



TO: The Honorable Members of the Board of Regents

FROM: David H. Hamilton *David H. Hamilton*

SUBJECT: Proposed Amendment of Sections 52.43 and 77.1 of the Regulations of the Commissioner of Education Relating to the Education Requirements for Licensure as a Physical Therapist

DATE: September 26, 2024

AUTHORIZATION(S):

Don P. Bellotti

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents amend sections 52.43 and 77.1 of the Regulations of the Commissioner of Education relating to the education requirements for licensure as a physical therapist?

Reason for Consideration

Required by State statute (Chapter 594 of the Laws of 2023).

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the October 2024 meeting of the Board of Regents. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the Professional Practice Committee for discussion at the June 2024 meeting of the Board of Regents. A Notice of Proposed Rule Making was published in the State Register on June 26, 2024, for a 60-day public comment period.

Following publication in the State Register, the Department received comments from two commenters on the proposed amendment. An Assessment of Public Comment (Attachment B) is attached. No changes to the proposed amendment are recommended at this time. If adopted at the October 2024 meeting, a Notice of Adoption will be published

in the State Register on October 23, 2024. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Since approximately 2006, all New York education programs in physical therapy have been registered to award the Doctor of Physical Therapy (DPT). The doctorate is the national standard for accredited programs and for licensure as a physical therapist in New York and other jurisdictions. Physical therapists graduating from doctorate level programs receive extensive training in the evaluation of patients' condition. This education prepares physical therapists to treat and rehabilitate a broad range of neuromusculoskeletal injuries and are an integral part of New York's health care system.

Education Law §6734 currently requires an applicant for licensure as a physical therapist to receive a master's or higher degree in physical therapy or an equivalent degree, as determined by the Department. To conform New York's physical therapist education program licensure requirements with national standards and the current requirements of New York education programs, Chapter 594 of the Laws of 2023 (Chapter 594), effective October 25, 2024, amends the Education Law to require a doctoral degree in physical therapy for licensure or the equivalent as determined by the Department, rather than a master's degree or higher. Additionally, Chapter 594 clarifies that the amendment shall not be construed to affect the validity of existing licenses and permits.

Proposed Amendment

The proposed amendment of sections 52.43 and 77.1 of the Commissioner's regulations implements Chapter 594 by replacing the prior requirement of a master's degree or higher in physical therapy with the requirement of a doctoral degree in physical therapy, or the equivalent, as a requirement for licensure.

Related Regents Items

[June 2024: Proposed Amendment of Sections 52.43 and 77.1 of the Regulations of the Commissioner of Education Relating to the Education Requirements for Licensure as a Physical Therapist](https://www.regents.nysed.gov/sites/regents/files/624ppcd1revised.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/624ppcd1revised.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That sections 52.43 and 77.1 of the Regulations of the Commissioner of Education be amended, as submitted, effective October 25, 2024.

Timetable for Implementation

If adopted at the October 2024 meeting, the proposed rule will become effective as a permanent rule on October 25, 2024.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6731, and 6734 of the Education Law and Chapter 594 of the Laws of 2023.

1. Subdivision (b) of section 52.43 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Curriculum. In addition to meeting all applicable provisions of this Part, to be registered as a program leading to licensure in physical therapy which meets the requirements of section 77.1 of this Title, the program shall result in a [master's or higher] doctoral degree in physical therapy or its equivalent, and shall require the student to have completed [at least 150 semester credit hours or its equivalent of postsecondary study, including] a total of 90 semester credit hours, or their equivalent, in the following areas:

- (1) basic health sciences;
- (2) medical sciences;
- (3) clinical sciences: examination and evaluation;
- (4) clinical sciences: interventions;
- (5) related professional; and
- (6) clinical education.

2. Subdivision (b) of section 77.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) To meet the professional education requirement for licensure in this State, the applicant shall present evidence of:

(1) a [master's or higher] doctoral degree in physical therapy from a program registered by the department or accredited by an acceptable accrediting agency, or determined by the department to be the equivalent. [; or

(2) completion of a program satisfactory to the department which is substantially equivalent to a master's degree program in physical therapy registered by the department and which culminates in the degree or diploma accepted by the civil authorities of the country in which the studies were completed as satisfying the educational requirements for the practice of physical therapy in that country.]

ASSESSMENT OF PUBLIC COMMENT

Following the publication of a Notice of Proposed Rule Making in the State Register on June 26, 2024, the State Education Department received the following comments on the proposed regulation:

1. COMMENT: The New York (NY) Chapter of a national physical therapy association expressed support for proposed rule, which is necessary to implement Chapter 594 of the Laws of 2023 (Chapter 594).

The commenter states that it strongly supported the enactment of the underlying legislation in 2023, which updated the educational requirements for licensure as a physical therapist to require completion of a doctoral degree.

According to the commenter, since 2006, all NY physical therapy educational programs have been at the Doctor of Physical Therapy (DPT) degree level. The commenter further asserts that the DPT is also the education level required for program accreditation by the Commission on Accreditation in Physical Therapy Education, the national accrediting agency for physical therapy education programs. The commenter states that the DPT degree requires that physical therapists graduate with advanced course study in biology, physiology, neuroscience, pathology, clinical reasoning, and differential diagnosis, ensuring that physical therapists practicing in NY are meeting the current practice standards.

DEPARTMENT RESPONSE: The comments are supportive. No changes to the proposed rule are necessary.

2. COMMENT: On behalf of its members, a state association for county health officials expressed concerns about the effect the proposed rule may have on provider

capacity for approved preschool education programs pursuant to Education Law §4410 (4410 programs) and Early Intervention (EI) programs.

According to the commenter, NY's 4410 and EI programs are experiencing significant provider shortages in many areas of the state, which it asserts is due to several factors, including the level of qualification required to provide these services in NY. The commenter also asserts that a shortage of providers results in longer wait times for assessments and services for eligible children, delayed service coordination, and increased transportation costs for families, counties, and providers. The commenter stated that these delays and barriers to receiving services ultimately puts children at risk of exacerbated developmental delays at a critical juncture for needed interventions.

The commenter expresses concern that requiring a Doctorate degree in PT for a license would create barriers that would dissuade new providers from pursuing careers that serve children eligible for 4410 and/or EI programs.

While the commenter acknowledges that the proposed rule is necessary to conform to changes in the state law, it asserts that the regulatory impact statement fails to provide an adequate assessment of the possible impacts on provider capacity to the already strained 4410 and EI programs and request that further review and assessment of current availability of PTs and the potential impact for these programs be conducted and provided to the public prior to adopting a final regulation.

The commenter also believes that this impact could be mitigated through additional rate increases for both 4410 and EI providers, while maintaining cost neutrality to counties. According to the commenter, this would ensure that early career PTs, who would now be required to obtain an advanced degree, be able to provide services in these publicly funded programs given the additional educational costs that would now be necessary to practice PT in NY.

Finally, the commenter urges the Department to explore the feasibility of these state-funded rate increases and to coordinate with the New York State Department of Health's Bureau of Early Intervention (BEI) on this topic to ensure that this proposed rule and any others like it do not further deter professionals from pursuing 4410 and/or EI programs for employment.

DEPARTMENT RESPONSE: Presently, Education Law §6734 requires an applicant for licensure as a physical therapist to receive a master's or higher degree in physical therapy or an equivalent degree, as determined by the Department. To conform New York's physical therapist education program licensure requirements with national standards and the current requirements of NY's education programs, Chapter 594 of the Laws of 2023 (Chapter 594), effective October 25, 2024, amends the Education Law to require a doctoral degree in physical therapy for licensure or the equivalent as determined by the Department, rather than a master's degree or higher.

The proposed rule's education requirements for physical therapy licensure are consistent with the amendments made to statute by Chapter 594. The Department does not anticipate that the statutory amendment, and conforming regulatory amendment, will create barriers that would dissuade new providers from pursuing careers that serve children eligible for 4410 and/or EI programs.

Since approximately 2006, all NY physical therapy education programs have been registered to award the Doctor of Physical Therapy (DPT). The doctorate is the national standard for accredited programs and for licensure as a physical therapist in NY and other jurisdictions. Physical therapists graduating from doctorate level programs receive extensive training in the evaluation of patients' condition. This education prepares physical therapists to treat and rehabilitate a broad range of neuromusculoskeletal injuries and are an integral part of NY's health care system. Thus,

since approximately 2006, all physical therapist having been attending education programs which award a DPT.

Additionally, Chapter 594 clarifies that the amendment shall not be construed to affect the validity of existing licenses and permits. Therefore, current licenses that do not have a DPT would not be required to obtain a DPT.

The comment regarding rate increases for both 4410 and EI providers commenters is beyond the scope of the proposed rule. Moreover, any resulting impact from the doctoral degree requirement does not stem from the regulatory change but instead from an act of the legislature. Therefore, no changes are necessary.