

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:

43954

Date filed:

8-5-2019

State Admin Rule Filing Id:

Time filed:

	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 24b	-
Changed to Admin. Code Ref. (R no.):	R	-	-

1. Agency: Commerce/Division of Occupational and Professional Licensing

Room no.:

Building: Heber M. Wells Building

Street address 1: 160 East 300 South

Street address 2:

City, state, zip: Salt Lake City UT 84111-2316

Mailing address 1: PO Box 146741

Mailing address 2:

City, state, zip: Salt Lake City UT 84114-6741

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(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2. Title of rule or section (catchline):

Physical Therapy Practice Act Rule

3. Type of notice:

New ___; Amendment XXXX Repeal ___; Repeal and Reenact ___

4. Purpose of the rule or reason for the change:

These proposed amendments update the rule to align with changes made in 2019 in H.B. 44, which permit an individual in the final term of a program of study in physical therapy to take the licensing exam before graduation. The Physical Therapy Licensing Board also recommends additional amendments to clarify the rule and streamline application procedures.

5. This change is a response to comments from the Administrative Rules Review Committee.

No XXXX Yes ___

6. Summary of the rule or change:

Section 102: This proposed amendment clarifies the definition of an "education program that is accredited by a recognized accreditation agency". Section 302a: This proposed amendment expands the methods by which an applicant can provide proof of graduation to the Division and provides a process for application via endorsement. Section 302b: This proposed amendment permits an applicant for licensure as a Physical Therapist (PT) or Physical Therapist Assistant (PTA) who is in the final term of a program of study in physical therapy to take their licensing exam before graduation per Subsections 58-24-302(1)(d) and 58-24b-302(2)(d). It also provides a process for verifying an exam score for an application for licensure by endorsement.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ; Yes

The proposed changes that update the existing rule to align with the Utah Code changes implemented by 2019 H.B. 44 are not expected to negatively or positively impact the state budget. There could be a small positive impact from the other proposed amendments if a PT or PTA gains employment at a state owned facility that employs PTs or PTAs. However, it is estimated that almost all new graduate PTs and PTAs will seek employment in the private sector. There will be a minimal cost to the Division of approximately \$75 to print and distribute the rule and a total of four hours x \$30/hr = \$120 to update the PT and PTA online and paper application forms once the proposed amendments are made effective.

B) Local government:

Affected: No Yes

The proposed rule changes are not expected to have a fiscal impact for local government because they will not affect local government.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No ; Yes

The proposed amendments are not expected to have a negative fiscal impact for small business (NAICS 621399 and 621340). However, a positive fiscal impact may result from the newly streamlined application procedures, if the new graduate PT or PTA can begin employment earlier due to not having to wait to take the national exam or the wait for their school's registrar to post the transcripts and send the results to the Division. This could eliminate open positions, reduce overtime to cover open positions, and allow patients to receive therapy services in a timelier manner. It is projected that 50% of the 105 annual PT graduates will work for a small business which equates to 53 PT graduates. It is also projected that 50% of the 72 annual PTA graduates will work for a small business which equates to 36 PTA graduates. The total fiscal benefit of filling the open positions is not able to be estimated since the estimated number of open PT or PTA positions is not readily available from employers and the cost of overtime is unknown.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No Yes

The proposed amendments are not expected to have a negative fiscal impact for other persons. However, a positive impact may result from the newly streamlined application procedures, since the graduate will be able to take the national exam earlier and may obtain a signed statement of program completion instead of waiting for the school's registrar to send the official transcripts to DOPL. The waiting time for a registrar to send the transcripts could take up to an average of three weeks. It is estimated that the proposed changes to Subsections R156-24b 302(a) and (b) will allow applicants to apply for licensure three weeks earlier. It is estimated that the proposed rules could affect up to 105 Physical Therapist and 72 Physical Therapist Assistant applicants on an annual basis. It is further estimated that recent PT graduates earn \$32/hour for initial employment. Each work week is based upon 40 hours. Therefore, if one Physical Therapist could begin employment 3 weeks sooner, each PT could earn 3 weeks X 40 hours/wk X \$32/hr = \$3,840. The potential benefit if all 105 PTs could work 3 weeks earlier would be \$403,200. The annual potential benefit is projected to raise 2% per year due to cost of living/demand. Additionally, it is further estimated that recent PTA graduates earn \$21/hour for initial employment. Each work week is based upon 40 hours. Therefore, if one Physical Therapist Assistant could begin employment 3 weeks sooner, each PT could earn three weeks X 40 hours/wk X \$21/hr = \$2,520. The potential benefit if all 72 Physical Therapy Assistants could work three weeks earlier would be \$181,440. The annual potential benefit is projected to raise 2% per year due to cost of living/demand.

8. Compliance costs for affected persons:

The proposed amendments are not expected to have any compliance costs for affected persons.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

These proposed amendments update the Rule to align with changes made by 2019 H.B. 44, which permit an individual in the final term of a program of study in physical therapy to take the licensing exam before graduation. The Physical Therapy Licensing Board also recommends additional amendments to clarify the Rule and streamline application procedures. Small Business: The proposed amendments are not expected to have a negative fiscal impact for small business (NAICS 621399 and 621340). However, a positive fiscal impact may result from the newly streamlined application procedures, if the new graduate physical therapist or physical therapist assistant can begin employment earlier due to not having to wait to take the national exam or wait for their school's registrar to post the transcripts and send the results to the Division. This could eliminate open positions, reduce overtime to cover open positions, and allow patients to receive therapy services in a timelier manner. The total fiscal benefit if filling the open positions is not able to be estimated. Non-small businesses: The proposed amendments are not expected to have a negative fiscal impact for non-small businesses (NAICS 621399 and 621340).

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10 This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV):

Section 58-24b-101

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

11 This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; if none, leave blank):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		

(If this rule incorporates more than two items by reference, please attach additional pages)

12 The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 10/01/2019

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
09/18/2019	9:30 AM	160 East 300 South, Conference Room 475 (4th floor), Salt Lake City, Utah

13 This rule change may become effective on (mm/dd/yyyy): 10/08/2019

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

14 Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:

licensing	physical therapy
physical therapist	physical therapist assistant

15 Attach an RTF document containing the text of this rule change R156-24b.pro
(filename):

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:



Date
(mm/dd/yyyy)
: 8/5/2019

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$195	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$195	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$584,640	\$596,333	\$608,259
Total Fiscal Benefits:	\$584,640	\$596,333	\$608,259
Net Fiscal Benefits:	\$584,445	\$596,333	\$608,259

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The proposed amendments are not expected to have a negative fiscal impact for non-small business (NAICS 621399 and 621340). However, a positive fiscal impact may result from the newly streamlined application procedures, if the new graduate PT or PTA can begin employment earlier due to not having to wait to take the national exam or the wait for their school's registrar to post the transcripts and send the results to DOPL. This could eliminate open positions, reduce overtime to cover open positions, and allow patients to receive therapy services in a timelier manner. It is projected that 50% of the 105 annual PT graduates will work for a non-small business which equates to 52 PT graduates. It is also projected that 50% of the 72 annual PTA graduates will work for a non-small business which equates to 36 PTA graduates. The total fiscal benefit of filling the open positions is not able to be estimated since the estimated number of open PT or PTA positions is not readily available from employers and the cost of overtime is unknown.

Include agency head sign-off here. The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.

R156-24b. Physical Therapy Practice Act Rule.

R156-24b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 24b, as used in Title 58, Chapters 1 and 24b or this rule:

(1) "An education program that is accredited by a recognized accreditation agency", as used in Subsections 58-24b-302(1)(c) and (d), (2)(c) and (d), and (3)(c), means ~~[a college or university]~~ an education program that is, at the time of an applicant's graduation:

(a) accredited by CAPTE; or

(b) a foreign education program which is equivalent to a CAPTE accredited program as determined by the FCCPT.

(2) "Credential evaluation", as used in Subsections R156-24b-302a(2) and (3), means the appropriate Course Work Tool (CWT) adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist or physical therapist assistant graduated from the physical therapy program.

(3) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(4) "FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

(5) "FSBPT" means the Federation of State Licensing Boards of Physical Therapy.

(6) "Joint mobilization", as used in Subsection 58-24b-102(15)(d), means a manual therapy technique comprising a continuum of skilled passive movements to the joints and/or related soft tissues that are applied at varying speeds and amplitudes, including a small-amplitude/high velocity therapeutic movement.

(7) "Routine assistance", as used in Subsections 58-24b-102(10) and 58-24b-401(3)(b) means:

(a) engaging in assembly and disassembly, maintenance and transportation, preparation and all other operational activities relevant to equipment and accessories necessary for treatment; and

(b) providing only that type of elementary and direct patient care which the patient and family members could reasonably be expected to learn and perform.

(8) "Supportive personnel", as used in Subsection R156-24b-503(1), means a physical therapist assistant or a physical therapy aide and does not include a student in a physical therapist or physical therapist assistant program.

(9) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 24b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-24b-502.

R156-24b-302a. Qualifications for Licensure - Education Requirements.

(1) ~~[In accordance with Subsection 58-24b-302(1)(c), the accredited school of physical therapy for a physical therapist shall be accredited by CAPTE at the time of graduation.]~~ In accordance with Subsections 58-24b-302(1) and (2), an applicant for licensure as a physical therapist or

physical therapist assistant who completed their physical therapy education in the United States shall document their education by providing:

(a) a transcript sent directly to the Division from the degree-granting institution showing completion of the accredited education program as defined in Subsection R156-24b-102(1)(a); or

(b) a statement signed by the program director or other authorized school official with the school seal affixed, stating that the applicant has successfully completed the accredited education program as defined in Subsection R156-24b-102(1)(a).

(2) In accordance with Subsections 58-24b-302(2) and (4), an applicant who holds a current unrestricted physical therapist or physical therapist assistant license issued by another state, district, or territory of the United States, other than Utah, may document their education by providing either:

(a) the documentation under Subsection (1); or

(b) a score transfer from FSBPT sent directly to the Division from the provider.

([2]3) In accordance with Subsection 58-24b-302(3), an applicant for licensure as a physical therapist who is educated outside the United States shall document that the applicant's education is equal to a CAPTE accredited degree and that the applicant is able to read, write, speak, understand, and be understood in the English language by submitting to the Division a Type I review from the FCCPT.

(a) Only educational deficiencies in pre-professional subject areas may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

(b) Pre-professional subject areas include the following:

([a]i) humanities;

([b]ii) social sciences;

([c]iii) liberal arts;

([d]iv) physical sciences;

([e]v) biological sciences;

([f]vi) behavioral sciences;

([g]vii) mathematics; or

([h]viii) advanced first aid for health care workers.

([3]4) In accordance with Subsection 58-24b-302(2)(c), an applicant for licensure as a physical therapist assistant shall:

(a) have received an associate's, bachelor's, or master's degree from a CAPTE accredited physical therapy education program; ~~complete one of the following CAPTE accredited physical therapy education programs:~~

~~(a) an associates, bachelors, or masters program; or~~

~~(b) in accordance with Section 58-1-302, [an]if the applicant [for a license as a physical therapist assistant who] has been licensed in a foreign country [whose] but received a degree [was]not accredited by CAPTE, [shall]document that the applicant's education is substantially [equivalent]equal to a CAPTE accredited degree by submitting to the Division a credential evaluation from the [Foreign Credentialing Commission on Physical Therapy] FCCPT.~~

(i) Only educational deficiencies in pre-professional subject areas may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

(ii) Pre-professional subject areas include the subject areas listed in Subsection (3) (b). ~~[following:~~

- ~~(a) humanities,~~
- ~~(b) social sciences,~~
- ~~(c) liberal arts,~~
- ~~(d) physical sciences,~~
- ~~(e) biological sciences,~~
- ~~(f) behavioral sciences,~~
- ~~(g) mathematics, or~~
- ~~(h) advanced first aid for health care workers.]~~

(~~4~~5) An applicant who has met all requirements for licensure as a physical therapist except passing the FSBPT National Physical Therapy Examination-Physical Therapist may apply for licensure as a physical therapist assistant.

R156-24b-302b. Qualifications for Licensure - Examination Requirements.

(1) (a) In accordance with Subsection~~[s]~~ 58-24b-302(1) (d) ~~[(2) (d) and (3) (d), each]~~ an applicant for licensure as a physical therapist [or physical therapist assistant] who is educated in the United States shall pass the FSBPT's National Physical Therapy Examination - Physical Therapist (NPTE-PT) with a passing score as established by the FSBPT, after submitting proof [of graduation] that the applicant is in the final term of, or has graduated from, a professional physical therapist education program [that is] accredited by [a recognized accreditation agency] CAPTE.

(b) In accordance with Subsections 58-24b-302(3) (d) and (g), an applicant for licensure as a physical therapist who is educated outside the United States shall pass the FSBPT's National Physical Therapy Examination - Physical Therapist (NPTE-PT) with a passing score as established by the FSBPT, after submitting proof of compliance with Subsection 58-24b-302(3) (c).

(2) In accordance with Subsection 58-24b-302(2) (d), an applicant for licensure as a physical therapist assistant shall pass the FSBPT's National Physical Therapy Examination - Physical Therapist Assistant (NPTE-PTA), with a passing score as established by the FSBPT, after submitting proof that the applicant is in the final term of, or has graduated from, an accredited physical therapist assistant education program as defined in Subsection R156-24b-102(1) (a).

(3) (a) A passing score on the FSBPT's National Physical Therapy Examination shall be verified through ~~[a score transfer from the]~~ FSBPT.

(b) An applicant for licensure by endorsement may verify the applicant's score by providing a score transfer from FSBPT sent directly to the Division from the provider.

(~~2~~4) An applicant for licensure as a physical therapist who fails the FSBPT's ~~[National Physical Therapy Examination-Physical Therapist]~~ NPTE-PT is eligible to sit for the FSBPT's ~~[National Physical Therapy Examination-Physical Therapist Assistant]~~ NPTE-PTA after registering with

FSBPT. [~~submitting an application for licensure as a Physical Therapist Assistant.~~]

KEY: licensing, physical therapy, physical therapist, physical therapist assistant

Date of Enactment or Last Substantive Amendment: [~~December 11, 2017~~]2019

Notice of Continuation: October 6, 2016

Authorizing, and Implemented or Interpreted Law: 58-24b-101; 58-1-106(1) (a); 58-1-202(1) (a)