

Clarify language.

AMENDMENT (5)

Section 16-1-8.7. Change language "A Physical Therapist Assistant may directly supervise a Physical Therapy Aide only in an emergency situation necessary to assure patient's safety."

REASON FOR AMENDMENT (5)

Clarify language.

AMENDMENT (6)

Section 16-1-8.5 & 16-1.8.6 Change "Assistance " to "Assistant"

REASON FOR AMENDMENT (6)

Correct typo.

AMENDMENT (7)

Section 16.1.2.4 Change "direct "to "direction"

REASON FOR AMENDMENT (7)

Correct typo.

WEST VIRGINIA BOARD OF PHYSICAL THERAPY
101 DEE DRIVE
Charleston, West Virginia 25311
Telephone: (304) 558-0367 Fax: (304) 558-0369

LESLEIGH B. SPROUSE
Board Chair

PATRICIA A. HOLSTEIN
Executive Secretary

July 30, 2010

By Hand Delivery

The Honorable Natalie E. Tennant
West Virginia Secretary of State
1900 Kanawha Blvd East
State Capitol Complex, Suite 157K
Charleston, WV 25305

RE: Proposed Rules and Comment Period Filing

Dear Secretary Tennant:

Enclosed is an original Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee (Form #3) along with a Fiscal note for Proposed Rules (Appendix B), Questionnaire, Summary, and the Rule itself with strike-outs and additions. An additional 15 copies and a cd containing the Rules are enclosed for the Legislative Rule Making Committee for the following proposed Rule Series:.

Series 1	General Provisions for Physical Therapist and Physical Therapist Assistant
Series 4	Fees for Physical Therapist and Physical Therapist Assistant
Series 5	General Provisions for Athletic Trainers
Series 6	Fees for Athletic Trainers
Series 7	Contested Case Hearing Procedures for Athletic Trainers
Series 8	Disciplinary and Complaint Procedures for Athletic Trainers

The Board has voted to make these changes to Title 16, and is looking forward to working with your Office in making these proposed changes to the rule. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Lesleigh Sprouse, PT, DPT

Lesleigh Sprouse
Chair Board

Enclosure