

BOARDS AND COMMISSIONS

Board of Physical Therapy (Amendment)

201 KAR 22:001. Definitions for 201 KAR Chapter 22.

RELATES TO: KRS 327.010, 327.050, 327.200

STATUTORY AUTHORITY: KRS 327.040(11)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(11) authorizes the Kentucky Board of Physical Therapy to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327 pertaining to the practice and credentialing of physical therapists and physical therapist assistants. This administrative regulation requires the definitions for 201 KAR Chapter 22.

Section 1. Definitions.

- (1) "Board" is defined by KRS 327.010(3).
- (2) "CAPTE" means Commission on Accreditation in Physical Therapy Education.
- (3) "Credential" means the license or certificate issued by the board authorizing a person to practice physical therapy.
- (4) "Credential holder" means a licensed physical therapist or certified physical therapist assistant who has met all requirements for credentialing in 201 KAR 22:020 and has been credentialed by the board.
- (5) "Credentialing" means the process of licensing or certifying an applicant by the board.
- (6) "Direct supervision" means:
 - (a) The physical therapist or physical therapist assistant:
 1. Is immediately available to direct and supervise tasks that are related to direct patient care; and
 2. Provides line of sight direction and supervision the majority of the time per visit for each patient when these tasks are performed; and
 - (b) Supervision is not provided by electronic communication.
- (7) "Electronic communication" means:
 - (a) Any transfer of signs, signals, writing, images, sounds, data, information, or intelligence of any nature transmitted by computer or via the internet in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system; and
 - (b) The science and technology of the exchanging of information over any distance by electronic transmission of impulses including activities that involve using electronic communications to store, organize, send, retrieve, or convey information.
- (8) "Endorsement" means a method of application which is utilized by an applicant credentialed by another jurisdiction.
- (9) "Examination" means a board-approved examination that an applicant successfully passes as a requirement for credentialing.
- (10) "Full time" means employment for forty (40) hours a week.
- (11) "Inactive status" means a credential that is inactive and the credential holder is not engaged in the practice of physical therapy.
- (12) "Jurisdiction" means a licensing authority in a state or territory of the U.S.
- (13) "NPTE" means the National Physical Therapy Examination for physical therapists and physical therapist assistants.
- (14) "On-site supervision" means immediate physical accessibility within the same building.
- (15) "Patient" means any person for whom physical therapy is provided.
- (16) "Physical therapist" is defined by KRS 327.010(2).

- (17) "Physical therapist assistant" means a skilled health care worker certified by the board who performs physical therapy and related duties as assigned by the supervising physical therapist.
- (18) "Physical therapist student" or "physical therapist assistant student" means a person who meets the requirements of KRS 327.050(10)(a).
- (19) "Physical therapy" is defined by KRS 327.010(1).
- (20) "Physical therapy student services" means services provided by a physical therapist student or physical therapist assistant student, as part of the student's educational program, and are considered as provided by the supervising physical therapist or physical therapist assistant.
- (21) "Reinstatement of a credential" means a renewal of a license that has lapsed.
- (22) "Sexual Misconduct" includes but is not limited to:
- (a) engaging in sexual conduct, sexual contact, or soliciting a sexual relationship with a current patient, whether consensual or nonconsensual; or
 - (b) intentionally exposing or viewing a completely or partially disrobed patient in the course of treatment if the exposure or viewing is not related to patient diagnosis or treatment under current practice standards.
- (23) "Sexual Harassment" means behavior characterized by the making of unwelcome and inappropriate sexual remarks, communications (whether in person or via any electronic or other means), or physical advances.
- (24) ~~{(22)}~~ "Supervising physical therapist" means the physical therapist who is supervising the care of a patient who is being treated by a physical therapist assistant or supportive personnel.
- (25) ~~{(23)}~~ "Supportive personnel" means a person assisting in the provision of direct physical therapy patient care who is not credentialed by the board and is not a physical therapist student or physical therapist assistant student.
- (26) ~~{(24)}~~ "Telehealth" is defined by KRS 327.200(3).
- (27) ~~{(25)}~~ "Telephysical therapy" means physical therapy between the credential holder and the patient who are not at the same physical location using interactive, secure, synchronous audio, and synchronous videoconferencing technology.
- (28) ~~{(26)}~~ "Verification" means the process of verifying a lawful credential.

STEPHEN CURLEY, Executive Director

APPROVED BY AGENCY: November 18, 2021.

FILED WITH LRC: January 14, 2022 at 9:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2022, at 2:00 p.m. (ET). Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. All individuals who notify this agency in writing at least five workdays prior to this hearing shall be notified whether the hearing will be held virtually by video teleconference or in person at the Board's office, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. If no notification of intent to attend the hearing is received in writing by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 429-7140, fax (502) 429-7142, email stephen.curley@ky.gov; and M. Keith Poynter, General Counsel, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 210-7112, fax (502) 584-5055, email MartinK.Poynter@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation requires the definitions for 201 KAR Chapter 22.

(b) The necessity of this administrative regulation:

This administrative regulation requires the definitions for 201 KAR Chapter 22.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

It defines words and phrases within 201 KAR Chapter 22.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It defines words and phrases within 201 KAR Chapter 22.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment adds additional definitions and phrases relating to 201 KAR Chapter 22.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to define additional words and phrases added by the proposed 201 KAR 22.053 changes.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment defines words and phrases within 201 KAR Chapter 22.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment defines words and phrases within 201 KAR Chapter 22.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Approximately 6,515 physical therapists and physical therapist assistants.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The regulated entities identified in question (3) will not be required to do anything to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Nothing

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

As a result of compliance the entities identified in (3) will better understand 201 KAR Chapter 22.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

No new costs will be incurred by the change.

(b) On a continuing basis:

No new costs will be incurred by the change.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

None

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There will be no increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

This regulation does not change the fees directly or indirectly.

(9) TIERING: Is tiering applied?

Tiering was not used in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

This administrative regulation will impact physical therapists and physical therapist assistants credentialed by the board.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 327.040; and 201 KAR Chapter 22.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year?

None.

(d) How much will it cost to administer this program for subsequent years?

None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: