

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 799 Physical Therapy

SPONSOR(S): Health Care Appropriations Subcommittee; Health & Human Services Quality Subcommittee; Goodson

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	14 Y, 0 N, As CS	Holt	Calamas
2) Health Care Appropriations Subcommittee	14 Y, 0 N, As CS	Clark	Pridgeon
3) Education Committee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill provides the Board of Physical Therapy within the Department of Health the authority to grant a temporary permit to an individual who has graduated from an approved program of study as a physical therapist or a physical therapist assistant. The bill provides the requirements for granting a temporary permit and specifies that the temporary permit is not renewable and void if the individual does not pass the national physical therapy examination. A temporary permit holder must practice under the direct supervision of a licensed physical therapist.

The bill has an insignificant fiscal impact that can be absorbed within existing Department of Health resources.

The bill has an effective date of June 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.¹ Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Section 456.011(3), F.S., provides that a board must meet at least once annually, but may meet as often as necessary. According to the MQA website, it appears that the Board of Physical Therapy (board) meets every 3 months, or 4 times a year.² The 2012 board meeting dates are: February 2-3; May 3-4; August 2-3; and November 2-3.³ According to DOH, the board does not ratify or approve licenses at every meeting.⁴

Physical Therapy Practice

Physical therapy is the performance of physical therapy assessments and treatment, or prevention of any disability, injury, disease, or other health condition of human beings and rehabilitation as it relates to the use of various modalities such as exercise, massage, ultrasound, ice, and heat.⁵

Physical therapy practitioners are regulated by ch. 486, F.S., the Physical Therapy Practice Act. A physical therapy practitioner is considered either a physical therapist (PT) or a physical therapist assistant (PTA) who is licensed and who practices physical therapy.⁶

Currently, Florida law doesn't authorize DOH to issue temporary permits to a physical therapy practitioner. Prior to 1997, Florida law allowed temporary permits for an applicant who submitted an application that included a statement under oath that he or she possesses the preliminary qualifications for a full license except passage of the national examination. Along with the application, applicants were required to remit a fee not to exceed \$100, and additional fee to cover the cost the department incurred to purchase the examination from the national examination organization⁷. Temporary permittees were required to work under the direct supervision of a licensed physical therapist. The temporary permit was valid for up to a year and was not renewable. A temporary permit automatically

¹ Section 456.001, F.S.

² Florida Department of Health, Division of Medical Quality Assurance, Physical Therapy Board Meeting Information, available at: http://www.doh.state.fl.us/mqa/physical/pt_meeting.html (last viewed January 14, 2012).

³ *Id.*

⁴ Email correspondence with DOH staff, dated January 14, 2012, on file with Health & Human Services Quality Subcommittee staff.

⁵ Section 486.021(11), F.S.

⁶ Section 486.021(7), F.S.

⁷ Section 486.103, F.S.

expired if an applicant failed the national examination.⁸ In 2007, the Legislature repealed the ability for DOH to issue a temporary permit for a physical therapy practitioner.⁹ According to the board, the authority to issue a temporary permit was eliminated to prevent the practice of physical therapy by unqualified individuals to ensure public protection.¹⁰ Moreover, at that time, the NPTE was moved to a computer-based testing and exams scores were readily available to the states, which lessened the timeframe in which a permanent license was issued.¹¹ Currently, there are 26 states that issue temporary permits.¹²

Currently, there are 5,735 PTAs and 11,295 PTs who hold active in-state license to practice in Florida.¹³

Section 456.072, F.S., provides grounds for disciplinary actions for all licensees¹⁴ regulated by MQA to include physical therapy practitioners. These disciplinary guidelines includes provisions requiring health care practitioners to identify through written notice, which may include the wearing of a name tag, or stating orally to a patient the type of license under which a health care practitioner is practicing.¹⁵

The Commission on Accreditation in Physical Therapy Education

The Commission on Accreditation in Physical Therapy Education (CAPTE) is the only accreditation agency recognized by the United States Department of Education and the Council for Higher Education Accreditation to accredit entry-level physical therapist and physical therapist assistant education programs. CAPTE currently accredits over 200 physical therapist education programs and over 250 physical therapist assistant education programs in the US and three physical therapist education programs in other countries (Canada and Scotland).¹⁶

The following schools offer accredited PT or PTA programs in Florida:¹⁷

- Florida Agricultural and Mechanical University
- Florida Gulf Coast University
- Florida International University
- Nova Southeastern University
- University of Central Florida

⁸ Section 486.103, F.S.

⁹ Chapter 97-264, L.O.F.

¹⁰ Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 799, dated January 26, 2012, on file with Health Care Appropriations Subcommittee staff.

¹¹ Email correspondence with PT Board staff, dated January 17, 2012, on file with Health & Human Services Quality Subcommittee staff.

¹² ALA. CODE §34-25-215 (2011), ALASKA STAT. § 08.84.065 (2011), CAL. HEALTH & SAFETY §1399.10 (2011), CONN. GEN. STAT. §20-74 (2011), DEL. CODE ANN. §2611 (2011), D.C. CODE §6711 (2011), HAW. CODE R. §461J-9 (2011), IND. CODE §25-27-1-8 (2011), KAN. STAT. ANN. §65-2929 (2011), LA. REV. STAT. ANN. § 172 (2011), MINN. STAT. § 148.7 (2011), MISS. CODE ANN. § 73-25-53 (2011), MO. CODE REGS. ANN. tit. 20 § 2150-3.050 (2011), MONT. CODE ANN. §37-11-105 (2011), NEV. REV. STAT. ANN. §640.095 (2011), N.M. CODE R. §16.20.4.8 (2011), N.Y. PUB. HEALTH §6735 (2011), OKLA. STAT. ANN. §887.10 (2011), OR. REV. STAT. § 668.110 (2011), PA. CONST. STAT. §40.22 (2011), R.I. GEN. LAWS § R5-40-5.5 (2011), Tex. HEALTH & SAFETY CODE ANN. §453.210 (2011), VT. STAT. §2105 (2011), W. VA. CODE ANN. §16-1-16 (2011), and WIS. STAT. §448.53 (2011).

¹³ Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at*: <http://doh.state.fl.us/mqa/reports.htm> (last viewed January 14, 2012).

¹⁴ Licensee means any person or entity issued a permit, registration, certificate, or license, including a provisional license, by DOH. *See* 456.001(6), F.S.

¹⁵ S. 456.072(1)(t), F.S.

¹⁶ Commission on Accreditation in Physical Therapy Education, What We Do, *available at*: <http://www.capteonline.org/WhatWeDo/> (last viewed January 14, 2012).

¹⁷ Commission on Accreditation in Physical Therapy Education, Accredited Physical Therapy and Physical Therapy Assistant Programs, *available at*: <http://www.capteonline.org/apta/directories/accreditedschools.aspx?type=PT&navID=10737421958#FL> (last viewed January 19, 2012).

- University of Florida
- University of Miami
- University of North Florida
- University of South Florida
- University of St Augustine for Health Sciences

Generally, in Florida graduation occurs in the beginning of December (Fall graduation) and the end of April (Spring graduation).¹⁸

National Physical Therapy Examination

The Florida Board of PT has certified the National Physical Therapy Examination (NPTE) developed by the Federation of State Boards of Physical Therapy (Federation) as the licensure examination required for state licensure.¹⁹

The Federation develops and administers the NPTE for both physical therapists and physical therapist assistants in 53 jurisdictions – the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. These exams assess the basic entry-level competence for first time licensure or registration as a PT or PTA within the 53 jurisdictions.²⁰ In addition, the Federation develops and administers jurisprudence examinations. Currently FSBPT offers jurisprudence exams for Alabama, Arizona, California, District of Columbia, Florida, Georgia, Nebraska, and Ohio.

The NPTE program has three purposes:²¹

1. Provide examination services to regulatory authorities charged with the regulation of physical therapists and physical therapist assistants;
2. Provide a common element in the evaluation of candidates so that standards will be comparable from jurisdiction to jurisdiction; and
3. Protect the public interest in having only those persons who have the requisite knowledge of physical therapy be licensed to practice physical therapy.

The physical therapist (PT) and physical therapist assistant (PTA) examinations are designed to assess basic entry-level competence of the licensure candidate who has graduated from an accredited program or from an equivalent non-accredited program.²²

According to the Federation, each licensing authority establishes its own criteria for eligibility to sit for the PT and PTA examinations. Each licensing authority approves eligibility and notifies the Federation. Florida sends a "Letter of Completion" to the Federation as proof of eligibility to sit for the NPTE. The Federation will send an "Authorization to Test" letter providing candidates a timeframe that they are eligible to sit for the NPTE and instructions on how to schedule an appointment with a Prometric testing site.²³ There are approximately 300 Prometric testing centers in the United States.²⁴

Scores are automatically reported to the jurisdictional licensing authority through which a candidate applies for initial licensure. After an initial license is received a candidate may want to become licensed

¹⁸ Review of the academic calendars available on-line for a few of the listed PT and PTA accredited institutions. See Academic calendars for the following institutions: <http://www.famu.edu/index.cfm?Registrar&Calendars> , <http://www.fgcu.edu/Registrar/calresults.asp?termID=44>, and <http://calendar.fiu.edu/events/index/calendar:academic/> (last viewed January 14, 2012).

¹⁹ Chapter 64B17-4.002 and 64B17-3.002, F.A.C.

²⁰ The Federation of State Boards of Physical Therapy, Welcome, available at: <https://www.fsbpt.org/index.asp> (last viewed January 14, 2012).

²¹ The Federation of State Boards of Physical Therapy, National Physical Therapy Examination, available at: <https://www.fsbpt.org/ForCandidatesAndLicensees/NPTE/> (last viewed January 14, 2012).

²² *Id.*

²³ *Id.*

²⁴ The Federation of State Boards of Physical Therapy, NPTE Frequently Asked Questions, available at: <https://www.fsbpt.org/ForCandidatesAndLicensees/NPTE/FAQs/index.aspx> (last viewed January 14, 2012).

in additional jurisdictions. Most jurisdictions require a score be transferred by the Federation to ensure that the score is authentic. Transfer of scores on the NPTE may be requested any time after taking the examination.²⁵

Florida and eighteen other states including the District of Columbia allow applicants to sit for the NPTE prior to graduation.²⁶ Florida allows students sit for the exam prior to graduation as long as they have completed all coursework and a clinical internship.²⁷ The clinical internship encompasses approximately 40 weeks or 1600 hours.²⁸ Section 486.031, F.S., requires proof of graduation prior to licensure but does not indicate what is required to be approved for examination. So, the board has interpreted this to mean that as long as there isn't anything outstanding applicants may sit for the NPTE.²⁹ According to the board, usually there is a lag time, of about 2-3 weeks, in between completing a program of study and having a degree conferred. To expedite the process, the board issues a letter of completion.³⁰ However, before the board sends a letter of completion, the board must receive a letter of completion from the physical therapy program director indicating an applicant's graduation date and anticipated degree that will be awarded, and the student's official school transcripts.

Testing Availability and Passage Rate

The Federation will stop offering continuous testing in order to address security concerns and protect the integrity of the National Physical Therapy Examination (NPTE). On June 30, 2011, the Federation stopped offering continuous testing for PTs.³¹ Beginning February 29, 2012, the Federation will stop offering continuous testing for PTAs.³² The Federation plans on maintaining fixed-date testing indefinitely for both the PT and PTA exams.³³

According to the Federation, five testing dates will be offered in 2012 for the PT NPTE.

Test Date	Scores Reported to Jurisdictions
January 30, 2012	February 6, 2012
March 29, 2012	April 5, 2012
July 2, 2012	July 10, 2012
July 31, 2012	August 7, 2012
October 23, 2012	October 30, 2012

According to the Federation, three testing dates will be offered in 2012 for the PTA NPTE. Furthermore, the Federation believes that the three dates chosen will accommodate PTA graduation dates and provide relatively evenly-spaced retake opportunities.

²⁵ The Federation of State Boards of Physical Therapy, Welcome to the Candidate and Licensee Services Website, *available at*: <https://pt.fsbpt.net/> (last viewed January 14, 2012)

²⁶ The states that allow PT or PTA students to take the NPTE prior to graduation include: Alabama, Connecticut, Florida, Hawaii, Iowa, Louisiana, Michigan, Minnesota, Mississippi, New Hampshire, New Mexico, New York, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Utah, and Virginia. *See* The Federation of State Boards of Physical Therapy, Jurisdictional Licensure Reference Guide, *available at*: <https://www.fsbpt.org/RegulatoryTools/ReferenceGuide/> (last viewed January 18, 2012)

²⁷ Email correspondence with PT Board staff, dated January 18, 2012, on file with the Health & Human Services Quality Subcommittee staff.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² The Federation of State Boards of Physical Therapy, Fixed-date testing information for the PT and PTA NPTE, *available at*: <https://www.fsbpt.org/ForCandidatesAndLicensees/FixedDateTesting/> (last viewed January 14, 2012).

³³ *Id.*

Test Date	Scores Reported to Jurisdictions
April 26, 2012	May 3, 2012
July 17, 2012	July 24, 2012
October 30, 2012	November 6, 2012

Sections 486.051 and 486.104, F.S., provides that if an applicant fails to pass the NPTE examination in 3 attempts applicant is not eligible for reexamination without completing additional educational or training requirements. If the applicant fails after 5 attempts they are no longer eligible to take the examination.³⁴

The Florida pass rate of the NPTE exam provided below. The information provided is derived by DOH from quarterly statistics provided by the Federation.³⁵

Physical Therapy Examination

Category of Candidate	4th Quarter 2011: Oct to Dec				3rd Quarter 2011: July to Sept			
	National		Florida		National		Florida	
	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing
All	3003	41%	182	45%	2388	60%	130	56%
US educated	1481	65%	96	66%	1664	77%	93	68%
Non-US educated	1522	18%	86	22%	724	19%	37	27%
First time	1252	61%	76	50%	1287	82%	58	72%
Retake	1751	26%	106	42%	1101	34%	72	43%
First time US Accredited	841	81%	44	70%	1160	87%	48	81%
First time Non-US Accredited	411	21%	32	22%	127	28%	10	30%

Source: DOH, Board of Physical Therapy

Physical Therapist Assistant Examination

Category of Candidates	4th Quarter 2011: Oct to Dec				3rd Quarter 2011: July to Sept			
	National		Florida		National		Florida	
	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing
All	2039	65%	180	76%	2910	76%	206	74%
US educated	1799	67%	180	76%	2748	77%	206	74%
Non-US educated	240	55%	0	NA	162	94%	0	NA

³⁴ Sections 486.051 and 486.104, F.S.

³⁵ Email correspondence with PT Board staff, dated January 17, 2012, on file with Health & Human Services Quality Subcommittee staff.

First Time	1241	77%	110	85%	2296	83%	117	84%
Retake	798	47%	70	60%	614	51%	89	61%
First time US Accredited	1219	78%	110	94%	2284	83%	117	84%
First time Non-US Accredited	22	41%	0	NA	12	17%	0	NA

Source: DOH, Board of Physical Therapy

Effects of Proposed Changes

The bill provides DOH the authority to issue a temporary permit to a physical therapy practitioner. The board is required to issue a temporary permit to a physical therapy practitioner if he or she meets the following requirements:

- Graduates from a physical therapy program recognized by CAPTE;
- Completes an application for a temporary permit on a form approved by DOH;
- Meets all the eligibility requirements for full licensure;
- Submits documentation, pursuant to rules adopted by the board, that the applicant will practice under the direct supervision of a qualified licensed PT;
- Demonstrating proof of possessing malpractice insurance; and
- Verifying passage of the Jurisprudence examination³⁶ administered by the Federation of State Boards of Physical Therapy.³⁷

The temporary permit is not renewable and is valid until a license is granted by the board. A temporary permit is void if an applicant fails the NPTE. The applicant must sit for the NPTE within 6 months from the date of graduation.

A temporary permit holder may not work as a physical therapy practitioner until a temporary permit is issued by the board. A temporary permittee must work under the direct supervision of a licensed physical therapist. A supervising physical therapist must be licensed for at least 6 months before the supervision period begins and may only supervise one permittee at any given time. Furthermore, the supervising physical therapist must cosign all patient records produced by a person who holds temporary permit. Current law defines direct supervision as supervision by a licensed physical therapist requiring the physical presence for consultation and direction of the actions of a physical therapy practitioner who is practicing under a temporary permit and who is a candidate for licensure by examination.³⁸

B. SECTION DIRECTORY:

Section 1. Creates s. 486.0715, F.S., relating to physical therapy issuance of a temporary permit.

Section 2. Creates s. 486.1065, F.S., relating to physical therapist assistance issuance of a temporary permit.

Section 3. Provides an effective date of June 1, 2012.

³⁶ The Federation calls this examination the Jurisprudence exam and in Florida Administrative Code the examination is referred to as the Florida Laws and Rules examination.

³⁷ The Florida Laws and Rules examination (Jurisprudence exam) encompasses 40 questions covering the following areas: legislative intent and duties, power and duties, licensure examination, patient care, disciplinary action and unlawful practice, and consumer advocacy. See 64B17-3.002 and 64B147-4.002, F.A.C. This examination is offered on a continuous basis depending.

³⁸ Section 486.021(9), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None identified.

2. Expenditures:

None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified.

D. FISCAL COMMENTS:

The bill does not authorize a fee to cover regulatory expenses involved in issuing a temporary permit. Last fiscal year the department issued 527 PTA and 887 PT initial licenses.³⁹ For the purpose of this analysis, it is assumed that there will be approximately 1,414 individuals annually who are eligible for a temporary permit to practice as a physical therapist practitioner.

Currently, four professions within MQA are authorized to have temporary permits. For these professions, the temporary permit process is directly tied to the application processing for full licensure. Therefore, a single application is used for both the temporary permit and full licensure. In this situation, the applicant simply indicates by checking the appropriate box on the application that they wish to receive a temporary permit. Should temporary permits be reinstated for physical therapy, the board anticipates using the same procedure that is used to process physical therapy practitioner applications. The DOH has indicated that a separate fee for temporary permits would not be required, as the costs could be absorbed within the current fee structure.⁴⁰

Additionally, DOH states that any increase in workload and the non-recurring cost associated with rulemaking or modifications to the COMPAS licensure system may be absorbed within current resources and budget authority.⁴¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

³⁹ Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at*: <http://doh.state.fl.us/mqa/reports.htm> (last viewed January 14, 2012).

⁴⁰ Email correspondence with PT Board staff, dated January 26, 2012, on file with Health Care Appropriations Subcommittee staff.

⁴¹ Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 799, dated January 26, 2012, on file with Health Care Appropriations Subcommittee staff.

None.

B. RULE-MAKING AUTHORITY:

The board has sufficient authority in s. 486.025, F.S., to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires an applicant seeking a temporary permit to file with the board documentation demonstrating that he or she possesses a malpractice insurance policy. Currently, a licensed PT or PTA is not required as a condition of licensure, to possess medical malpractice insurance. Additionally, the bill does not specify an amount that must be carried or ensure that the amount carried is sufficient to cover any incident of harm to a patient.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Health & Human Services Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all restructures the language and reorganizes the requirements for a temporary permit. In addition the strike-all:

- Clarifies that a supervising PT may only supervise one temporary permittee;
- Removes the requirement that the board issue a temporary permit on the date of graduation;
- Requires the applicant to complete an application for a temporary permit;
- Requires the applicant to submit an application for a licensure and meet all the eligibility requirements for a full license except passage of the NPTE; and
- Requires the temporary permittee to sit for the NPTE within 6 months from the date of graduation.

On January 31, 2012, the Health Care Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute for committee substitute. The adopted amendments:

- Makes technical changes to amend incorrect statutory references and
- Amends the effective date to June 1, 2012.

This analysis is drafted to the committee substitute for committee substitute.