

COST-BENEFIT ANALYSIS

In performing a cost-benefit analysis, each rulemaking entity must provide the information requested for the cost-benefit analysis to be considered a good faith effort. The cost-benefit analysis must be submitted to the Office of Policy, Research and Regulatory Reform at least ten (10) days before the administrative hearing on the proposed rule and posted on your agency's web site. For all questions, please attach all underlying data that supports the statements or figures stated in this cost-benefit analysis.

DEPARTMENT: Department of Regulatory
Agencies (DORA)

AGENCY: Division of Professions & Occupations –
State Physical Therapy Board

CCR: 4 CCR 732-1

DATE: July 23, 2021

RULE TITLE OR SUBJECT: **PHYSICAL THERAPY RULES AND REGULATIONS**

Per the provisions of 24-4-103(2.5)(a), Colorado Revised Statutes, the cost-benefit analysis must include the following:

1. The reason for the rule or amendment:

The purpose of the proposed changes to the State Board of Physical Therapy's rules and regulations is to comply with the rule review mandated by section 24-4-103.3, C.R.S., to assess the continuing need, appropriateness, and cost-effectiveness of the rules to determine if they should be continued in their current form, modified, or repealed.

2. The anticipated economic benefits of the rule or amendment, which shall include economic growth, the creation of new jobs, and increased economic competitiveness:

New Rules – 1.1 AUTHORITY, 1.2 SCOPE AND PURPOSE, and 1.3 APPLICABILITY

The purpose of these proposed new rules is to comply with the Secretary of State's Styling Manual. The changes are technical and non-substantive, therefore there are no economic benefits of the new rules.

Current Rule – 1.1 GENERAL RULE PROVISIONS

Current Subsection (A): The purpose of these proposed rule changes is to modify the definition of "direct supervision" in current Rule 1.1(A)(2) to include direct supervision by telehealth. The anticipated economic benefits of the proposed changes include expanding the definition of direct supervision to include telehealth, which will promote economic growth, expand the available healthcare workforce to meet patient demand and thus promote a competitive marketplace in Colorado.

Current Subsection (F): The purpose of these proposed rule changes is to decrease the time that a licensee is required to report a criminal conviction, judgment, or other administrative proceeding to the Board from ninety days to thirty days. It is a violation of the Physical Therapy Practice Act ("Practice Act") if a licensee is convicted of a felony or if there is a final judgment against the licensee. (See § 12-285-120(1)(o-q), C.R.S.) It is also a violation of the Practice Act if a licensee fails to report "an adverse action, the surrender of a license, or other discipline taken in another jurisdiction. (See § 12-285-120(1)(z), C.R.S.) There are no anticipated economic benefits. The benefit is to protect consumers by allowing the Board to take regulatory action against a licensee when necessary.

Current Rule – 1.2 PHYSICAL THERAPIST LICENSURE RULES

Current Subsection (A)(2): Stakeholders are proposing to remove the restriction that a physical therapist may supervise only up to four individuals at one time who are not physical therapists to assist in the physical therapist's clinical practice. The anticipated economic benefit of removing this restriction is the creation of new jobs, and an expanded healthcare workforce to meet patient demand by allowing a licensed physical therapist to delegate tasks to non-licensed individuals.

Current Subsection (G): The purpose of these proposed rule changes are to modify the requirements to reinstate an expired license or reactivate an inactive license to reduce regulatory barriers to licensure. The anticipated economic benefit will be job growth, expansion of the healthcare workforce and thus the promotion of a competitive business environment in Colorado. Another benefit will be preserving the integrity of the marketplace and promoting a fair and competitive business environment.

Current Subsection (K): Stakeholders are proposing to update the training requirements for physical therapists who are only trained to do limited dry needling on patients, but want to expand their practice to be able to do unlimited dry needling without having to stop limited dry needling while receiving the advanced training. The anticipated economic benefits would be an expanded healthcare workforce to meet patient demand thus the promotion of a competitive business environment in Colorado.

Current Subsection (O): The purpose of these proposed changes are to modify the requirements for provisional physical therapist licenses. Stakeholders propose allowing new graduates who have passed the exam to qualify for a provisional license in order to enter the workforce immediately rather than awaiting full licensure. The anticipated economic benefit would be economic growth through the expansion of the healthcare workforce and thus the promotion of a competitive business environment in Colorado.

Current Rule – 1.3 PHYSICAL THERAPIST ASSISTANT RULES

Current Subsection (F): The purpose of these proposed rule changes are to modify the requirements to reinstate an expired license or reactivate an inactive license to reduce regulatory barriers to licensure. The anticipated economic benefit will be job growth, expansion of the healthcare workforce and thus the promotion of a competitive business environment in Colorado.

Other Proposed Non-Substantive Changes to the Rules:

- Update the introductory paragraph of each rule with the statutory authority for the promulgation of the rule. The language is consistent with other rules and regulations within the Division of Professions and Occupations.
- Change "his/her" pronouns to gender neutral terms such as "provider" or "individual."
- Remove outdated language such as "effective November 1, 2016" to clean up the rules.
- Correct usage of the "practice of physical therapy" versus the "physical therapist."

3. The anticipated costs of the rule or amendment, which shall include the direct costs to the government to administer the rule or amendment and the direct and indirect costs to business and other entities required to comply with the rule or amendment:

New Rules – 1.1 AUTHORITY, 1.2 SCOPE AND PURPOSE, and 1.3 APPLICABILITY

The purpose of these proposed new rules are technical. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Current Rule – 1.1 GENERAL RULE PROVISIONS

Current Subsection (A): The purpose of these proposed rule changes are to modify the definition of “direct supervision” in current Rule 1.1(A)(2) to include direct supervision by telehealth. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Current Subsection (F): The purpose of these proposed rule changes is to decrease the time that a licensee is required to report a criminal conviction, judgment, or other administrative proceeding to the Board from ninety days to thirty days. There is no anticipated economic benefit. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Current Rule – 1.2 PHYSICAL THERAPIST LICENSURE RULES

Current Subsection (A)(2): Stakeholders are proposing to remove the restriction that a physical therapist may supervise up to four individuals at one time who are not physical therapists to assist in the physical therapist’s clinical practice. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Current Subsection (G): The purpose of these proposed rule changes is to modify the requirements to reinstate an expired license or reactivate an inactive license to reduce regulatory barriers to licensure. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Current Subsection (K): Stakeholders are proposing to update the training requirements for physical therapists who are only trained to do limited dry needling on patients but want to expand their practice to be able to do unlimited dry needling without having to stop limited dry needling while receiving the advanced training. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Current Subsection (O): The purpose of these proposed changes is to modify the requirements for provisional physical therapist licenses to eliminate duplication of the statute. Stakeholders are proposing to remove the restriction that applicants who have passed the national examination are not eligible for a provisional license. There is no cost to administer the rule. If an applicant chooses to apply for a provisional license even though the applicant meets the requirements of licensure by examination then the applicant would be paying another application fee to apply for licensure by examination.

Current Rule – 1.3 PHYSICAL THERAPIST ASSISTANT RULES

Current Subsection (F): The purpose of these proposed rule changes is to modify the requirements to reinstate an expired license or reactivate an inactive license to reduce regulatory barriers to licensure. There is no cost to administer the rule and no direct or indirect costs to businesses or other entities.

Other Proposed Non-Substantive Changes to the Rules:

There is no cost to administer the non-substantive rule changes.

- Update the introductory paragraph of each rule with the statutory authority for the promulgation of the rule. The language is consistent with other rules and regulations within the Division of Professions and Occupations.
- Change “his/her” pronouns to gender neutral terms such as “provider” or “individual.”
- Remove outdated language such as “effective November 1, 2016” to clean up the rules.

- Correct usage of the “practice of physical therapy” versus the “physical therapist.”

4. Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness:

There will not be any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness if the Board adopts the proposed changes to the rules as outlined above and in compliance with section 24-4-103.3, C.R.S., except for Current Rule 1.2 (K). Stakeholders are proposing to update the training requirements for physical therapists who are only trained to do limited dry needling on patients but want to expand their practice to be able to do unlimited dry needling without having to stop limited dry needling while receiving the advanced training. The adverse effects on the economy and private markets of not updating the rule means that physical therapists who currently practice limited dry needling would need to cease practice of the limited dry needling until they are trained to dry needle in all areas of the body, which would decrease their earning, their employers earnings and limit the marketplace.

5. At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency or a member of the public, including the costs and benefits of pursuing each of the alternatives identified:

New Rules – 1.1 AUTHORITY, 1.2 SCOPE AND PURPOSE, and 1.3 APPLICABILITY

The purpose of these proposed new rules is to comply with the Secretary of State’s Styling Manual. The changes are technical and non-substantive, therefore there are no economic benefits of the new rules. The only alternative would be to not make the change, which would mean that the Board’s rules would not be in compliance with the Secretary of State’s Styling Manual. There would be no cost to administer these new rules.

Current Rule – 1.1 GENERAL RULE PROVISIONS

Current Subsection (A): The purpose of these proposed rule changes is to modify the definition of “direct supervision” in current Rule 1.1(A)(2) to include direct supervision by telehealth. An alternative would be to leave the rule as is, which would limit the workforce and limit access to healthcare. Another alternative would be to incorporate telehealth on a limited basis, which would decrease market competitiveness and limit access to healthcare. There would be no cost to administer this rule as written or with the proposed changes.

Current Subsection (F): The purpose of these proposed rule changes is to decrease the time that a licensee is required to report a criminal conviction, judgment, or other administrative proceeding to the Board from ninety days to thirty days. There is no anticipated economic benefit or cost. The benefit would be consumer protection by allowing the Board to take action when necessary more quickly. An alternative would be to leave the rule as is, which decreases consumer protection, or another alternative would be to require the licensee to report the criminal conviction, judgment, or other administrative proceeding on the day of the action, which puts an undue burden on licensees especially if the licensee needs to consult with an attorney about appeal rights or other legal options. There would be no cost to administer this rule as written or with either of the alternatives.

Current Rule – 1.2 PHYSICAL THERAPIST LICENSURE RULES

Current Subsection (A)(2): Stakeholders are proposing to remove the restriction that a physical therapist may supervise up to four individuals at one time who are not physical therapists to assist in the physical therapist’s clinical practice. An alternative would be to leave the rule as is or another alternative would be to increase and specify the number of individuals a physical therapist can supervise. There would be no cost

to any of these proposed options. The benefit of removing or increasing the restriction would be an expansion of the work force and would provide greater access to healthcare, especially in rural and underserved areas. There would be no cost to administer this rule as written or with either of the alternatives.

Current Subsection (G): The purpose of these proposed rule changes is to modify the requirements to reinstate an expired license or reactivate an inactive license to reduce regulatory barriers to licensure. An alternative would be to leave the rule as is or another alternative would be to limit the options by which a licensee could reinstate or reactivate an expired or inactive license. The benefits of not leaving the rule as is and of not limiting the options for reinstatement and reactivation are increased access to health care.

Current Subsection (K): Stakeholders are proposing to update the training requirements for physical therapists who are only trained to do limited dry needling on patients but want to expand their practice to be able to do unlimited dry needling without having to stop limited dry needling while receiving the advanced training. An alternative would be to leave the rule as is, which restricts licensees who are currently performing dry needling from expanding their practice without ceasing practice during the training, or another alternative would be to not require the training, which would put the public at risk.

Current Subsection (O): Stakeholders propose allowing new graduates who have passed the exam to qualify for a provisional license in order to enter the workforce immediately rather than awaiting full licensure. The only alternative would be to leave the rule as is, which prevents new graduates from being able to practice on a provisional basis following graduation. There is no additional cost to administer any of the potential options.

Current Rule – 1.3 PHYSICAL THERAPIST ASSISTANT RULES

The purpose of these proposed rule changes is to modify the requirements to reinstate an expired license or reactivate an inactive license to reduce regulatory barriers to licensure. An alternative would be to leave the rule as is or another alternative would be to limit the options by which a licensee could reinstate or reactivate an expired or inactive license. The benefits of not leaving the rule as is and of not limiting the options for reinstatement and reactivation are increased access to health care.

Other Proposed Non-Substantive Changes to the Rules:

The only alternative would be to leave the rules as is. There is no cost to administer the non-substantive rule changes.

- Update the introductory paragraph of each rule with the statutory authority for the promulgation of the rule. The language is consistent with other rules and regulations within the Division of Professions and Occupations.
- Change “his/her” pronouns to gender neutral terms such as “provider” or “individual.”
- Remove outdated language such as “effective November 1, 2016” to clean up the rules.
- Correct usage of the “practice of physical therapy” versus the “physical therapist.”