

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 Budget Subcommittee on Health and Human Services Appropriations

BILL: CS/SB 1228

INTRODUCER: Health Regulation Committee and Senator Montford

SUBJECT: Practice of Physical Therapy

DATE: February 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davlantes</u>	<u>Stovall</u>	<u>HR</u>	Fav/CS
2.	<u>Bradford</u>	<u>Hendon</u>	<u>BHA</u>	Pre-meeting
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill authorizes 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 meet certain conditions, not including passage of a national examination approved by the board. The bill provides that a temporary permit will be valid until a license is granted and will be void if the permittee does not pass or sit for such an examination within 6 months of graduation from a PT or PTA training program. The bill provides standards that supervising PTs must meet and prohibits certain fraudulent acts concerning temporary permits.

The workload increase within the Department of Health can be handled within existing budget authority.

This bill creates ss. 486.0715 and 486.1065, F.S., and amends s. 486.151, F.S.

The effective date of this bill is June 1, 2012.

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 National Physical Therapy Examination (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

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.

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 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 NPTE 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

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.

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.

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:

- 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. 486.0715, F.S., to allow the board to issue a temporary PT permit to an applicant who:

- Completes an application on a form approved by the department;
- Meets all eligibility requirements for licensure under ch. 456, F.S., s. 486.031, F.S., and related rules, except that passage of a national examination approved by the board is not required;
- Submits an application for licensure under s. 486.041, F.S.;
- Demonstrates proof of malpractice insurance; and
- Submits documentation, under rules adopted by the board, verifying that he or she will practice under the direct supervision of a licensed PT meeting certain conditions.

A temporary permit is nonrenewable and is valid until a license is granted by the board. A temporary permit becomes void if a permittee does not pass or sit for such an examination within 6 months of graduation from a department-approved training program.

Supervising PTs must have been licensed in this state for at least 6 months before the supervision period begins, may only supervise one permittee at a time, and must cosign all patient records produced by a permittee.

Section 2 creates s. 486.1065, F.S., to provide identical provisions for issuance of temporary PTA permits. Applicants must meet eligibility requirements for licensure under s. 486.102, F.S., rather than s. 486.031, F.S., and must submit an application for licensure under s. 486.103, F.S., rather than s. 486.041, F.S.

Section 3 amends s. 486.151, F.S., to prevent permittees from being prosecuted for unlicensed practice and prohibit certain acts related to fraudulent obtainment or use of temporary permits.

¹⁴ Section 486.021(9), F.S. This language remained in statute after provisions for issuing temporary permits were repealed in 1999.

¹⁵ Rule 64B17-6.007, F.A.C.

Section 4 provides an effective date of June 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) might experience an increase in workload related to issuing temporary permits for PTs and PTAs. However, each application for a temporary permit must be accompanied by an application for licensure; fees related to licensure applications should help offset the fiscal impact of issuing temporary permits. 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 nonrecurring costs for rulemaking and updating its practitioner licensure database, both of which current resources are adequate to absorb.

VI. Technical Deficiencies:

“Such an examination” in lines 33 and 66 should be replaced with “a national examination approved by the board” to increase clarity.

VII. Related Issues:

Lines 26 and 59 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.¹⁶

VIII. Additional Information:

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

CS by Health Regulation on February 9, 2012:

The CS clarifies that applicants for temporary permits must fulfill all the requirements for general licensure, including general licensure requirements in ch. 456, F.S., except passage of a department-approved examination. It removes language from the bill which is currently specified in rule rather than in statute. The CS requires that applications for temporary permits must be submitted concomitantly with applications for general licensure, clarifies conditions upon which permits become void, and states that licensed PTs may only supervise one permittee at a time. Prevents permittees from being prosecuted for unlicensed practice and prohibits other acts related to fraudulent obtainment or use of temporary permits and changes the effective date of the bill to June 1, 2012.

- B. **Amendments:**

None.

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

¹⁶ Email correspondence with board staff. Copies are on file with the Senate Health Regulation Committee.