

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/CS/HB 799 (CS/SB 1228)	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Education Committee; Health Care Appropriations Subcommittee; Health & Human Services Quality Subcommittee; Goodson and others (Health Regulation; Montford)	117 Y's	0 N's
COMPANION BILLS:	CS/SB 1228	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 799 passed the House on February 29, 2012. The bill was amended by the Senate on March 9, 2012, and subsequently passed the House on March 9, 2012. The bill provides the Board of Physical Therapy Practice (board) within the Department of Health (DOH) the authority to grant a temporary permit to an individual who has graduated from a physical therapy training program as a physical therapist or a physical therapist assistant. The bill requires the board to issue a temporary permit to an applicant for temporary permit if he or she meets the following requirements:

- Completes an application for a temporary permit on a form approved by DOH;
- Meets all the eligibility requirements for licensure, except passage of a national examination approved by the board;
- Submits an application for licensure;
- Demonstrates proof of possessing malpractice insurance; and
- Submits documentation, under rules adopted by the board, verifying that the applicant will practice under the direct supervision of a licensed physical therapist.

A temporary permit is not renewable and is valid until a license is granted by the board. A temporary permit is void if the permittee does not pass the national examination within 6 months after the date of graduation from a physical therapy training program. A temporary permit holder must practice under the direct supervision of a licensed physical therapist.

A supervising physical therapist must be licensed for at least 6 months before the supervision period begins and may only supervise one temporary permit holder at any given time. Furthermore, the supervising physical therapist must cosign all patient records produced by a person who holds a temporary permit.

The bill has an insignificant fiscal impact that can be absorbed within existing DOH resources.

The bill was approved by the Governor on April 6, 2012, ch. 2012-69, Laws of Florida. The effective date of this bill is June 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.¹ Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Section 456.011(3), F.S., provides that a board must meet at least once annually, but may meet as often as necessary. According to the MQA website, it appears that the Board of Physical Therapy Practice (board)² meets every 3 months, or 4 times a year.³ The 2012 board meeting dates are: February 2-3; May 3-4; August 2-3; and November 2-3.⁴ According to DOH, the board does not ratify or approve licenses at every meeting.⁵

Physical Therapy Practice

Physical therapy is the performance of physical therapy assessments and treatment, or prevention of any disability, injury, disease, or other health condition of human beings and rehabilitation as it relates to the use of various modalities such as exercise, massage, ultrasound, ice, and heat.⁶

Physical therapy practitioners are regulated by ch. 486, F.S., the Physical Therapy Practice Act. A physical therapy practitioner is considered either a physical therapist (PT) or a physical therapist assistant (PTA) who is licensed and who practices physical therapy.⁷

Currently, Florida law does not authorize DOH to issue temporary permits to a physical therapy practitioner. Prior to 1999, Florida law allowed temporary permits for an applicant who submitted an application that included a statement under oath that he or she possesses the preliminary qualifications for a full license except passage of the national examination. Along with the application, applicants were required to remit a fee not to exceed \$100, and an additional fee to cover the cost the department incurred to purchase the examination from the national examination organization. Temporary permittees were required to work under the direct supervision of a licensed physical therapist. The temporary permit was valid for up to a year and was not renewable. A temporary permit automatically

¹ Section 456.001, F.S.

² Section 486.021, F.S.

³ Florida Department of Health, Division of Medical Quality Assurance, Physical Therapy Board Meeting Information, available at: http://www.doh.state.fl.us/mqa/physical/pt_meeting.html (last viewed January 14, 2012).

⁴ *Id.*

⁵ Email correspondence with DOH staff, dated January 14, 2012, on file with Health & Human Services Quality Subcommittee staff.

⁶ Section 486.021(11), F.S.

⁷ Section 486.021(7), F.S.

expired if an applicant failed the national examination.⁸ In 1999, the Legislature repealed the ability for DOH to issue a temporary permit for a physical therapy practitioner.⁹ According to the board, the authority to issue a temporary permit was eliminated to prevent the practice of physical therapy by unqualified individuals to ensure public protection.¹⁰ Moreover, at that time, the National Physical Therapy Examination (NPTE) was moved to a computer-based testing and exams scores were readily available to the states, which lessened the timeframe in which a permanent license was issued.¹¹ Currently, 26 states issue temporary permits.¹²

Currently, 11,295 PTs and 5,735 PTAs hold active in-state license to practice in Florida.¹³

Section 456.072, F.S., provides grounds for disciplinary actions for all licensees¹⁴ regulated by MQA to include physical therapy practitioners. These disciplinary guidelines include provisions requiring health care practitioners to identify through written notice, which may include the wearing of a name tag, or stating orally to a patient the type of license under which a health care practitioner is practicing.¹⁵

The following schools offer accredited PT programs in Florida:¹⁶

- Florida Agricultural and Mechanical University
- Florida Gulf Coast University
- Florida International University
- Nova Southeastern University
- University of Central Florida
- University of Florida
- University of Miami
- University of North Florida
- University of South Florida
- University of St Augustine for Health Sciences

The following schools offer accredited PTA programs in Florida:¹⁷

- Broward College
- College of Central Florida
- Daytona State College

⁸ Sections 158-161, ch. 99-397, L.O.F.

⁹ *Id.*

¹⁰ Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 799, dated January 26, 2012, on file with Health Care Appropriations Subcommittee staff.

¹¹ Email correspondence with PT Board staff, dated January 17, 2012, on file with Health & Human Services Quality Subcommittee staff.

¹² ALA. CODE §34-25-215 (2011), ALASKA STAT. § 08.84.065 (2011), CAL. HEALTH & SAFETY §1399.10 (2011), CONN. GEN. STAT. §20-74 (2011), DEL. CODE ANN. §2611 (2011), D.C. CODE §6711 (2011), HAW. CODE R. §461J-9 (2011), IND. CODE §25-27-1-8 (2011), KAN. STAT. ANN. §65-2929 (2011), LA. REV. STAT. ANN. § 172 (2011), MINN. STAT. § 148.7 (2011), MISS. CODE ANN. § 73-25-53 (2011), MO. CODE REGS. ANN. tit. 20 § 2150-3.050 (2011), MONT. CODE ANN. §37-11-105 (2011), NEV. REV. STAT. ANN. §640.095 (2011), N.M. CODE R. §16.20.4.8 (2011), N.Y. PUB. HEALTH §6735 (2011), OKLA. STAT. ANN. §887.10 (2011), OR. REV. STAT. § 668.110 (2011), PA. CONST. STAT. §40.22 (2011), R.I. GEN. LAWS § R5-40-5.5 (2011), Tex. HEALTH & SAFETY CODE ANN. §453.210 (2011), VT. STAT. §2105 (2011), W. VA. CODE ANN. §16-1-16 (2011), and WIS. STAT. §448.53 (2011).

¹³ Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 MQA Annual Report, *available at* <http://doh.state.fl.us/mqa/reports.htm> (last viewed January 14, 2012).

¹⁴ Licensee means any person or entity issued a permit, registration, certificate, or license, including a provisional license, by DOH. See 456.001(6), F.S.

¹⁵ Section 456.072(1)(t), F.S.

¹⁶ Commission on Accreditation in Physical Therapy Education, Accredited Physical Therapy and Physical Therapy Assistant Programs, available at: <http://www.capteonline.org/apta/directories/accreditedschools.aspx?type=PT&navID=10737421958#FL> (last viewed January 19, 2012).

¹⁷ Commission on Accreditation in Physical Therapy Education, Accredited Physical Therapy and Physical Therapy Assistant Programs, available at: <http://www.capteonline.org/apta/directories/accreditedschools.aspx?navID=10737421958&site=capte> (last viewed February 06, 2012).

- Florida Gateway College
- Florida State College at Jacksonville
- Gulf Coast State College
- Herzing University
- Indian River State College
- Keiser University – Ft. Lauderdale
- Keiser University – Sarasota
- Miami Dade College
- Pensacola State College
- Polk State College
- Seminole State College of Florida
- South University – Tampa
- St. Petersburg College
- State College of Florida

Generally, in Florida graduation occurs in the beginning of December (Fall graduation) and the end of April (Spring graduation).¹⁸

National Physical Therapy Examination

The board has approved the National Physical Therapy Examination (NPTE) developed by the Federation of State Boards of Physical Therapy (Federation) as the licensure examination required for state licensure.¹⁹

The Federation develops and administers the NPTE for both physical therapists and physical therapist assistants in 53 jurisdictions – the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. These exams assess the basic entry-level competence for first time licensure or registration as a PT or PTA within the 53 jurisdictions.²⁰ In addition, the Federation develops and administers jurisprudence examinations. Currently, the Federation offers jurisprudence exams for Alabama, Arizona, California, District of Columbia, Florida, Georgia, Nebraska, and Ohio.

The NPTE program has three purposes:²¹

1. Provide examination services to regulatory authorities charged with the regulation of physical therapists and physical therapist assistants;
2. Provide a common element in the evaluation of candidates so that standards will be comparable from jurisdiction to jurisdiction; and
3. Protect the public interest in having only those persons who have the requisite knowledge of physical therapy be licensed to practice physical therapy.

The PT and PTA examinations are designed to assess basic entry-level competence of the licensure candidate who has graduated from an accredited program or from an equivalent non-accredited program.²²

¹⁸ Review of the academic calendars available on-line for a few of the listed PT and PTA accredited institutions. See Academic calendars for the following institutions: <http://www.famu.edu/index.cfm?Registrar&Calendars> , <http://www.fgcu.edu/Registrar/calresults.asp?termID=44>, and <http://calendar.fiu.edu/events/index/calendar:academic/> (last viewed January 14, 2012).

¹⁹ Rules 64B17-4.002 and 64B17-3.002, F.A.C.

²⁰ The Federation of State Boards of Physical Therapy, Welcome, available at: <https://www.fsbpt.org/index.asp> (last viewed January 14, 2012).

²¹ The Federation of State Boards of Physical Therapy, National Physical Therapy Examination, available at: <https://www.fsbpt.org/ForCandidatesAndLicensees/NPTE/> (last viewed January 14, 2012).

²² *Id.*

According to the Federation, each licensing authority establishes its own criteria for eligibility to sit for the PT and PTA examinations. Each licensing authority approves eligibility and notifies the Federation. Florida sends a "Letter of Completion" to the Federation as proof of eligibility to sit for the NPTE. The Federation will send an "Authorization to Test" letter providing candidates a timeframe that they are eligible to sit for the NPTE and instructions on how to schedule an appointment with a Prometric testing site.²³ There are approximately 300 Prometric testing centers in the United States.²⁴

Scores are automatically reported to the jurisdictional licensing authority through which a candidate applies for initial licensure. After an initial license is received a candidate may want to become licensed in additional jurisdictions. Most jurisdictions require a score be transferred by the Federation to ensure that the score is authentic. Transfer of scores on the NPTE may be requested any time after taking the examination.²⁵

Florida and eighteen other states including the District of Columbia allow applicants to sit for the NPTE prior to graduation.²⁶ Florida allows students to sit for the exam prior to graduation as long as they have completed all coursework and a clinical internship.²⁷ The clinical internship encompasses approximately 40 weeks or 1600 hours.²⁸ Section 486.031, F.S., requires proof of graduation prior to licensure but does not indicate what is required to be approved for examination. So, the board has interpreted this to mean that as long as there isn't anything outstanding, applicants may sit for the NPTE.²⁹ According to the board, usually there is a lag time, of about 2-3 weeks, between completing a program of study and having a degree conferred. To expedite the process, the board issues a letter of completion.³⁰ However, before the board sends a letter of completion, the board must receive a letter of completion from the physical therapy program director indicating an applicant's graduation date, the anticipated degree that will be awarded, and the student's official school transcripts.

Testing Availability and Passage Rate

The Federation will stop offering continuous testing in order to address security concerns and protect the integrity of the NPTE. On June 30, 2011, the Federation stopped offering continuous testing for PTs.³¹ Beginning February 29, 2012, the Federation will stop offering continuous testing for PTAs.³² The Federation plans on maintaining fixed-date testing indefinitely for both the PT and PTA exams.³³

According to the Federation, five testing dates will be offered in 2012 for the PT NPTE.

Test Date	Scores Reported to Jurisdictions
January 30, 2012	February 6, 2012
March 29, 2012	April 5, 2012

²³ *Id.*

²⁴ The Federation of State Boards of Physical Therapy, NPTE Frequently Asked Questions, available at: <https://www.fsbpt.org/ForCandidatesAndLicensees/NPTE/FAQs/index.aspx> (last viewed January 14, 2012).

²⁵ The Federation of State Boards of Physical Therapy, Welcome to the Candidate and Licensee Services Website, available at: <https://pt.fsbpt.net/> (last viewed January 14, 2012)

²⁶ The states that allow PT or PTA students to take the NPTE prior to graduation include: Alabama, Connecticut, Florida, Hawaii, Iowa, Louisiana, Michigan, Minnesota, Mississippi, New Hampshire, New Mexico, New York, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Utah, and Virginia. See The Federation of State Boards of Physical Therapy, Jurisdictional Licensure Reference Guide, available at: <https://www.fsbpt.org/RegulatoryTools/ReferenceGuide/> (last viewed January 18, 2012)

²⁷ Email correspondence with PT Board staff, dated January 18, 2012, on file with the Health & Human Services Quality Subcommittee staff.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² The Federation of State Boards of Physical Therapy, Fixed-date testing information for the PT and PTA NPTE, available at: <https://www.fsbpt.org/ForCandidatesAndLicensees/FixedDateTesting/> (last viewed January 14, 2012).

³³ *Id.*

July 2, 2012	July 10, 2012
July 31, 2012	August 7, 2012
October 23, 2012	October 30, 2012

According to the Federation, three testing dates will be offered in 2012 for the PTA NPTE. Furthermore, the Federation believes that the three dates chosen will accommodate PTA graduation dates and provide relatively evenly-spaced retake opportunities.

Test Date	Scores Reported to Jurisdictions
April 26, 2012	May 3, 2012
July 17, 2012	July 24, 2012
October 30, 2012	November 6, 2012

Sections 486.051 and 486.104, F.S., provide that if an applicant fails to pass the NPTE examination in 3 attempts then the applicant is not eligible for reexamination without completing additional educational or training requirements. If the applicant fails after 5 attempts then the applicant is no longer eligible to take the examination.³⁴

The Florida pass rate of the NPTE exam provided below. The information provided is derived by DOH from quarterly statistics provided by the Federation.³⁵

Physical Therapy Examination

Category of Candidate	4th Quarter 2011: Oct to Dec				3rd Quarter 2011: July to Sept			
	National		Florida		National		Florida	
	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing
All	3003	41%	182	45%	2388	60%	130	56%
US educated	1481	65%	96	66%	1664	77%	93	68%
Non-US educated	1522	18%	86	22%	724	19%	37	27%
First time	1252	61%	76	50%	1287	82%	58	72%
Retake	1751	26%	106	42%	1101	34%	72	43%
First time US Accredited	841	81%	44	70%	1160	87%	48	81%
First time Non-US Accredited	411	21%	32	22%	127	28%	10	30%

Source: DOH, Board of Physical Therapy Practice

³⁴ Sections 486.051 and 486.104, F.S.

³⁵ Email correspondence with PT Board staff, dated January 17, 2012, on file with Health & Human Services Quality Subcommittee staff.

Physical Therapist Assistant Examination

Category of Candidates	4th Quarter 2011: Oct to Dec				3rd Quarter 2011: July to Sept			
	National		Florida		National		Florida	
	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing	Number Tested	Percent Passing
All	2039	65%	180	76%	2910	76%	206	74%
US educated	1799	67%	180	76%	2748	77%	206	74%
Non-US educated	240	55%	0	NA	162	94%	0	NA
First Time	1241	77%	110	85%	2296	83%	117	84%
Retake	798	47%	70	60%	614	51%	89	61%
First time US Accredited	1219	78%	110	94%	2284	83%	117	84%
First time Non-US Accredited	22	41%	0	NA	12	17%	0	NA

Source: DOH, Board of Physical Therapy Practice

Effects of Proposed Changes

The bill provides the board within the DOH the authority to grant a temporary permit to an individual who has graduated from an physical therapy training program as a PT or a PTA. The bill requires the board to issue a temporary permit to an applicant for temporary permit if he or she meets the following requirements:

- Completes an application for a temporary permit on a form approved by DOH;
- Meets all the eligibility requirements for licensure, except passage of a national examination approved by the board;
- Submits an application for licensure;
- Demonstrates proof of possessing malpractice insurance; and
- Submits documentation, under rules adopted by the board, verifying that the applicant will practice under the direct supervision of a licensed PT.

A temporary permit is not renewable and is valid until a license is granted by the board. A temporary permit is void if the permittee does not pass the national examination within 6 months after the date of graduation from a physical therapy training program. A temporary permit holder must practice under the direct supervision of a licensed PT.

A supervising PT must be licensed for at least 6 months before the supervision period begins and may only supervise one temporary permit holder at any given time. Furthermore, the supervising PT must cosign all patient records produced by a person who holds a temporary permit.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None identified.

2. Expenditures:

None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified.

D. FISCAL COMMENTS:

The bill does not authorize a fee to cover regulatory expenses involved in issuing a temporary permit. Last fiscal year the department issued 527 PTA and 887 PT initial licenses.³⁶ For the purpose of this analysis, it is assumed that there will be approximately 1,414 individuals annually who are eligible for a temporary permit to practice as a physical therapist practitioner.

Currently, four professions within MQA are authorized to have temporary permits.³⁷ For these professions, the temporary permit process is directly tied to the application processing for full licensure. Therefore, a single application is used for both the temporary permit and full licensure. In this situation, the applicant simply indicates by checking the appropriate box on the application that they wish to receive a temporary permit. Should temporary permits be reinstated for physical therapy, the board anticipates using the same procedure that is used to process physical therapy practitioner applications. DOH has indicated that a separate fee for temporary permits would not be required, as the costs could be absorbed within the current fee structure.³⁸

Additionally, DOH states that any increase in workload and the non-recurring cost associated with rulemaking or modifications to the Customer Oriented Medical Practitioner Administration System (COMPAS) licensure system may be absorbed within current resources and budget authority.³⁹

³⁶ Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at* <http://doh.state.fl.us/mqa/reports.htm> (last viewed January 14, 2012).

³⁷ E-mail correspondence with PT Board staff, dated January 19, 2012, on file with Education Committee staff. The Board of Physical Therapy Practice is authorized to issue permits to the following four professions: Electrology, Dietetics and Nutrition, Nursing Home Administrator, and Occupational Therapy.

³⁸ Email correspondence with PT Board staff, dated January 26, 2012, on file with Health Care Appropriations Subcommittee staff.

³⁹ Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 799, dated January 26, 2012, on file with Health Care Appropriations Subcommittee staff.