

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1228

INTRODUCER: Senator Montford

SUBJECT: Practice of Physical Therapy

DATE: February 7, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill allows the Board of Physical Therapy Practice (the board) to issue temporary permits to practice as physical therapists (PT) or physical therapist assistants (PTA) under the direct supervision of licensed PTs to applicants who fulfill certain conditions, including being scheduled to take the first available National Physical Therapy Examination (NPTE) for PTs or PTAs after graduation. If an applicant passes the first available NPTE, his or her temporary permit becomes void upon the licensure of that applicant following the next meeting of the board. If an applicant fails to pass the first available NPTE, the temporary permit immediately becomes void. Temporary permits may not be renewed. The bill also specifies certain requirements for the supervising PTs.

This bill creates ss. 486.086 and 486.1081, F.S.

II. Present Situation:

Licensure of Physical Therapists and Physical Therapist Assistants

To be licensed as a PT, an applicant must:

- Be at least 18 years old;
- Be of good moral character;
- Meet one of the following requirements:

- Have graduated from a PT training program in the United States accredited by the Commission on Accreditation for Physical Therapy Education (CAPTE)¹ and have passed the NPTE for PTs offered by the Federation of State Boards of Physical Therapy (FSBPT) within 5 years before the date of application for licensure;
- Have graduated from a PT training program in a foreign country, have had his or her credentials deemed by the Foreign Credentialing Commission on Physical Therapy or other board-approved credentialing agency to be equivalent to those of U.S.-educated PTs, have successfully completed a board-approved English proficiency examination if English was not the language of instruction in the PT training program, and have passed the NPTE for PTs within 5 years before the date of application for licensure;
- Have passed a board-approved examination and hold an active license to practice physical therapy in another state or jurisdiction if the board determines that the standards for licensure in that state or jurisdiction are as high as those of this state;
- Pass the Laws and Rules Examination offered by the FSBPT (a \$25 fee is required²) within 5 years before the date of application for licensure;³
- Meet the general requirements for licensure of all health care practitioners in ch. 456, F.S., including those in s. 456.0635, F.S., relating to past felony convictions; and
- Pay a \$180 fee.⁴

Licenses must be renewed biennially for an \$80 fee.⁵ Continuing education of 24 hours per biennium is also required. At least 1 hour of education must be on HIV/AIDS, and 2 hours must be on medical error prevention. Certain exceptions to continuing education requirements may be made for licensees experiencing emergencies or hardship.⁶

Licensure requirements for PTAs are the same as those for PTs except that applicants must have graduated from an approved PTA training program, passed the NPTE for PTAs, or hold an active PTA license in another state or jurisdiction. Licensure fees and continuing education requirements are also the same.⁷

Currently, no statute or rule authorizes issuance of temporary permits for PTs or PTAs; statutory provisions concerning such permits were deleted in 1999.⁸

Only PTs licensed in good standing by the board are authorized to use the words “physical therapist,” “physical therapy,” or “physiotherapist” or the abbreviations “PT,” “PhT,” “RPT,” or “LPT” in connection with their names and places of business. Only PTAs licensed in good standing by the board are authorized to use the words “physical therapist assistant” or “physical

¹ CAPTE primarily accredits U.S.-based schools, although it also provides accreditation to two programs in Canada and one in Scotland. Source: CAPTE, *Directory of Programs*, available at: <http://www.capteonline.org/Programs/> (last visited on January 19, 2012).

² Rule 64B-1.016(1)(a), F.A.C.

³ Rules 64B17-3.001, 64B17-3.002, and 64B17-3.003, F.A.C.

⁴ Rule 64B17-2.001, F.A.C.

⁵ Rule 64B17-2.005(1), F.A.C.

⁶ Rules 64B17-8.001, 64B17-8.002, and 64B17-8.003, F.A.C.

⁷ Rules 64B17-4.001, 64B17-4.002, and 64B17-4.003, F.A.C.

⁸ Department of Health, *2012 Bill Analysis, Economic Impact, and Fiscal Note for SB 1228*. A copy is on file with the Senate Health Regulation Committee.

therapy technician” or the abbreviations “PTA,” “LPTA,” “RPTA,” or “PTT” in connection with their names and places of business.⁹

Testing Schedules

The NPTE is a multiple-choice, computerized exam which is only administered at Prometric testing centers. Until recently, the NBTE was offered on a continuous basis; examinees could take the exam at any Prometric center on any business day of their choosing. Since July 2011 for the NPTE for PTs and starting in March 2012 for the NPTE for PTAs, the examinations will only be administered on certain days of the year. In 2012, the NPTE for PTs will be offered five times: January 30, March 29, July 2, July 31, and October 23; the NPTE for PTAs will be offered on April 26, July 17, and October 20. The examinations will thereafter be scheduled four times per year.

This change is intended to address security concerns and to protect the integrity of the exam and its questions, but it has also created accessibility problems for PT and PTA students, especially those in populous areas.¹⁰ Many PT students must wait months for the opportunity to take the NBCE at a nearby Prometric center, compromising their ability to find jobs and become licensed. There are 12 Prometric locations which administer the NBCE in Florida; only one is in Miami, and only one is in the Orlando metro area.¹¹

Exam scores are released to state physical therapy boards within 5 business days of each examination.¹²

The Florida Laws and Rules Examination is a multiple-choice exam offered on a continuous basis at any Prometric center.¹³

Delegation of Duties to Unlicensed Personnel

Unlicensed personnel may assist in the delivery of patient care treatment under the direct supervision of a PT. Except in a case of emergency, direct supervision requires the physical presence of the licensed PT for consultation and direction of the actions of a PT or PTA who is practicing under a temporary permit and who is a candidate for licensure by examination.¹⁴ A PT may only delegate tasks which he or she is qualified to perform, and it is the responsibility of the PT to ensure that tasks are completed adequately by appropriately-trained personnel. The PT remains liable for anything performed under his or her supervision.

PTs are not allowed to delegate tasks to unlicensed personnel which require the special knowledge, judgment, and skills of a PT or PTA, including:

⁹ Section 486.135, F.S.

¹⁰ FSBPT, *Fixed-date testing information for the PT and PTA NPTE*, available at: <https://www.fsbpt.org/ForCandidatesAndLicensees/FixedDateTesting/index.asp> (Last visited on December 15, 2011).

¹¹ Prometric, *Test Center Selection*, available at: <https://securereg3.prometric.com/siteselection.aspx> (Last visited on December 15, 2011).

¹² Phone conversation with FSBT staff.

¹³ Email correspondence with board staff. Copies are on file with the Senate Health Regulation Committee.

¹⁴ Section 486.021(9), F.S.

- Initial evaluation or any subsequent evaluation of the patient;
- Interpretation of the initial evaluation or any subsequent evaluation;
- Establishment or revision of physical therapy goals;
- Development or alteration of the plan of care;
- Assessment of the progress of the patient in relation to the plan of care; and
- Final completion of patient progress notes.¹⁵

III. Effect of Proposed Changes:

Section 1 creates s. 486.086, F.S., to allow the board to issue temporary permits to practice physical therapy to applicants who:

- Have graduated from a CAPTE-accredited PT program in the United States;
- Are scheduled to take the first available NPTE for PTs after graduation;
- Affirm that they will be directly supervised by a PT who has been licensed in the state for at least 6 months;
- Pass an examination on state laws and rules related to PT practice; and
- Submit proof of malpractice insurance to the board.

If the applicant passes the first available NPTE for PTs, his or her temporary permit becomes void upon the licensure of that applicant following the next meeting of the board. If an applicant fails to pass the first available NPTE for PTs, the temporary permit immediately becomes void. Temporary permits may not be renewed.

The bill also specifies certain requirements for the supervising PTs. To supervise a person who holds a temporary permit, a PT must:

- Have been licensed in Florida for at least 6 months before supervision begins;
- Co-sign all written documentation produced by the person holding a temporary permit; and
- Only supervise one temporary permitted PT at a time.

An applicant may not begin to practice physical therapy until the board issues him or her a temporary permit.

The bill provides a definition for direct supervision which is identical to that found in s. 486.021(9), F.S.

Section 2 creates s. 486.1081, F.S., to allow the board to issue temporary permits to practice as PTAs to applicants who:

- Have graduated from a CAPTE-accredited PTA program in the United States;
- Are scheduled to take the first available NPTE for PTAs after graduation;
- Affirm that they will be directly supervised by a PT who has been licensed in the state for at least 6 months;
- Pass an examination on state laws and rules related to PT practice; and
- Submit proof of malpractice insurance to the board.

¹⁵ Rule 64B17-6.007, F.A.C.

If the applicant passes the first available NPTE for PTAs, his or her temporary permit becomes void upon the licensure of that applicant following the next meeting of the board. If an applicant fails to pass the first available NPTE for PTAs, the temporary permit immediately becomes void. Temporary permits may not be renewed.

The bill also specifies certain requirements for the supervising PTs. To supervise a person who holds a temporary permit, a PT must:

- Have been licensed in Florida for at least 6 months before supervision begins;
- Co-sign all written documentation produced by the person holding a temporary permit; and
- Only supervise one temporary permitted PTA at a time.

An applicant may not begin to practice as a PTA until the board issues him or her a temporary permit.

The bill provides a definition for direct supervision which is identical to that found in s. 486.021(9), F.S.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Recent PT and PTA graduates will be able to practice in their chosen fields while waiting to take the NPTE.

C. Government Sector Impact:

The Department of Health (department) will experience a recurring increase in workload related to issuing temporary licenses for PTs and PTAs, and no fees are authorized for such licenses. An exact fiscal impact cannot be calculated at this time because the number of potential applicants for temporary permits is unknown.

The department will also incur non-recurring costs for rulemaking and updating its practitioner licensure database, both of which current resources are adequate to absorb.

VI. Technical Deficiencies:

Awarding temporary permits to applicants instead of temporary licenses could allow temporary permitholders to be prosecuted for the unlicensed practice of physical therapy or physical therapy assistance. Section 486.151(1)(a), F.S., states that it is unlawful for any person to practice physical therapy without an active license. The word “permit” is only mentioned once in ch. 486, F.S. (in the definition of direct supervision), and is not mentioned at all in board rules.

The definition of direct supervision lines 74-80 and lines 131-137 is redundant as identical language is already provided in the definitions section of ch. 486, F.S.

VII. Related Issues:

The bill authorizes the board to issue temporary permits to applicants who fulfill certain conditions. However, the specified conditions do not include the general provisions for licensure of health care practitioners stated in ch. 456, F.S. Under s. 456.0635(2), F.S., for example, applicants who have been convicted of certain felonies are ineligible for licensure, but no such provision prevents them from receiving temporary permits.

The bill states that temporary permits to practice as PTs or PTAs may be granted to applicants who have graduated from CAPTE-accredited training programs, are registered for the first available NPTE, and pass an examination on related state laws and rules. Assumedly these provisions are intended to mirror licensure requirements for PTs and PTAs; however, the corresponding licensure requirements are all specified by rule rather than by statute. Statute makes general provisions, such as that prospective licensees must be at least 18 years old, have graduated from a training program which has been approved by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education, and have passed a national examination approved by the board.¹⁶ The specific requirements that training programs be CAPTE-accredited, that the examination to be passed is the NPTE, and that the state laws and rules examination be passed are all specified in rule.¹⁷

Lines 42-44 and lines 98-100 require applicants for temporary PT or PTA licenses to affirm that they will be directly supervised by a PT who has been licensed in Florida for at least 6 months.

¹⁶ Sections 486.031 and 486.102, F.S. Additional requirements in these sections relate to the licensure of foreign-trained PTs and PTAs.

¹⁷ Rules 64B17-3.001, 64B17-3.002, and 64B17-3.003, F.A.C.

However, it is unclear before which event the PT must have been licensed for at least 6 months—before the date of application for the temporary permit, before the date the supervision begins, etc.

Lines 47 and 103 require applicants for temporary PT or PTA licenses to submit proof of malpractice insurance to the board. However, the bill does not specify what level of coverage is required. Furthermore, fully-licensed PTs and PTAs are not required to hold malpractice insurance.¹⁸

Lines 52-57 and lines 108-114 state that a temporary permitholder who passes the first available NPTE may continue to practice as a PT or PTA until the person is issued a license following the next meeting of the board. However, the bill does not address procedures for applicants who have passed the first available NPTE but, for any reason, are not issued a license following the next meeting of the board. Also, the bill does not specify the maximum length of time for which a temporary permit is valid, other than to say that it becomes void after failure of the NPTE or issuance of licensure.

Furthermore, in order to accelerate the licensure process, the board currently allows staff to issue licenses as soon as applicants have met all of the requirements for licensure; the licenses are simply ratified at board meetings. This process can speed the issuance of licenses by many weeks, since the board meets only quarterly. With this in mind, perhaps language in the bill should be changed to render a temporary permit void upon full licensure by the board, regardless of when the next meeting occurs.

Lines 71-73 state that a licensed PT may only supervise one temporary PT permitholder at a time. Lines 128-130 state that a licensed PT may only supervise one temporary PTA permitholder at a time. However, it is unclear if a licensed PT may simultaneously supervise a temporary PT permitholder and a temporary PTA permitholder.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁸ Email correspondence with board staff. Copies are on file with the Senate Health Regulation Committee.