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**Texas Board of Physical Therapy Examiners
Board Meeting**

**333 Guadalupe, Suite 2-510
Austin, Texas 78701**

**April 24, 2015
8:30 a.m.**

10
11 **Members Present:** Gary Gray, PT, Chair
12 Melinda Rodriguez, PT, DPT, Secretary
13 Harvey Aikman, PT
14 Barbara Sanders, PT, PhD
15 Jeffrey Tout, PT
16 Philip Vickers, Public Member
17
18 **Members Absent:** Shari Waldie, PT, Vice Chair
19 Daniel Reyna, Public Member
20
21 **Counsel:** Kara Holsinger, Assistant Attorney General
22
23 **Staff:** John Maline, Executive Director
24 Karen Gordon, PT Coordinator
25 Mark Turek, Chief Investigator
26 Cynthia Machado, Licensing Manager
27
28
29 **Guests:** Kathleen Manella, TPTA Liaison
30 Paul Hardin, TPTA Executive Director
31 Stacey Mather, TPTA Staff
32 Amber Townsley, TPTA Staff
33
34

35 **Agenda**

- 36
37 1. Call to order
38 2. Public comment
39 3. Approval of minutes from the January 29, 2015 meeting in Austin.
40 4. Discussion and possible action on Executive Director's Report concerning fiscal and budgetary
41 matters, performance measures, ongoing projects, agency personnel matters, and other agency
42 business.
43 5. Investigation Committee Report and consideration by the Board of the following items:
44 A. Review and possible action on Agreed Orders for case #s: 14063; 14270; 15065;
45 15110; 15116; 15128; 15131; 15133; 15147; 15159; 15171; 15172; 15173; 15177; 15191;
46 15192; 15195; 15203; 15205; 15206; 15207; 15208; 15209; 15210; 15211; 15212;
47 15213; 15214; 15215; 15216; 15217; 15221; 15222; 15223; 15224; 15225; 15226; 15227;
48 15228; 15229; 15230; and 15231.
49 B. Discussion and possible action on the Investigation Committee Meeting of March 27,
50 2015.
51 C. Discussion and possible action on investigative activities to date.
52 6. Discussion and possible action on adopting changes to the following:
53 A. §322.4. Practicing in a Manner Detrimental to the Public Health and Welfare;
54 B. §329.2. Licensure by Examination;
55 C. §341.9. Retired Status;
56 D. §346.3. Early Childhood Intervention (ECI) Setting.
57 7. Rules Committee Report: discussion and possible action by the Board on the following items:

- 1 D. Discussion and possible action on proposing changes to §322.1. Provision of Services,
2 regarding adding (f) Telehealth.
- 3 E. Discussion and possible action on proposing changes to §341.6. License Restoration,
4 regarding renewal after restoration and military spouse restoration.
- 5 8. Education Committee Report: discussion and possible action by the Board on the following
6 items:
 - 7 D. Discussion and possible action on the TPTA Continuing Competence Approval Program
8 (CCAP) report.
 - 9 E. Discussion and possible action on an appeal of a CCAP denial decision of a college course
10 submitted by an individual licensee.
 - 11 F. Discussion and possible action on updating the Residencies, Fellowships, and Examinations
12 Policy and Guidelines.
- 13 9. Discussion and possible action regarding the Federation of State Boards of Physical Therapy
14 (FSBPT), including electing a delegate and alternate delegate to the Annual Meeting in Orlando,
15 Florida, October 15-17, 2015.
- 16 10. Discussion and possible action on the FSBPT Physical Therapy Licensure Compact (Draft).
- 17 11. Discussion and possible action on the Board Coordinator's report.
- 18 12. Discussion and possible action on the Board Chair's report concerning any item listed on the
19 agenda and on events that have occurred between this meeting and the Board's last meeting.
- 20 13. Discussion and possible action on long-term planning for future meetings, including future
21 meeting date and agenda items.
- 22 14. Adjournment

23
24 The Board may meet in closed session on any agenda item listed above as authorized by the
25 Texas Open Meetings Act, Texas Government Code Chapter 551.
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1 **1. Call to order**

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3 Mr. Gray called roll and determined that a quorum existed. He called the meeting to order at 8:39
4 a.m.

5
6 **2. Public comment**

7
8 There was no public comment.

9
10 **3. Approval of minutes from the January 29, 2015.**

11
12 *Motion: To approve the minutes as submitted.*
13 *Made by: Harvey Aikman*
14 *Second: Melinda Rodriguez*
15 *Motion passed unanimously.*
16

17 **4. Discussion and possible action on Executive Director's Report concerning fiscal and**
18 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**
19 **and other agency business**

20
21 Mr. Maline reported on the following:

- 22 • Personnel changes
23 • Agency budget and fiscal status
24 • Performance Measures
25 • Legislative session including budget hearing, appropriations, bill tracking
26 • Appropriated receipts increase to license renewal for Information Services
27

28 *Motion: To recommend to the Executive Council a \$5.00 surcharge to PT and PTA*
29 *renewal fees for Information Services.*
30 *Made by: Harvey Aikman*
31 *Second: René Peña*
32 *Motion passed unanimously.*
33

34 Mr. Gray reordered the agenda for consideration of Agenda Item 8. Education Committee Report.
35 There were no objections voiced from the Board.
36

37 **8. Education Committee Report and discussion and possible action by the Board on the**
38 **following items:**

39
40 **D. Discussion and possible action on the TPTA Continuing Competence Approval**
41 **Program (CCAP) report.**
42

43 Dr. Sanders reported that the Committee:

- 44 • Discussed CCAP activities since the January 29, 2015 meeting;
45 • Discussed a question regarding whether or not a PT or PTA who is not a member of TPTA
46 can serve as a volunteer peer-reviewer. The Committee decided that if a PT or PTA has
47 expertise in a specialty and is willing to serve as a volunteer peer-reviewer, the
48 Memorandum of Understanding could be updated to allow them to do so.
49 • Discussed a question regarding whether or not item writers for exams other than the NPTE
50 could receive CCU credit. The Committee decided that current rules specify that only service
51 as an item writer for the national PT or PTA exam qualifies for the CC credit.
52

53 **E. Discussion and possible action on an appeal of a CCAP denial decision of a college**
54 **course submitted by an individual licensee.**
55
56

1 Dr. Sanders brought forth a motion from Committee to approve the course submitted for college
2 course credit as the Committee had reviewed and discussed the content of the course and the
3 CCAP denial and concluded that the course did meet the college course criteria for receiving CC
4 credit.

5
6 *Motion: To approve the course submitted for college course credit.*

7 *Made by: Committee*

8 *Second: None required*

9 *There was one dissenting vote.*

10
11 **F. Discussion and possible action on updating the Residencies, Fellowships, and**
12 **Examinations Policy and Guidelines.**

13
14 Dr. Sanders brought forth a motion from Committee to approve the updated Residencies,
15 Fellowships, and Examinations Policy and Guidelines as submitted.

16
17 *Motion: To approve the updated Residencies, Fellowships, and Examinations Policy and*
18 *Guidelines as submitted.*

19 *Made by: Committee*

20 *Second: None required*

21 *Motion passed unanimously.*

22
23 (See Attachment A for updated Residencies, Fellowships, and Examinations Policy and Guidelines)

24
25 **5. Investigation Committee Report and consideration by the Board of the following items:**

26
27 **A. Review and possible action on Agreed Orders for case #s:**

28 14063; 14270; 15065; 15110; 15116; 15128; 15131; 15133; 15147; 15159; 15171; 15172;
29 15173; 15177; 15191; 15192; 15195; 15203; 15205; 15206; 15207; 15208; 15209;
30 15210; 15211; 15212; 15213; 15214; 15215; 15216; 15217; 15221; 15222; 15223; 15224;
31 15225; 15226; 15227; 15228; 15229; 15230; and 15231.

32
33 The Board reviewed and approved the following Agreed Orders presented by Mr. Turek:

34 15065; 15110; 15131; 15133; 15147; 15159; 15172; 15177; 15191; 15192; 15203; 15206;
35 15207; 15208; 15210; 15212; 15213; 15214; 15217; 15221; 15222; 15228

36
37 **B. Discussion and possible action on the Investigation Committee Meeting of March**
38 **27, 2015.**

39
40 Mr. Turek reported that the Committee reviewed 138 cases and held 3 informal conferences.

41
42 **C. Discussion and possible action on investigative activities to date**

43
44 Mr. Turek reported on performance measures and on the number of investigations and school visits
45 completed since the last meeting.

46
47 **6. Discussion and possible action on adopting changes to the following: §322.4. Practicing**
48 **in a Manner Detrimental to the Public Health and Welfare; §329.2. Licensure by**
49 **Examination; §341.9. Retired Status; §346.3. Early Childhood Intervention (ECI) Setting.**

50
51 *Motion: To adopt changes to §322.4. Practicing in a Manner Detrimental to the Public Health*
52 *and Welfare as proposed.*

53 *Made by: Melinda Rodriguez*

54 *Second: Harvey Aikman*

55 *Motion passed unanimously.*

56
57 There were no comments or discussion on this proposal.

1
2 *Motion: To adopt changes to §329.2. Licensure by Examination as proposed.*
3 *Made by: Harvey Aikman*
4 *Second: Barbara Sanders*
5 *Motion passed unanimously.*

6
7 There were no comments or discussion on this proposal.

8
9 *Motion: To adopt changes to §341.9. Retired Status as proposed.*
10 *Made by: Philip Vickers*
11 *Second: René Peña*
12 *Motion passed unanimously.*

13
14 There were no comments or discussion on this proposal.

15
16 *Motion: To adopt changes to §346.3. Early Childhood Intervention (ECI) Setting as*
17 *proposed.*
18 *Made by: Melinda Rodriguez*
19 *Second: Harvey Aikman*
20 *Motion passed unanimously.*

21
22 There were no comments or discussion on this proposal.

23
24 (See Attachment B for all adopted changes)

25
26 **7. Rules Committee Report and discussion and possible action by the Board on the**
27 **following items:**

28
29 **D. Discussion and possible action on proposing changes to §322.1., Provision or**
30 **Services, regarding adding (f) Telehealth.**

31
32 Mr. Aikman reported that the Committee discussed the inclusion of several items in the Telehealth
33 rule including whether or not both the PT and the patient need to be located in Texas during a
34 physical therapy session, what would constitute facility registration, specifics regarding supervision
35 of a PTA, enrollment with the Board of licensees practicing telehealth, observance of HIPAA, and
36 obtaining informed consent specific to treatment via telehealth. He also reported that Melinda
37 Rodriguez suggested that the Committee contact the Center for the Intrepid to see how the military
38 utilizes telehealth and that she would explore the possibility of an on-site visit to the center for a
39 demonstration. He also reported that the PT Coordinator was tasked with developing draft language
40 for review at the next meeting.

41
42 **E. Discussion and possible action on proposing changes to §341.6. License Restoration,**
43 **regarding renewal after restoration and military spouse restoration.**

44
45 Mr. Aikman brought forth a motion from Committee to amend §341.6 License Restoration which
46 would transition renewal of a restored license to birth-month expiration to be consistent with the
47 conversion to birth-month expiration for all renewals; and would eliminate the options for
48 demonstration of competency for military spouses seeking to restore a license as the section is no
49 longer as inclusive as the expanded options for demonstration of competency in (d)(E), and would
50 add new language which mirrors existing language in §329.6.(c) for issuance of a license to a
51 military spouse which will allow for expediting the restoration of licensure.

52
53 *Motion: To propose changes to §341.6. License Restoration as submitted.*
54 *Made by: Committee*
55 *Second: None required*
56 *Motion passed unanimously.*

1 There were no comments or discussion on this proposal.

2
3 (See Attachment C for proposed rule amendment)

4
5 **9. Discussion and possible action regarding the Federation of State Boards of Physical**
6 **Therapy (FSBPT), including electing a delegate and alternate delegate to the Annual Meeting**
7 **in Orlando, Florida, October 15-17, 2015.**

8
9 After discussion of the upcoming FSBPT meeting, the following motions were made.

10
11 *Motion: To elect Harvey Aikman as delegate to the FSBPT Annual Meeting.*

12 *Made by: René Peña*

13 *Second: Barbara Sanders*

14 *Motion passed unanimously.*

15
16 *Motion: To elect Jeff Tout as alternate delegate to the FSBPT Annual Meeting.*

17 *Made by: Melinda Rodriguez*

18 *Second: Philip Vickers*

19 *Motion passed unanimously.*

20
21 **10. Discussion and possible action on the FSBPT Physical Therapy Licensure Compact**
22 **(Draft).**

23
24 The Board reviewed and discussed the draft Compact language and agreed that more information
25 which will be available during presentations at the FSBPT annual meeting was needed.

26
27 **11. Discussion and possible action on the Board Coordinator's report**

28
29 Ms. Gordon reported on the alternative method for distributing Board materials with the
30 implementation of the Board site and stated that the goal is to eliminate the need from preparing
31 binders for the meetings. She reported on school presentations with Mr. Turk at University of St.
32 Augustine in Austin, UTHSC-San Antonio/St. Philip's College in San Antonio, and San Jacinto
33 College/Houston Community College in Pasadena. Ms. Gordon announced that the location of the
34 Board retreat in November will be Vintage Villas which is just outside of Austin on a bluff
35 overlooking Lake Travis.

36
37 **12. Board Chair's report concerning any item listed on the agenda and on events that have**
38 **occurred between this meeting and the Board's last meeting.**

39
40 Mr. Gray reported that he attended the Senate Finance Committee hearing with Mr. Maline. He
41 announced that René Peña has been appointed to the Texas Optometry Board and that this will be
42 his last meeting with the PT Board.

43
44 **13. Discussion and possible action on long-term planning for future meetings, including**
45 **future meeting dates and agenda items**

46
47 The Board scheduled the next meetings for August 28, 2015 in Austin and November 13-14, 2015
48 for the Board retreat to be held at Vintage Villas in Austin.

49
50 **14. Adjournment**

51 *Motion: To adjourn the meeting.*

52 *Made by: René Peña*

53 *Second: Harvey Aikman*

54 *Motion passed unanimously.*

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56
57 Mr. Gray adjourned the meeting at 10:57 p.m.

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Date reviewed by the Board: 8/28/2015

Action taken by the Board: approved as submitted



Texas Board of Physical Therapy Examiners

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Board Approved List of Specialty Examinations that Qualify for Continuing Competence Credit

1. The American Board of Physical Therapy Specialties (ABPTS) – all specialties - 30 CCs
2. Hand Therapy Certification Commission (HTCC) certification exam - 30 CCs
3. Board of Certification in Professional Ergonomics (BCPE) certification exam - 30 CCs

Policy and Guidelines for Approving Residencies, Fellowships and Examinations

1. The examinations listed above are automatically approved by the Board for inclusion on the list.
2. Other specialty certification examinations may be added to the list by the TPTA, once they have approved them.
3. The TPTA will use the guidelines approved by the Board (see below) to approve additional exams.
4. To be added to the list, an exam must be submitted to the TPTA for approval by an individual or organization.
5. Once the original submission is approved, the exam does not have to be submitted for approval by any other licensee who wants to use it to fulfill license renewal requirements.
6. A licensee using an approved exam to meet renewal requirements can use the approval number of 90005TX and must provide evidence of successful completion if audited.
7. The TPTA will notify the Board of any additions to the list of approved exams in its quarterly report.

GUIDELINES

Specialty Examinations (credit up to 30 CCUs)

1. *Criteria for an "Acceptable" Specialty Examination (All must be met in order for examination to be "acceptable.")*

- a. The certification for which the examination is taken must be clearly related to the practice of physical therapy and should address a specialty or subspecialty within physical therapy.
- b. There must be minimum eligibility requirements for a person to take the examination:
 - 1) At least a bachelor's degree must be required for physical therapists; an associate's degree for physical therapist assistants; and
 - 2) A minimum amount of clinical experience in the area of specialization must be required by the certifying agency.
- c. Certification must be time-limited with a specified process of recertification that includes, but is not limited to, a minimum amount of clinical experience after certification and re-examination or continuing education.
- d. The examination must meet the standards for assessment instruments as specified in the "Standards for Educational and Psychological Testing" (AERA, APA, NCME).

[Note: Accreditation through the NCCA requires compliance with these standards.]

- e. The examination must be proctored and offered in a secure environment.

2. *Criteria for Determining the Amount of Continuing Competence Units (CCUs) Granted*

- a. Completion of an ABPTS examination will receive full credit (30 CCUs).
- b. Other "acceptable" examinations will receive credit based on the number of hours allowed for taking the examination with full credit being granted for examinations taking 6 hours or more (ABPTS exams take 6 hours for completion). For example, a test requiring 3 hours for completion would be eligible for 15 CCUs.

APTA Fellowships/Residencies (credit up to 30 CCUs)

1. Credit will only be granted on successful completion of the residency/fellowship assuming that the experience was credentialed by the American Board of Physical Therapy Residency and Fellowship Education (ABPTRFE) for the entire time in which the resident/fellow was enrolled in the program.
2. Credit will only be granted for the renewal cycle during which the experience is completed.
3. Successful completion of an ABPTRFE credentialed residency/fellowship will be granted 30 CCUs.

FSBPT – Practice Review Tool (Examination)

Credit of 15 CCUs will be granted for completion of a Practice Review Tool of the Federation of State Boards of Physical Therapy (FSBPT), based on a Certificate of Completion issued by the FSBPT, unless the activity is required as a part of a disciplinary action.

Attachment B

The Texas Board of Physical Therapy Examiners adopts an amendment to §322.4. regarding practicing in a manner detrimental to the public health and welfare, without changes to the proposed text as published in the February 27, 2015 issue of the *Texas Register* (40 TexReg 880).

This section establishes that the board may deny a license to or discipline an applicant/respondent who is found practicing in a manner detrimental to the public health and welfare and lists actions that are considered detrimental practice.

The amendment adds language to 22 TAC §322.4 to include failing to maintain confidentiality of all verbal, written, electronic, and nonverbal communication, including compliance with HIPAA regulations is considered detrimental practice.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

<rule>

§322.4. Practicing in a Manner Detrimental to the Public Health and Welfare.

(a) The board may deny a license to or discipline an applicant/respondent who is found to be practicing in a manner detrimental to the public health and welfare. The board may deny a registration for a physical therapy facility to an applicant or discipline a physical therapy facility required to be registered by the act which is found to be practicing in a manner detrimental to the public health and welfare.

(b) Practicing in a manner detrimental to the public health and welfare may include, but is not limited to, the following:

- (1) failing to document physical therapy services, inaccurately recording, falsifying, or altering patient/client records;
- (2) obtaining or attempting to obtain or deliver medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge;
- (3) failing to supervise and maintain the supervision of supportive personnel, licensed or unlicensed, in compliance with the Act and rule requirements;
- (4) aiding, abetting, authorizing, condoning, or allowing the practice of physical therapy by any person not licensed to practice physical therapy;
- (5) permitting another person to use an individual's physical therapist's or physical therapist assistant's license for any purpose;
- (6) failing to cooperate with the agency by not furnishing papers or documents requested or by not responding to subpoenas issued by the agency;
- (7) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the board, or by the use of threats or harassment against any patient/client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;
- (8) engaging in sexual contact with a patient/client as the result of the patient/client relationship;
- (9) practicing or having practiced with an expired temporary or permanent license;
- (10) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including, but not limited to:
 - (A) failing to assess and evaluate a patient's/client's status;

- (B) performing or attempting to perform techniques or procedures or both in which the physical therapist or physical therapist assistant is untrained by education or experience;
- (C) delegating physical therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibility in question; or
- (D) causing, permitting, or allowing physical or emotional injury or impairment of dignity or safety to the patient/client;
- (11) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code §1320a-7b(b) or its regulations;
- (12) advertising in a manner which is false, misleading, or deceptive;
- (13) knowingly falsifying and/or forging a referring practitioner's referral for physical therapy;
- (14) failing to register a physical therapy facility which is not exempt or failing to renew the registration of a physical therapy facility which is not exempt;
- (15) practicing in an unregistered physical therapy facility which is not exempt;
- (16) failing to notify the board of any conduct by another licensee which reasonably appears to be a violation of the Practice Act and rules, or aids or causes another person, directly or indirectly, to violate the Practice Act or rules of the board;
- (17) abandoning or neglecting a patient under current care without making reasonable arrangements for the continuation of such care; and
- (18) failing to maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communication, including compliance with HIPAA regulations.

The Texas Board of Physical Therapy Examiners adopts amendments to §329.2. regarding Licensure by Examination, without changes to the proposed text as published in the February 27, 2015 issue of the *Texas Register* (40 TexReg 880).

This section establishes the requirements for applying for licensure as a physical therapist or physical therapist assistant through examination.

The amendment establishes a lifetime maximum of attempts and a low score maximum for taking the National Physical Therapy Examination (NPTE) to comply with changes in the eligibility requirements which will be implemented by the Federation of State Boards of Physical Therapy (FSBPT) who owns and administers the test, and eliminates the requirement for remediation after two (2) or more unsuccessful attempts.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

<rule>

§329.2. Licensure by Examination.

(a) Requirements. An applicant applying for licensure by examination must:

- (1) meet the requirements as stated in §329.1 of this title (relating to General Licensure Requirements and Procedures);
- (2) register to take the national exam through this state, and have the first score report sent to this state; and
- (3) pass the National Physical Therapy Exam (NPTE) for physical therapists or physical therapist assistants with the score set by the board. Score reports must be sent directly to the board by the authorized score reporting service.

(b) Re-examination.

- (1) An applicant who fails the exam is eligible to take the examination again after submitting a re-exam application and fee.
- (2) An applicant can take the exam a maximum of six (6) times.
- (3) An applicant who receives two (2) very low scores on the exam (scale scores 400 or below) will not be eligible to test again.
- (4) An applicant can take the exam for PTs six (6) times and also take the exam for PTAs six (6) times if otherwise eligible to do so.

(c) Failure of PT exam. An applicant who fails the physical therapy examination may apply for licensure as a PTA and take the physical therapist assistant examination if he meets all other requirements for licensure.

(d) Exam Accommodations. The board will provide reasonable accommodations for the national exam. An individual requesting special accommodations must submit the request to the board at least 30 days prior to the deadline for registering for the licensing examination. The board will process the accommodation request once all of the required information and documentation is received. The request includes the following forms:

- (1) A completed Accommodations Request Form;
- (2) A Professional Documentation of Disability Form, completed by a diagnostician meeting the board's requirements, which includes documentation of tests and measures used to diagnose the disability, and the results of those tests and measures;
- (3) A completed Consent to Release Information Form; and
- (4) The Academic Program Verification Form completed by the director of the academic program attended, if accommodations were granted by the PT or PTA program.

The Texas Board of Physical Therapy Examiners adopted amendments to §341.9. regarding Retired Status, with a non-substantive change to the title and without change to the proposed text as published in the February 27, 2015 issue of the *Texas Register* (40 TexReg 881).

This section establishes the requirements for eligibility for renewal of retired status of licenses, and for the reinstatement from retire to active status of licenses.

The amendment eliminates the need for a notarized application and modifies the language concerning requirements for reinstatement from retired status to active status.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

<rule>

§341.9. Retired Status; Performing Volunteer Charity Care.

(a) Retired status means that a licensee is providing physical therapy services only in the domain of voluntary charity care.

(b) As used in the section:

(1) "voluntary charity care" means physical therapy services provided for no compensation as a volunteer of a charitable organization as defined in §84.003 of the Texas Civil Practice and Remedies Code. Charitable organizations include any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization promoting the common good and general welfare for the people in a community, including these types of organizations with a §501(c)(3) or (4) exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(2) "compensation" means direct or indirect payment of anything of monetary value.

(c) To be eligible for retired status, a licensee must hold a current license on active or inactive status.

(d) Requirements for initiation of retired status. The components required to put a license on retired status are:

- (1) a completed retired status application form;
- (2) completion of board-approved continuing competence activities for the current renewal period;
- (3) the retired status fee and any late fees which may be due; and
- (4) a passing score on the jurisprudence exam.

(e) Requirements for renewal of retired status. A licensee on retired status must renew the retired status every two years on his/her license renewal date. The components required to renew the retired status are:

- (1) a completed retired status application form;
- (2) completion of six units of board-approved continuing competence activities by both PTs and PTAs;
- (3) the retired status renewal fee, and any late fees which may be due; and
- (4) a passing score on the jurisprudence exam.

(f) Requirements for reinstatement of active status. A licensee on retired status may request a return to active status at any time. The components required to return to active status are:

(1) a signed renewal application form, documenting completion of board-approved continuing competence activities for the current renewal period, as described in §341.2 of this title, 30 CCUs for PTs and 20 CCUs for PTAs;

(A) proof of voluntary charity care as defined in (b) (1) of this section can count toward up to one-half (1/2) of the continuing competence requirement;

(B) ten (10) hours of voluntary charity care equals 1 CCU.

(2) the renewal fee, and any late fees which may be due; and

(3) a passing score on the jurisprudence exam.

(g) A license may be maintained on retired status indefinitely.

(h) A licensee on retired status may use the designation "PT, retired" or "PTA, retired", as appropriate.

(i) Licensees on retired status are subject to the audit of continuing competence activities as described in §341.2 of this title, concerning Continuing Competence Requirements.

(j) Licensees providing voluntary charity care are subject to the provisions of the Physical Therapy Practice Act and Rules; and as such, violations could result in disciplinary action.

The Texas Board of Physical Therapy Examiners adopts an amendment to §346.3. regarding practice of physical therapy in an Early Childhood Intervention (ECI) setting, without changes to the proposed Texas as published in the February 27, 2015 issue of the *Texas Register* (40 TexReg 882).

This section provides the requirements for the provisions of physical therapy service in the Early Childhood Intervention (ECI) setting.

The amendment changes the requirement for review of the plan of care from at least every 30 days to at least every 60 days, or concurrent with every visit if the child is seen at intervals greater than 60 days.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

<rule>

§346.3. Early Childhood Intervention (ECI) Setting.

(a) In the provision of early childhood services through the Early Childhood Intervention (ECI) program, the physical therapist conducts appropriate screenings, evaluations, and assessments to determine needed services to fulfill family-centered goals. When a child is determined by the PT to be eligible for physical therapy, the PT provides written recommendations to the Interdisciplinary Team as to the amount of specific services needed by the child.

(b) Subject to the provisions of §322.1 of this title (relating to Provision of Services), the PT implements physical therapy services in accordance with the recommendations accepted by the Interdisciplinary Team, as stated in the Individual Family Service Plan (IFSP).

(c) The types of services which require a referral from a qualified licensed healthcare practitioner include the provision of individualized specially designed instructions, direct physical modeling or hands-on demonstration of activities with a child who has been determined eligible to receive physical therapy. Additionally, a referral is required for services that include the direct provision of treatment and/or activities which are of such a nature that they are only conducted with the child by a physical therapist or physical therapist assistant.

(d) The physical therapist may provide general consultation or other program services to address child/family-centered issues.

(e) Evaluation and reevaluation in the early childhood intervention setting will be conducted in accordance with federal mandates under Part C of the Individuals with Disabilities Education Act (IDEA), 20 USC §1436, or when warranted by a change in the child's condition, and include onsite reexamination of the child. The Plan of Care (Individual Family Service Plan) must be reviewed by the PT at least every 60 days, or concurrent with every visit if the child is seen at intervals greater than 60 days, to determine if revisions are necessary.

Attachment C

The Texas Board of Physical Therapy Examiners proposes amendments to §341.6. regarding License Restoration. The amendment transitions renewal of a restored license to birth-month expiration to be consistent with the conversion to birth-month expiration for all renewals; and eliminates the options for demonstration of competency for military spouses seeking to restore a license as the section is no longer as inclusive as the expanded options for demonstration of competency in (d)(E), and adds new language which mirrors existing language in §329.6.(c) for issuance of a license to a military spouse and which will allow for expediting the restoration of licensure for a military spouse.

John P. Maline, Executive Director, has determined that for the first five-year period these amendments are in effect there will be no additional costs to state or local governments as a result of enforcing or administering these amendments.

Mr. Maline has also determined that for each year of the first five-year period these amendments are in effect the public benefit will be to assure the Texas consumers of physical therapy services that licensees returning to active practice by restoring their license are competent to practice physical therapy.

Mr. Maline has determined that there will be no costs or adverse economic effects to small or micro businesses, therefore an economic impact statement or regulatory flexibility analysis is not required for the amendment. There are no anticipated costs to individuals who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments.

<rule>

§341.6. License Restoration

(a) The board may reinstate a license that has been expired one year or more through the process of restoration if certain requirements are met.

(b) Duration. The original expiration date of a restored license will be adjusted so that the license will expire every two years at the end of the birth month of the licensee. [~~two years after the month of restoration.~~]

(c) Persons who are currently licensed in good standing in another state, district, or territory of the U.S.

The requirements for restoration are:

- (1) a completed restoration application form;
- (2) a passing score on the jurisprudence examination;
- (3) verification of Licensure from all states in which the applicant holds or has held a license; and
- (4) the restoration fee.

(d) Persons who are not currently licensed in another state or territory of the U.S.

(1) A licensee whose Texas license is expired for one to five years. The requirements for restoration are:

- (A) a completed restoration application form;
- (B) a passing score on the jurisprudence examination;
- (C) the restoration fee;
- (D) verification of Licensure from all states in which the applicant has held a license; and
- (E) demonstration of competency. Competency may be demonstrated in one of the following ways:
 - (i) reexamination with a passing score on the national physical therapy exam;
 - (ii) completion of an advanced degree in physical therapy within the last five years;
 - (iii) For PTs only: successful completion of a board-approved practice review tool and 30 CCUs of board-approved continuing competence activities within the previous 24 months;
 - (iv) For PTs only: 480 hours on-site supervised clinical practice completed over a continuous 12 month period and 30 CCUs of board-approved continuing competence activities within the previous 24 months;
 - (v) For PTAs only: 320 hours on-site supervised clinical practice completed over a continuous 12 month period and 20 CCUs of board-approved continuing competence activities within the previous 24 months.

(2) A licensee whose Texas license is expired for five years or more may not restore the license but may obtain a new license by taking the national examination again and getting a new license by relicensure.

The requirements for relicensure are:

- (A) a completed application form;
 - (B) a passing score on the jurisprudence examination;
 - (C) the application fee; and
 - (D) a passing score on the national exam, reported directly to the board by the Federation of State Boards of Physical Therapy.
- (e) Military spouses. The board will expedite the restoration of a license to a spouse of a member of the U.S. armed forces on active duty. The applicant must provide official documentation of the active duty status of the spouse. ~~[The board may restore the license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the U.S., who has, within the five years preceding the application date, held the license in this state that expired while the applicant lived outside of this state for at least six months. In addition to the requirements listed in subsection (c)(1)–(4) of this section, the application for restoration shall include:~~
- ~~(1) official documentation of current active duty of the applicant's spouse;~~
 - ~~(2) official documentation of residence outside of Texas for a period of no less than six months, including the date the applicant's license expired;~~
 - ~~(3) demonstration of competency. Competency may be demonstrated in one of the following ways:~~
- ~~(A) verification of current licensure in good standing in another state, district or territory of the U.S.;~~
 - ~~(B) reexamination with a passing score on the national physical therapy exam;~~
 - ~~(C) completion of an advanced degree in physical therapy within the last five years; or~~
 - ~~(D) successful completion of a practice review tool and continuing competence activities as specified by the board.]~~
- (f) Renewal of a restored license. To renew a license that has been restored, a licensee must comply with all requirements in §341.1 of this title (relating to Requirements for Renewal).