



# Communiqué

August 2019

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www.ptot.texas.gov

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## Physical Therapy Board

*Harvey Aikman, PT, Chair*  
*Barbara Sanders, PT, Vice Chair*  
*Liesl Olson, PT, Secretary*  
*Manuel "Tony" Domenech, PT*  
*Melissa Skillern, PT*  
*Jeff Tout, PT*  
*Donivan Hodge, Public Member*  
*Philip Vickers, Public Member*  
*Glenda Clausell, Public Member*

## Next Board Meeting

**October 11, 2019**  
333 Guadalupe, Suite 2-510  
Austin, TX 78701

## Changes to Practice Act – Treatment w/o Referral

Building on the provisions of **HB 925** changes to the PT Practice Act during the **72<sup>nd</sup> Legislative Session in 1991, HB 29 amendment to Sec. 453.301, Occupations Code (PT Practice Act)** authorizes physical therapists who meet specific qualifications and requirements to treat patients without a referral from a qualified healthcare practitioner on a limited basis.

### What was preserved?

A physical therapist regardless of what degree level they have obtained and without any additional requirements will still be able to do the following without a referral:

- Evaluate a patient;
- Provide instructions to a person who is asymptomatic relating to the instructions being given, including instruction to promote health, wellness, and fitness; and
- Provide emergency medical care to a person after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity if the absence of immediate medical attention could reasonably be expected to result in a serious threat to the patient's health, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

### What was lost?

A physical therapist will no longer be able to readmit an established patient under a prior referral for twenty (20) treatment sessions or thirty (30) consecutive calendar days. A new referral will be required unless the physical therapist qualifies to treat without a referral.

### What was added?

A physical therapist who meets specific qualifications and additional requirements will be able to treat a patient without a referral. Qualifications include the following:

- A physical therapist with a doctoral degree in physical therapy will be able to treat without a referral for not more than ten (10) consecutive business days;
- A physical therapist who does not have a doctoral degree but has completed thirty (30) CCUs in the area of differential diagnosis will be able to treat without a referral for not more than ten (10) consecutive business days; and

Cont'd from pg. 1.

- A physical therapist with a doctoral degree in physical therapy who has completed a residency or fellowship will be able to treat without a referral for not more than fifteen (15) consecutive business days.

Once the number of allotted days has been reached, a referral from a qualified healthcare practitioner will be required in order to continue physical therapy treatment.

Additional requirements that a physical therapist must meet in order to treat without a referral are:

- Has been licensed to practice physical therapy for at least one year;
- Is covered by professional liability insurance (minimum amount in proposed amendment to Rules); and
- Obtains a signed disclosure from the patient receiving treatment without referral.

#### **When are the different provisions effective?**

- Effective September 1, 2019 - a physical therapist can begin accepting patients without a referral if all of the qualifications and requirements are met with the exception of obtaining a disclosure from the patient.
- Effective November 1, 2019 - a patient that will be receiving physical therapy without a referral must sign a disclosure prior to treatment. The PT Board will have the disclosure form available on their website prior to the effective date. Also, the minimum amount of professional liability insurance coverage must be met.

#### **Will the PT Board change or add to any of the provisions or requirements in Rules?**

No, the PT Board's rulemaking authority is derived from statute as passed by the Texas Legislature and signed into law by the Governor. The physical therapist qualifications and additional requirements that must be met in order to provide physical therapy treatment without a referral can be interpreted but not added to or changed. The only latitude that was afforded to the PT Board was setting the amount of the professional liability coverage and development of the disclosure form.

The PT Board has interpreted the physical therapist qualifiers as follows:

- A doctoral degree in physical therapy includes:
  - Entry-level Doctor of Physical Therapy (DPT);
  - Transitional DPT (tDPT);
  - Doctor of Science in Physical Therapy (ScD); and
  - Doctor of Philosophy in physical therapy (PhD).
- The 30 CCUs in the area of differential diagnosis can be from several courses/activities and can be tickled out of a larger course as long as there is documented evidence supporting the number of CCUs. A previously completed course/activity qualifies, and approval through the Continuing Competence Approval Program is not required.
- A physical therapy residency or fellowship completed prior to the implementation of accreditation standards qualifies as long as there is documented evidence of completion.

In proposing amendments to PT Rules §322.1. (a), the PT Board has set the minimum amount of professional liability insurance coverage as \$100,000 per claim and \$300,000 per year aggregate which will be effective November 1, 2019. The coverage can be through a personal or employer's policy, or through indemnification. The proposed Rules amendment has been approved by the Executive Council and forwarded to the Governor's Office for oversight review. Once approved by the Governor's Office, the proposed amendment will be published in the *Texas Register* for public comment. The proposed Rules amendment is available online at [www.ptot.texas.gov/page/act-and-rules](http://www.ptot.texas.gov/page/act-and-rules).

The enrolled text of HB 29 can be viewed at <https://capitol.texas.gov/>.

Additional information regarding HB 29, the rulemaking process, and FAQs are available at [www.ptot.texas.gov](http://www.ptot.texas.gov).

## Disciplinary Actions

The following disciplinary actions were ratified at the July 19, 2019 Board Meeting:

- (1) **Martine Anderson, PTA #2049410 (Magnolia)** – practiced with an expired license. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order required thirty (30) hours of community service.**
- (2) **Lauren Chambers, PT #1248956 (Richmond)** – practiced with an expired license. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order required thirty (30) hours of community service.**
- (3) **Adell Tardy, PTA #2002788 (Houston)** – practiced with an expired license. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order required thirty (60) hours of community service.**
- (4) **James Jackson, PT #1150142 (Edinburg)** – practiced with an expired license. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order required sixty (60) hours of community service.**
- (5) **Miran Seo, PTA #2057490 (Austin)** – failed to properly renew her license. Violation of Section 453.351 of the Act and chapters 322 and 341 of the Board Rules. **Board Order required sixty (60) hours of community service.**
- (6) **Scott Fontenot, PT #1125987 (San Antonio)** - practiced in a detrimental manner by inaccurately documenting treatment notes. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order suspended his license to practice for thirty (30) days.**
- (7) **Teodoso Salinas, PTA #2114817 (McAllen)** - practiced in a detrimental manner by inaccurately documenting treatment notes. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order suspended his license to practice for thirty (30) days.**
- (8) **Kelly Bailey, PT #1140135 (Grapevine)** - practiced in a detrimental manner by inaccurately documenting treatment notes. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order suspended her license to practice for thirty (30) days.**
- (9) **Lindy Gerow, PTA #2059703 (Fort Worth)** – practiced in a detrimental manner by using drugs or intoxicating liquors to an extent that affected her professional competence. Violation of Section 453.351 of the Act. **Board Order suspended her license to practice for thirty (30) days.**
- (10) **Courtney Bradley, PT #1157307 (Fort Worth)** – practiced in a detrimental manner by using drugs or intoxicating liquors to an extent that affected her professional competence. Violation of Section 453.351 of the Act. **Board Order suspended her license to practice for sixty (60) days.**
- (11) **Ricardo Macias, PTA #2118157 (El Paso)** – failed to report two felony convictions to the Board, as required by board rule. Violation of Section 453.351 of the Act and chapter 343 of the Board Rules. **Board Order reinstated his previously suspended license effective July 19, 2019, with restrictions.**
- (12) **Elic Salazar, PTA #2021697 (Corpus Christi)** - practiced in a detrimental manner by treating a patient without a written plan of care; thus practicing outside the scope of his license. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order suspended his license for fifteen (15) days.**
- (13) **Justin Cheung, PTA #2056117 (Houston)** - practiced in a detrimental manner by providing a *Progress Summary* for a patient under his care; thus practicing outside the scope of his license. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order suspended his license for sixty (60) days.**
- (14) **Benjamin Smith, PT #1192873 (Texarkana)** - practiced in a detrimental manner by having inappropriate sexual contact with a patient as a result of the patient/client relationship. Violation of Section 453.351 of the Act and chapter 322 of the Board Rules. **Board Order suspended his license for sixty (60) days.**

## Proposed/Adopted Rules

The Board took the following rulemaking actions at the July 19, 2019 Board meeting. The full text of all adopted and proposed rules is available at: [www.ptot.texas.gov/page/act-and-rules](http://www.ptot.texas.gov/page/act-and-rules). Proposed rules will appear in an upcoming edition of the *Texas Register*, <http://www.sos.state.tx.us/texreg/index.shtml>.

### Adopted Rules:

**§322.4. Practicing in a Manner Detrimental to the Public Health and Welfare, §344.1. Administrative Fines and Penalties, and CHAPTER 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES** - the amendments and repeal are adopted in order to discontinue the registration of physical therapy facilities; to eliminate failure to register or renew a facility registration and practicing in an unregistered facility from the list of practices considered detrimental to the public health and welfare; and to establish a process for expungement of facility-related administrative violations from a licensee's record as mandated by legislative changes in statute. These rules changes are pursuant to the amendment of the PT Practice Act, Occupations Code Chapter 453 pertaining to the repeal of physical therapy facility registration and annual renewal in SB 317 during the 85<sup>th</sup> Legislative Session.

### Proposed Rules:

**§322.1. (a) Initiation of physical therapy services** - the amendment is proposed in order to delineate the qualifications beyond licensure, additional requirements, and limitations for a physical therapist to treat a patient without a referral from a qualified healthcare practitioner pursuant to HB 29 amendments to Sec. 453.301, Occupations Code during the 86<sup>th</sup> Legislative Session.

**§341.7. Restrictions on License Renewal and Restoration** - the amendment is proposed in order to eliminate default on a student loan as a restriction for obtaining, renewing, or restoring a physical therapy license pursuant to SB 37 amendments to CHAPTER 56. ACTION AGAINST RECIPIENTS OF STUDENT FINANCIAL ASSISTANCE, Occupations Code during the 86<sup>th</sup> Legislative Session.

**§329.6. Licensure by Endorsement and §329.7. Exemptions from Licensure** - the amendment is proposed in order to authorize a military spouse to engage in the practice of physical therapy without obtaining a license as a physical therapist or physical therapist assistant if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the licensure in this state and the military service member to who the military spouse is married is stationed at a military installation in this state pursuant to SB 1200 addition of Sec. 55.0041. RECOGNITION OF OUT-OF-STATE LICENSE OF MILITARY SPOUSE to Chapter 55, Occupations Code during the 86<sup>th</sup> Legislative Session.



## Facility Registration Deregulation

During the 2017 Legislative Session, SB 317 (Sunset Bill) eliminated all of the provisions that required physical therapy facilities to be registered with the Board and annually renewed. This amendment to the PT Practice Act is effective September 1, 2019.

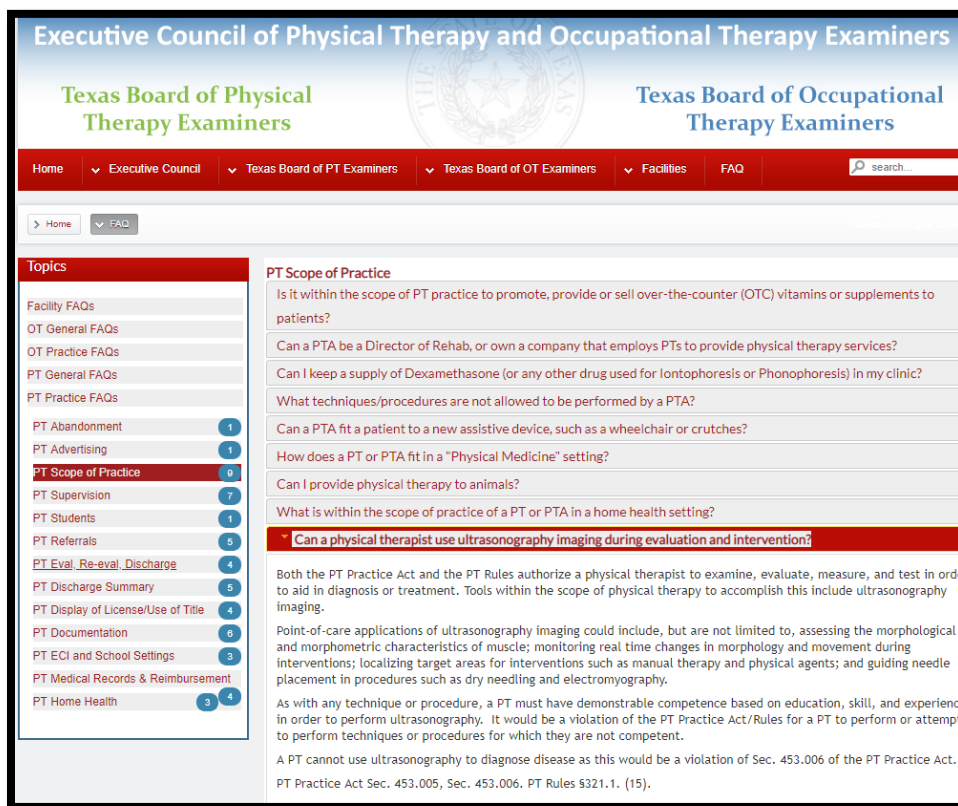
### What does this mean for facility owners on and after September 1, 2019?

- Physical therapy facilities that will be opening will no longer have to be registered;
- Currently registered physical therapy facilities will no longer have to be renewed;
- A Therapist-in-Charge (TIC) will no longer need to be designated; and
- TIC forms will no longer need to be sent in to the Board.

## New FAQ – Ultrasonography Imaging

The PT Board maintains a list of both **general and practice Frequently Asked Questions (FAQs)** online at <https://www.ptot.texas.gov/faq>. If you have a question about abandonment, scope, supervision, documentation, evals/reevals, or referral, check the FAQ page for your answer.

At their July 19, 2019 meeting, the Board approved an FAQ on the use of ultrasonography imaging during evaluation and intervention which is now available under the PT Scope of Practice section of the PT Practice FAQs.



## PT Board Upcoming Meetings

The following dates have been set for the Board’s upcoming meetings (subject to change):

- October 10 – 11, 2019
- January 16 – 17, 2020
- April 23 – 24, 2020

## TBPTE or TPTA

### Differences in Purpose and Functionality

#### Texas Board of Physical Therapy Examiners

- **Board Members:** Appointed by the Governor
- **Mission:** Public Protection
- **Regulates** the Practice of Physical Therapy in Texas
- **Proposes and Adopts Rules** to Govern the Practice of Physical Therapy Consistent with the Statutes (PT Practice Act)
- **Establishes** Standards, Scope, and Limitations of Physical Therapy Practice
- **Issues, Renews, and Restores** PT and PTA Licenses
- **Investigates** Complaints and Orders Disciplinary Action as Warranted
- **Conducts** Audits to Ensure Compliance with Continuing Competence Requirements
- **Serves** as a Member Board of the Federation of State Boards of Physical Therapy (FSBPT) and as a Member State of the Physical Therapy Compact

#### Texas Physical Therapy Association

- **Board of Directors:** Elected by TPTA Members
- **Mission:** Advancement of Physical Therapy Profession
- **Advocates** and **Lobbies** for Advances to the Practice and Profession through the Legislative Process
- **Promotes** the Membership and Profession by Engaging in Active and Effective Marketing and Public Relations
- **Serves** the Membership as a Payment and Reimbursement Issues Resource and Advocate
- **Promotes** the Highest Standards of Physical Therapy Practice through Educational Offerings, Communications, and Advocacy
- **Reviews and Approves** Continuing Competency Courses/Activities through the Continuing Competence Approval Program (CCAP)
- **Is** a Chapter of the American Physical Therapy Association (APTA)

### Fingerprinting/Criminal Background Check Requirement

- Fingerprinting is a **requirement for any applicant for licensure**, either by exam or endorsement, whose license is issued on or after January 1, 2019. **A license will not be issued until this requirement is fulfilled.**
- Fingerprinting is a **requirement for current licensees who renew their license on or after January 1, 2019** if they have not previously submitted fingerprints for the initial issuance of a license or for a prior license renewal or restoration.
- For **more information** about the specific procedures to follow, go to the Board's website at [www.ptot.texas.gov](http://www.ptot.texas.gov).

## Changes in ECPTOTE Management

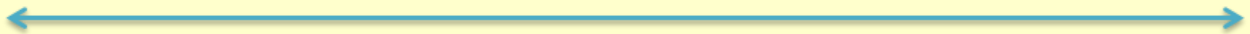
**Mr. John Maline** retired as the Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners (ECPTOTE) on July 31, 2019 after serving in the position for twenty-five (25) years. John's leadership guided the agency through a myriad of changes that included completing the merger of the Texas Board of Physical Therapy Examiners (PT Board) and the Texas Board of Occupational Examiners (OT Board) into one agency and successfully navigating through the Sunset process with preservation of the agency's independence.

Mr. Maline is succeeded in the Executive Director position by Mr. Ralph Harper who has been the Senior Accountant for the agency. When accepting the position, Ralph stated that he understands the unique needs of this agency and that he values change and tradition. "I look forward to the privilege of carrying out the mission of the agency," he said.

Also retiring on July 31<sup>st</sup>, **Mr. Mark Turek** served as the Chief Investigator for thirty (30) years. He was the original Investigator for the PT Board before the merger that formed ECPTOTE. Mr. Turek is succeeded by Ms. Amy Carter who has been one of the agency's Investigators.

The PT Board members and staff wish both John and Mark a much deserved

**Happy and Relaxing Retirement!**



## Compact Privileges Now Available in 15 States

Compact privileges are now being issued for Texas licensees to practice in the following member states:

- Arizona
- Colorado
- Iowa
- Kentucky
- Louisiana
- Mississippi
- Missouri
- Nebraska
- New Hampshire
- North Carolina
- North Dakota
- Oregon
- Tennessee
- Utah

Resources regarding state jurisprudence requirements, associated fees, eligibility requirements, and the process for purchasing a compact privilege are available at [ptcompact.org/resources-tools](https://ptcompact.org/resources-tools).