

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

3  
4 **333 Guadalupe, Suite 2-510**  
5 **Austin, Texas 78701**

6  
7 **August 28, 2015**  
8 **9:00 a.m.**  
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11 **Members Present:** Gary Gray, PT, Chair  
12 Shari Waldie, PT, Vice Chair  
13 Melinda Rodriguez, PT, DPT, Secretary  
14 Harvey Aikman, PT  
15 Barbara Sanders, PT, PhD  
16 Jeffrey Tout, PT  
17 Philip Vickers, Public Member  
18 Daniel Reyna, Public Member  
19

20 **Legal Counsel:** Kara Holsinger, Assistant Attorney General  
21

22 **Staff:** John Maline, Executive Director  
23 Karen Gordon, PT Coordinator  
24 Mark Turek, Chief Investigator  
25 Cynthia Machado, Licensing Manager  
26  
27

28 **Guests:** Kathleen Manella, TPTA Liaison  
29 Paul Hardin, TPTA Executive Director  
30 Stacey Mather, TPTA Staff  
31 Amber Townsley, TPTA Staff  
32 Davis Gordon, PT  
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35 **Agenda**

- 36  
37 1. Call to order  
38 2. Public comment  
39 3. Approval of minutes from the April 24, 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, past legislative  
42 session, upcoming Sunset Review, and other agency 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: 14270; 15125; 15128; 15141;  
45 15171; 15195; 15205; 15232; 15240; 15243; 15247; 15279; 15293; 15316; 15372; and  
46 15383.  
47 B. Discussion and possible action on the Investigation Committee Meeting of July 13-14,  
48 2015.  
49 C. Discussion and possible action on investigative activities to date.  
50 6. Discussion and possible action on adopting changes to §341.6. License Restoration  
51 7. Rules Committee Report: discussion and possible action by the Board on the following items:  
52 D. Discussion and possible action on proposing changes to §323.3. Adoption of Rules  
53 regarding petition for adoption of a rule per HB 763.  
54 E. Discussion and possible action on proposing changes to §329.1. General Licensure  
55 Requirements and Procedures regarding waiving the license application fee of a military  
56 service member or military veteran per SB 807.

- 1 F. Discussion and possible action on proposing changes to §329.6. Licensure by
- 2 Endorsement regarding waiving the license by endorsement application fee of a military
- 3 service member, military veteran, or military spouse per SB 807.
- 4 G. Discussion and possible action on proposing changes to §341.20. Licensees Called to
- 5 Active Military Service regarding exempting military service members from late fees and
- 6 penalties for failure to timely renew per SB 1307.
- 7 H. Discussion and possible action on proposing changes to Chapter 347. Registration of
- 8 Physical Therapy Facilities, including recommendations from the Texas Physical Therapy
- 9 Association.
- 10 I. Discussion and possible action on proposing changes to §322.1. Provision of Services,
- 11 regarding adding (f) Telehealth.
- 12 8. Discussion and possible action on the TPTA Continuing Competence Approval Program
- 13 (CCAP) report.
- 14 9. Discussion and possible action on a licensee's request for a continuing competence waiver.
- 15 10. Vision Committee Report: discussion and possible action by the Board on the following items:
- 16 D. Discussion and possible action regarding the Federation of State Boards of Physical
- 17 Therapy, including the Leadership Issues Forum, August 1-2, 2015; and proposed motions
- 18 and elections for the Annual Meeting in Orlando, Florida, October 15-17, 2015.
- 19 E. Discussion and possible action regarding the Sunset Self Evaluation Report.
- 20 F. Discussion and possible action regarding Criminal Background Checks.
- 21 11. Discussion and possible action on the Board Coordinator's report.
- 22 12. Discussion and possible action on the Board Chair's report concerning any item listed on the
- 23 agenda and on events that have occurred between this meeting and the Board's last meeting.
- 24 13. Discussion and possible action on long-term planning for future meetings, including future
- 25 meeting dates and agenda items.
- 26 14. Adjournment

27  
28 The Board may meet in closed session on any agenda item listed above as authorized by the  
29 Texas Open Meetings Act, Texas Government Code Chapter 551.

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1 **1. Call to order**

2  
3 Mr. Gray called roll and determined that a quorum existed. He called the meeting to order at 9:13  
4 a.m.

5  
6 **2. Public comment**

7  
8 There was no public comment.

9  
10 **3. Approval of minutes from the April 24, 2015 in Austin.**

11  
12 *Motion: To approve the minutes as submitted.*  
13 *Made by: Harvey Aikman*  
14 *Second: Shari Waldie*  
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 **past legislative session, upcoming Sunset Review, and other agency business**

20  
21 Mr. Maline reported on the following:

- 22 • Personnel changes with the addition of 1 FTE in September.
- 23 • Agency budget and fiscal status
- 24 • Performance Measures
- 25 • Legislative session including appropriations and bills effecting the Board and agency
- 26 • Upcoming Sunset Review including the Self-Evaluation Report

27  
28 Mr. Gray recessed the meeting at 10:14 and reconvened the meeting at 10:28.

29  
30 **5. Investigation Committee Report and consideration by the Board of the following items:**

31  
32 **A. Review and possible action on Agreed Orders for case #s:** 14270; 15125; 15128;  
33 15141; 15171; 15195; 15205; 15232; 15240; 15243; 15247; 15279; 15293; 15316; 15372; and  
34 15383.

35  
36 The Board reviewed and approved the following Agreed Orders presented by Mr. Turek:

37  
38 14270; 15125; 15141; 15171; 15195; 15232; 15243; 15247; 15293; 15316; 15372; and 15383.

39  
40 **B. Discussion and possible action on the Investigation Committee Meeting of July**  
41 **13-14, 2015.**

42  
43 Mr. Turek reported that the Committee reviewed 183 cases and held 10 informal conferences. He  
44 presented a letter to the Board from Mary Daulong, PT related to facility registration disciplinary  
45 action and reported that the Committee had deferred action of facility registration complaints until  
46 further review.

47  
48 **C. Discussion and possible action on investigative activities to date**

49  
50 Mr. Turek reported on performance measures and on the number of investigations and school visits  
51 completed since the last meeting.

52  
53 **6. Discussion and possible action on adopting changes to §341.6. License Restoration.**

54  
55 *Motion: To adopt changes to §341.6. License Restoration as proposed.*  
56 *Made by: Shari Waldie*

1           *Second: Harvey Aikman*  
2    *Motion passed unanimously.*

3  
4    There were no comments or discussion on this proposal.  
5    (See Attachment A for the adopted changes)

6  
7    **7. Rules Committee Report and discussion and possible action by the Board on the**  
8    **following items:**

9  
10    **D. Discussion and possible action on proposing changes to §323.3. Adoption of Rules**  
11    **regarding petition for adoption of a rule per HB 763.**

12  
13    Mr. Aikman brought forth a motion from Committee to amend §323.3. Adoption of Rules regarding  
14    petition for adoption of a rule per HB 763 which passed during the 84<sup>th</sup> Legislature (2015) and  
15    relates to petitioning the board for adoption, amendment, or repeal of rules.

16  
17           *Motion: To propose changes to §323.3. Adoption of Rules as submitted.*  
18           *Made by: Committee*  
19           *Second: None required*  
20    *Motion passed unanimously.*

21  
22    There were no comments or discussion on this proposal.  
23  
24    (See Attachment B for proposed rule amendment)

25  
26    **E. Discussion and possible action on proposing changes to §329.1. General Licensure**  
27    **Requirements and Procedures regarding waiving the license application fee of a military**  
28    **service member or military veteran per SB 807.**

29  
30    Mr. Aikman brought forth a motion from Committee to amend §329.1. General Licensure  
31    Requirements and Procedures per SB 807 which passed during the 84<sup>th</sup> Legislature (2015) and  
32    relates to the waiver of initial licensure and application fees for active military service members  
33    and military veterans.

34  
35           *Motion: To propose changes to §329.1. General Licensure Requirements and Procedures*  
36                           *as submitted.*  
37           *Made by: Committee*  
38           *Second: None required*  
39    *Motion passed unanimously.*

40  
41    There were no comments or discussion on this proposal.  
42  
43    (See Attachment C for proposed rule amendment)

44  
45    **F. Discussion and possible action on proposing changes to §329.6. Licensure by**  
46    **Endorsement regarding waiving the license by endorsement application fee of a military**  
47    **service member, military veteran, or military spouse per SB 807.**

48  
49    Mr. Aikman brought forth a motion from Committee to amend §329.6. Licensure by Endorsement  
50    per SB 807 which passed during the 84<sup>th</sup> Legislature (2015) and relates to the waiver of  
51    application fees for active military service members, military veterans, and military spouses who  
52    apply for licensure by endorsement.

53  
54           *Motion: To propose changes to §329.6. Licensure by Endorsement as submitted.*  
55           *Made by: Committee*  
56           *Second: None required*

1 *Motion passed unanimously.*

2  
3 There were no comments or discussion on this proposal.

4  
5 (See Attachment C for proposed rule amendment)

6  
7 **G. Discussion and possible action on proposing changes to §341.20. Licensees Called**  
8 **to Active Military Service regarding exempting military service members from late fees**  
9 **and penalties for failure to timely renew per SB 1307.**

10  
11 Mr. Aikman brought forth a motion from Committee to amend §341.20. Licensees Called to Active  
12 Military Service per SB 1307 which passed during the 84<sup>th</sup> Legislature (2015) and relates to the  
13 exemption of late fees and penalty for late renewal if the licensee's failure to timely renew their  
14 licensee is due to serving as a military service member and to provide for an extension post  
15 expiration of licensure for completion of continuing competence activities.

16  
17 *Motion: To propose changes to §341.20. Licensees Called to Active Military Service as*  
18 *submitted.*

19 *Made by: Committee*

20 *Second: None required*

21 *Motion passed unanimously.*

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

24  
25 (See Attachment D for proposed rule amendment)

26  
27 **H. Discussion and possible action on proposing changes to Chapter 347. Registration**  
28 **of Physical Therapy Facilities, including recommendations from the Texas Physical**  
29 **Therapy Association.**

30  
31 Mr. Aikman brought forth a motion from Committee to amend Chapter 347. Registration of Physical  
32 Therapy Facilities to bring synchronization between the facility registration language for both  
33 physical therapy and occupational therapy facilities and to provide for the online verification of  
34 registration as a means for initiating physical therapy services at a facility without having to wait for  
35 the registration certificate to arrive via mail. He also reported that the Committee decided to defer  
36 acting on the recommendations from TPTA until the November meeting.

37  
38 *Motion: To propose changes to Chapter 347. Registration of Physical Therapy Facilities as*  
39 *submitted.*

40 *Made by: Committee*

41 *Second: None required*

42 *Motion passed unanimously.*

43  
44 There were no comments or discussion on this proposal.

45  
46 (See Attachment E for proposed rule amendment)

47  
48 **I. Discussion and possible action on proposing changes to §322.1. Provision or**  
49 **Services, regarding adding (f) Telehealth.**

50  
51 Mr. Aikman reported that the Committee discussed the recent developments in the TeleDoc v TMB  
52 lawsuit and reviewed and made some changes to the draft language as presented by the PT  
53 Coordinator. He also reported that the Committee will continue to monitor the lawsuit and to work  
54 on language regarding Telehealth.

1 **8. Discussion and possible action on the TPTA Continuing Competence Approval Program**  
2 **(CCAP) report.**  
3

4 Amber Townsley, TPTA CCAP Manger, presented the CCAP report to the Board and reported that  
5 TPTA will have a revised MOU draft for review at the Board's next meeting.  
6

7 **9. Discussion and possible action on a licensee's request for a continuing competence**  
8 **waiver.**  
9

10 After the Board reviewed the redacted request and medical support documentation, the following  
11 motion was made.  
12

13 *Motion: To grant a waiver of the continuing competence requirement as requested by the*  
14 *licensee.*

15 *Made by: Barbara Sanders*

16 *Second: Harvey Aikman*

17 *Motion passed with 5 ayes and 2 nays.*  
18

19 **10. Vision Committee Report: discussion and possible action by the Board on the following**  
20 **items:**  
21

22 **D. Discussion and possible action regarding the Federation of State Boards of Physical**  
23 **Therapy, including the Leadership Issues Forum, August 1-2, 2015; and proposed**  
24 **motions and elections for the Annual Meeting in Orlando, Florida, October 15-17, 2015.**  
25

26 Mr. Aikman reported on the Leadership Issues Forum, and that the Committee discussed the  
27 motion and upcoming election at the FSBPT Annual Meeting with recommendations to the delegate  
28 and alternate delegate to vote for the Areas of Focus motion and to vote for Tom Caldwell,  
29 Secretary; Natalie Harms, Treasurer; Dave Relling, Director; and Tom Ryan, Nominating  
30 Committee.  
31

32 **E. Discussion and possible action regarding the Sunset Self Evaluation Report.**  
33

34 Mr. Vickers reported that Ms. Gordon presented the draft of the Major Issues portion of the Sunset  
35 Self Evaluation Report and that the Committee reviewed the proposed changes to the Practice Act  
36 and made recommendations for additional language changes.  
37

38 **F. Discussion and possible action regarding Criminal Background Checks.**  
39

40 Mr. Aikman reported that the Committee recommended that Criminal Background Checks be  
41 included in the Major Issues portion of the Sunset Self Evaluation Report, and that this would tie in  
42 to the requirements for the Physical Therapy Licensure Compact.  
43  
44

45 **11. Discussion and possible action on the Board Coordinator's report**  
46

47 Ms. Gordon reported on the meetings and training that she had attended since the last Board  
48 meeting, and on the updates to the website, the 3<sup>rd</sup> Quarter CC Audit, the July NPTE results, and  
49 the total number of PTs, PTAs, and PT facilities as of 08/20/2015.  
50

51 **12. Board Chair's report concerning any item listed on the agenda and on events that have**  
52 **occurred between this meeting and the Board's last meeting.**  
53

54 Mr. Gray reported that he attended the July 13-14 Investigation Committee meetings.  
55  
56

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

3  
4 The Board's next scheduled meetings are November 13-14, 2015 for the Off-Site Board Conference  
5 to be held at Vintage Villas in Austin. The Board set the following meeting dates for 2016: January  
6 28-29 and April 28-29.

7  
8 **14. Adjournment**

9  
10 *Motion: To adjourn the meeting.*

11 *Made by: Harvey Aikman*

12 *Second: Melinda Rodriguez*

13 *Motion passed unanimously.*

14  
15 Mr. Gray adjourned the meeting at 11:55 a.m.  
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17  
18 **Date reviewed by the Board:** 11/13/2015

19 **Action taken by the Board:** approved as submitted

The Texas Board of Physical Therapy Examiners adopts an amendment to §341.6. regarding restoration of license, without changes to the proposed text as published in the May 29, 2015 issue of the *Texas Register* (40 TexReg 2927).

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.

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>

#### §341.6. 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.

(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.
- (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).

The Texas Board of Physical Therapy Examiners proposes amendments to §323.3. regarding adoption of rules.

The amendments are proposed per HB 763 which passed during the 84<sup>th</sup> Legislature (2015) and relates to petitioning the board for adoption, amendment, or repeal of rules.

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 opportunities for the public to provide input into the rule-making process will be enhanced.

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>

§323.3. Adoption of Rules.

(a) - (b) (No change)

(c) Petition for adoption of rule changes.

(1) In accordance with Texas Government Code, §2001.021, an interested person may request for the adoption, amendment, or repeal of a rule of the board by submitting a written petition to the board. In this section, "interested person" has the meaning as defined in Texas Government Code, §2001.021. The petition must contain:

(A) the name and contact information of the interested person or persons and affiliation or organization, if any;

(B) a description of the proposed rule change or amendment and the reason for it;

(C) the section numbers and titles of the rule(s) affected if applicable;

(D) the proposed rule change with an indication of language added and/or deleted.

(E) a statement of:

(i) the statutory authority under which the rule is to be adopted; and

(ii) the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity that could result from the failure to adopt the proposed rule.

(F) the signature(s) of the requesting person or persons and date of signature(s).

(2) The board shall evaluate the merits of the proposal.

(3) In accordance with the Texas Government Code, §2001.021, the presiding officer or the board's designee shall acknowledge receipt of the petition to the person designated to receive communication regarding the petition.

(4) Not later than the 60<sup>th</sup> day after the date of submission of a petition under this section, the board shall:

(A) deny the petition in writing, stating its reasons for denial; or

(B) initiate a rulemaking proceeding under this chapter.

(5) If the board initiates rulemaking procedures in response to a petition, the rule text which the board proposes may differ from the rule text proposed by the petitioner.

(6) Initial petitions for the adoption of a rule shall be presented to and decided by the Board in accordance with the provisions of this section. The Board may refuse to consider any subsequent petition from the same interested person for the adoption of the same or a similar rule submitted within twelve months after the date of the Board's rejection of the initial petition.

The Texas Board of Physical Therapy Examiners proposes amendments to §329.1. regarding General Licensure Requirements and Procedures and §329.6. Licensure by Endorsement. The amendments are proposed per SB 807 which passed during the 84<sup>th</sup> Legislature (2015) and relates to the waiver of initial licensure and endorsement licensure application fees for active military service members, military veterans, or military spouses.

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 there will be no adverse effect on public safety and will increase the opportunities for active military, military veterans, and military spouses to obtain licensure in Texas.

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>

§329.1. General Licensure Requirements and Procedures.

(a) Requirements. All applications for licensure shall include:

(1) a completed board application form with a recent color photograph of the applicant;  
(2) the non-refundable application fee as set by the executive council. The application fee of applicants who are active U.S. military service members or veterans will be waived upon submission of official documentation of the active duty or veteran status of the applicant.

(3) - (4) (No change)

(b) - (i) (No change)

§329.6. Licensure by Endorsement.

(a) - (b) (No change)

(c) Licensure of a Military Service Member, Military Veteran, or Military Spouse. The board will waive the application fee and will expedite the issuance of a license by endorsement to a military service member, military veteran, or spouse of a military service member [of the U.S. armed forces on active duty]. The applicant must provide official documentation of active duty status or veteran status or the active duty status of the spouse.

(d) (No change)

The Texas Board of Physical Therapy Examiners proposes amendments to §341.20. regarding licensees serving as a military service member. The amendments are proposed per SB 1307 which passed during the 84<sup>th</sup> Legislature (2015) and relates to the exemption of late fees and penalty for late renewal if the licensee's failure to timely renew their license is due to serving as a military service member and provides an extension post expiration of licensure for completion of continuing competence activities .

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 there will be no adverse effect on public safety and will increase the opportunities for military service members to maintain their licensure in Texas if actively serving in the military prohibits the licensee from being able to timely renew.

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>

§341.20. Licensees Serving as a Military Service Member. [~~Called to Active Military Service.~~]

(a) Renewal. A licensee will be exempt from late fees and penalty if the individual establishes to the satisfaction of the board that failure to timely renew was because the individual was serving as a military service member. [~~who is a member of the reserves and called to active military service must submit renewal fees within 90 days after active service has ended if their license expired within the months of active service. The regular renewal month will not change. The licensee must submit official documentation of active service and its inclusive dates.]~~

(b) Continuing competence units (CCUs).

(1) A licensee who is serving as a military service member may receive an extension of up to two years post expiration of license in order to complete the following:

(A) Continuing competence activities as specified in §341.2 of this title (relating to Continuing Competence Requirements); and

(B) The board's jurisprudence exam.

(c) "Military service member" as used in this section has the meaning as defined in Texas Occupations Code, §55.001.

~~[a member of the reserves and called to active military service will have his/her CCUs prorated in proportion to the number of months of documented active service.~~

~~(2) A licensee whose license expires during the period of active service will be given a complete waiver of CCUs for the past renewal period, and CCUs for months of documented active service in the current renewal cycle will be prorated.~~

~~(3) All licensees must take two hours of board-approved programs in ethics and professional responsibility as part of their total continuing competence requirement, which cannot be prorated.]~~

The Texas Board of Physical Therapy Examiners proposes amendments to Chapter 347 regarding registration of physical therapy facilities. The amendments are proposed to bring synchronization between the facility registration language for both physical therapy and occupational therapy facilities which should mirror each other as both healthcare services are often provided at the same location. The amendments also provide for the online verification of registration as a means for initiating physical therapy services at a facility without having to wait for the registration certificate to arrive via mail.

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 there will be no adverse effect on public safety and will decrease the confusion for those registering both physical therapy and occupational therapy facilities and for staff who are processing the registration applications.

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>

## CHAPTER 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES

**§347.1. Definitions.** (No change)

**§347.2. Requirement for Practice Setting of Licensees.** (No change)

**§347.4. Requirements for Registration Application.**

(a) Each registration application must include:

(1) name of the facility;

(2) physical/street address of the facility;

(3) mailing address, if different from the street address;

(4) name of the owner;

(5) type of ownership;

(6) identification/contact information for the facility owner as follows:

(A) Sole proprietor

(i) name, home address, date of birth, social security number of the sole proprietor

(ii) federal employer identification number if applicable

(B) Partnership

(i) name, home address, date of birth, social security number of the managing partners (for purposes of this subsection, managing partners are defined as the top four executive officers, including the partner in charge of the facility) [~~partner~~]

(ii) federal employer identification number

(C) (No change)

(D) Governmental entity (federal, state, local)

(i) name, home address, date of birth, social security number of the individual completing the application

(ii) federal employer identification number

(7) the name and license number of the physical therapist in charge and his or her signature;

(8) names and license numbers of all PTs and PTAs who practice in the facility;

(9) the name, title, [social security number] and signature of the owner, managing partner or officer, or person authorized to complete the registration application; and

(10) the non-refundable application fee, as set by the executive council.

(b) - (c) (No change)

(d) A physical therapy facility that has not been registered previously must complete the registration process prior to providing physical therapy services at the facility [~~and have the registration certificate in hand before the first patient treatment~~].

(e) Physical therapy services may be provided upon online verification of registration on the board's website prior to receiving the paper registration certificate from the board. The board will maintain a secure resource for verification of registration status and expiration date on its website.

(f) [(e)] The facility application is valid for one year after it is received by the board.

#### **§347.5. Requirements for Registered Facilities.**

(a) Each facility must have a designated physical therapist in charge. A registered facility is required to report the name and license number of a new physical therapist in charge no later than thirty (30) [~~30~~] days after the change occurs.

(b) - (c) (No change)

(d) A registered facility must notify the board within thirty (30) ~~30~~ days of any change to the name, physical/street address or mailing address. In the event of a name or physical address change, or loss or destruction of the registration certificate, the owner must obtain a new registration certificate showing the correct information by submitting a form as prescribed by the board and the fee as set by the executive council.

(e) A change in ownership or type of ownership requires a new facility registration as described in §347.8 of this chapter (relating to Change in Facility Ownership).

#### **§347.6. Exemptions to Registration.** (No change)

#### **§347.8. Change in Facility Ownership.**

(a) A facility registration cannot be transferred or sold to another person or owner. When a facility changes ownership, the new owner must register it as a new facility, and the previous owner must request in writing that the registration of the original facility be cancelled [~~withdrawn~~], within thirty (30) [~~30~~] days. A change of ownership takes place when one of the following occurs:

(1) a sole proprietor (individual) incorporates or changes to a partnership;

(2) a partnership incorporates or changes to a sole proprietor;

(3) a corporation dissolves and changes its status to a partnership or sole proprietor;

(4) a sole proprietor (individual), partnership or corporation purchases, sells or transfers the ownership to another individual, partnership or corporation.

(b) If there is a change of managing partners in a partnership or managing officers in a corporation, the owner of the facility must send the board written notification on a form as prescribed by the board within thirty (30) [~~30~~] days. For purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of

physical therapy facility operations. The written notification shall include the effective date of such change and the following information for the new managing partners or officers:

- (1) name and title;
- (2) home address;
- (3) date of birth; and
- (4) social security number.

**§347.9. Renewal of Registration.**

(a) The owner of a physical therapy facility must renew the registration annually. Licensees may not provide physical therapy services in a facility if the registration has expired ~~[is not current]~~. The Board will maintain a secure resource for verification of registration status and expiration date on its website. Licensees and facility owners should verify a facility's registration and expiration date on the board's website. The renewal process is not complete until the board's online facility registration verification reflects the new renewal date.

(b) Requirements to renew a facility registration are:

- (1) a renewal application signed by the owner, managing partner or officer, or a person authorized by the owner to complete the renewal;
- (2) a list of all PTs and PTAs working at the facility, including license ~~[and social security]~~ numbers;
- (3) the non-refundable renewal fee as set by the executive council, and any late fees which may be due; and
- (4) a physical therapist in charge form ~~[with the signature of the physical therapist]~~.

(c) The annual renewal date of a facility registration is the last day of the month in which the registration was originally issued, or as synchronized with the first facility registered by an owner.

(d) The board will notify a facility at least thirty (30) ~~[30]~~ days prior to the registration expiration date. The facility bears the responsibility for ensuring that the registration is renewed. Failure to receive notification from the board does not exempt the facility from paying the renewal fee in a timely manner.

(e) Late Renewal. Late fees will be assessed if all items required for renewal are not postmarked if submitted by mail or electronically time and date stamped if submitted online prior to the expiration date of the registration ~~[license]~~. Facility owners who do not submit all required items prior to the expiration date are subject to late fees as described below.

- (1) If the facility registration has been expired for 90 days or less, the late fee is half of the renewal fee.
- (2) If the facility registration has been expired for more than 90 days but less than one year, late fee is equal to the renewal fee.
- (3) If the facility registration has been expired for one year or more, the facility owner must restore the registration ~~[license]~~ as described in §347.12 of this chapter ~~[title]~~ (relating to Restoration of Registration).

(f) The current registration expiration date as displayed through the online facility registration verification on the Board's website is considered evidence of current registration.

(g) ~~(f)~~ An owner may not register a new facility in lieu of renewal of an expired registration for a facility in the same location.

**§347.11. Failure to Register.**

Facilities which fail to register as facilities with the board as required by Act and rules [~~rule~~] will be notified of their noncompliance with the Act and the disciplinary actions by this board to which they are subject. Additionally, all licensees of this Act employed at the facility will be notified that they are in violation of the Act and rules and thereby subject to disciplinary action.

**§347.12. Restoration of Registration.**

(a) When a facility registration is cancelled or has expired for one year or more, the owner may restore the registration by submitting the following:

- (1) a restoration application;
- (2) a non-refundable restoration fee as set by the executive council; and
- (3) a therapist in charge form signed by the therapist in charge.

(b) – (c) (No change)

**§347.13. Cancellation of Registration.**

(a) If physical therapy services will no longer be provided at a facility, the facility registration must be cancelled by submitting a form as prescribed by the Board no later than thirty (30) days after the expiration date of the registration. [The owner of a facility may cancel a facility registration if physical therapy services will no longer be provided. To cancel a registration, the owner must notify the board in writing that physical therapy services are no longer being provided at that location.]

(b) To [~~If the owner decides to~~] resume the provision of physical therapy services at a future date, the facility registration may be restored with the previous expiration date by meeting the requirements in §347.12 of this chapter [~~title~~] (relating to Restoration of Registration).

**§347.15. Disciplinary Action.** (No change)