

2nd Draft Pre-Notice Rule Changes

Prior to starting formal rulemaking action, the Iowa Board of Physical & Occupational Therapy is seeking input from the public on draft changes to the supervision requirements for Physical Therapy and Occupational Therapy. The Iowa Board of Physical & Occupational Therapy is requesting comments be submitted by February 5, 2018.

Comments may be submitted via mail, email, or fax to:

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The proposed amendments revise the supervision requirements for physical therapy, add requirements for physical therapy supervision by telehealth, change the limit on the number of physical therapist assistants that can be supervised by a physical therapist per calendar day, revise the minimum frequency of PT interaction, add requirements for occupational therapy supervision by telehealth, and revise the minimum frequency requirements for OT interaction.

Following the cover page are a list of possible scenarios that explain how the Board intends to interpret the PT/PTA supervision ratio as proposed in 200.6(5).

Scenario: PT rotates between 5 different nursing homes each week—the PT goes to one each day of the week. There is 1 PTA at each location who works at the nursing home Monday-Friday. Each day of the week, the PT is supervising 5 PTAs (the maximum) because not only is the PT supervising the PTA that is working on-site at the particular nursing home, but the PT is supervising the other 4 PTAs who are performing delegated services at the remaining 4 nursing homes.

Scenario: PT practicing telehealth out of an office location, with PTAs throughout the state who go to patients' homes. If the PT is only supervising the PTAs that are present during the telehealth visit, the PT could use up to 5 different PTAs in one day, but no other PTAs could be performing any delegated services on behalf of the PT.

Clinical Scenario: Supervising PT evaluates Ms. Jones at Clinic A on Monday. Supervising PT delegates physical therapy tasks to PTA on Monday and directs PTA to perform those tasks with Ms. Jones 4 more days that week. The Supervising PT does not participate in treatment of Ms. Jones the rest of the week. The Supervising PT is available to PTA telephonically, if needed, each of the 4 days PTA provides treatment to Ms. Jones. However, Ms. Jones' treatments go well and Supervising PT and PTA do not speak via telecommunication the rest of the week. Despite a lack of direct participation in treatment of Ms. Jones and despite the fact that there was no telephonic discussion with PTA on the 4 days that treatment was provided by PTA, it does NOT mean Supervising PT was not responsible for supervising PTA on each day PTA delivered treatment to Ms. Jones. The PT who delegates tasks to a PTA pursuant to a plan of care remains responsible for the PTA's delivery of those services per proposed Rule 200.6(3).

Clinical Scenario: Supervising PT is a PRN employee for 5 Home Health Companies in Iowa. On Monday, Supervising PT evaluates and creates a physical therapy plan of care for 1 patient for each of the 5 Home Health Companies. Each Home Health company employs a different PTA. Supervising PT delegates physical therapy tasks to each of the 5 PTA's for each of the 5 home health patients. Supervising PT directs each PTA to provide delegated treatments to each assigned patient the rest of the week.

The same Supervising PT is also employed as a PRN employee of 5 Skilled Nursing Facilities ("SNF") in Iowa. On Tuesday, Supervising PT evaluates and creates a physical therapy plan of care for 1 resident at each of the 5 SNFs. Each SNF employs a different PTA. Supervising PT delegates physical therapy tasks to each of the 5 PTA's for each of the 5 SNF patients. Supervising PT directs each PTA to provide delegated treatments to each assigned residents the rest of the week.

On Wednesday, Supervising PT has the day off. He does not intend to work for any of the 5 Home Health or 5 SNF companies. However, on this day, each of the 5 home health patients evaluated by Supervising PT on Monday is treated by the 5 PTA's employed by the Home Health Company. Likewise, each of the 5 SNF residents evaluated by Supervising PT on Tuesday is treated by the 5 PTA's employed by the SNF.

Supervising PT did not make arrangements with another PT to supervise any PTA.

The Supervising PT that created the physical therapy plan of care for each of the 10 patients treated by the 10 PTA's on Wednesday remains accountable as the supervising PT per proposed Rule 200.6(1). It does not matter that the Supervising PT has Wednesday off. Supervising PT is in violation of proposed Rule 200.6(5) for supervising more than the maximum of 5 PTA's on a given calendar day. This is so because, on Wednesday, Supervising PT is, by rule, supervising 10 PTA's due to all 10 delivering delegated services. This is true regardless if Supervising PT actually speaks with any of the 10 PTA's.

PROFESSIONAL LICENSURE[645]

2nd Draft Pre-Notice for Consideration

Pursuant to the authority of Iowa Code Section 147.76, the Iowa Board of Physical and Occupational Therapy hereby gives Notice of Intended Action to amend Chapters 200, “Licensure of Physical Therapists and Physical Therapist Assistants” and Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants”, Iowa Administrative Code.

This proposed amendments revise the supervision requirements for physical therapy, add requirements for physical therapy supervision by telehealth, change the limit on the number of physical therapist assistants that can be supervised by a physical therapist per calendar day, revise the minimum frequency of PT interaction, add requirements for occupational therapy supervision by telehealth and revise the minimum frequency requirements for OT interaction.

Any interested person may make written comments on the proposed amendments no later than XXXX, 2018, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; Email Judith.manning@idph.iowa.gov.

A public hearing will be held on XXXX, 2018, from [time to time] in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

After analysis and review of this rule making, no impact on jobs has been found.

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver

provisions accorded under 645—IAC Chapter 18 “Waivers or Variances From Administrative Rules.”

This amendment is intended to implement Iowa Code Chapters 147, 148A, and 272C.

The following amendment is proposed:

Item 1. Rescind rule **645—200.6 (272C)** and adopt the following **new** rule in lieu thereof:

645—200.6 (147) Delegation by a supervising physical therapist. A supervising physical therapist may delegate the performance of physical therapy services to a physical therapist assistant only if done in accordance with the statutes and rules governing the practice of physical therapy. A physical therapist assistant may assist in the practice of physical therapy only to the extent allowed by the supervising physical therapist. The supervisory requirements stated in these regulations are minimal. It is the professional responsibility and duty of the supervising physical therapist to provide the physical therapist assistant with more supervision if deemed necessary in the supervising physical therapist’s professional judgement.

200.6(1) Supervision requirements. A supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant shall provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means the physical therapist shall be readily available on-site or telephonically any time the physical therapist assistant is providing physical therapy services so the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction.

200.6(2) Functions that cannot be delegated. The following are functions that only a physical therapist may provide and that cannot be delegated to a physical therapist assistant:

- a.* Interpretation of referrals;
- b.* Initial physical therapy evaluation and reevaluations;
- c.* Identification, determination, or modification of patient problems, goals, and plans of care;
- d.* Final discharge evaluation and establishment of a discharge plan;
- e.* Delegation of and instruction in the physical therapy services to be rendered by a physical therapist assistant or unlicensed assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- f.* Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated.

200.6(3) Physical therapist responsibilities. At all times, the supervising physical therapist shall be responsible for the physical therapy plan of care and for all physical therapy services provided, including all physical therapy services delegated to a physical therapist assistant. In addition, the supervising physical therapist shall:

- a.* Be responsible for the evaluation and development of a plan of care for use by the physical therapist assistant; and
- b.* Not delegate a physical therapy service that exceeds the competency or skillset of the physical therapist assistant; and
- c.* Ensure a physical therapist assistant holds an active physical therapist assistant license issued by the board; and
- d.* Ensure a physical therapist assistant is aware of how the physical therapist can be contacted telephonically when the physical therapist is not providing on-site supervision; and
- e.* Arrange for an alternate physical therapist to provide supervision when the physical therapist has scheduled or unscheduled absences during time periods in which a physical therapist assistant will be providing delegated physical therapy services; and

- f. Ensure a physical therapist assistant is informed when a patient's plan of care is transferred to a different supervising physical therapist; and
- g. Directly participate in physical therapy services upon the physical therapist assistant's request for a reexamination, when a change in the plan of care is needed, prior to any planned discharge, and in response to a change in the patient's medical status; and
- h. Hold regularly scheduled meetings with the physical therapist assistant to evaluate the physical therapist assistant's performance, assess the progress of a patient, and make changes to the plan of care as needed. The frequency of meetings should be determined by the supervising physical therapist based on the needs of the patient, the supervisory needs of the physical therapist assistant, and any planned discharge. The supervising physical therapist shall provide direction and instruction to the physical therapist assistant that is adequate to ensure the safety and welfare of the patient.

200.6(4) Physical therapist assistant responsibilities. A physical therapist assistant shall only provide physical therapy services under the supervision of a physical therapist. In addition, the physical therapist assistant shall:

- a. Only provide physical therapy services that have been delegated by the supervising physical therapist; and
- b. Only provide physical therapy services that are within the competency and skillset of the physical therapist assistant; and
- c. Consult the supervising physical therapist if the physical therapist assistant believes that any procedure is not in the best interest of the patient; and
- d. Contact the supervising physical therapist regarding any change or lack of change in a patient's condition that may require assessment by the supervising physical therapist; and
- e. Refer inquiries that require interpretation to the supervising physical therapist; and
- f. Ensure the identification of the supervising physical therapist is included in the documentation for any visit where physical therapy services were provided by the physical therapist assistant; and
- g. Only sign a treatment record if the provision of physical therapy services was done in accordance with the statutes and rules governing the practice of a physical therapist assistant.

200.6(5) Ratio. A physical therapist shall determine the number of physical therapist assistants that can be supervised safely and competently and not exceed that number; but in no case shall a physical therapist supervise more than five physical therapist assistants per calendar day. A physical therapist assistant who performs any delegated physical therapy services on behalf of the supervising physical therapist on a particular day shall be counted in determining the maximum ratio, regardless of the location of the physical therapist assistant or the number of patients treated.

200.6(6) Minimum frequency of direct participation by a supervising physical therapist. A supervising physical therapist shall use professional judgment to determine how frequently the physical therapist needs to directly participate in physical therapy services when delegating to a physical therapist assistant, which shall be based on the needs of the patient. Direct participation can occur through an in-person or telehealth visit. The supervising physical therapist shall ensure the patient record clearly indicates which visits included direct participation by the supervising physical therapist. The following are the minimum standards for the required frequency of direct participation by the supervising physical therapist when physical therapy services involve delegation to a physical therapist assistant, which are expected to be exceeded when dictated by the physical therapist's professional judgment:

- a. *Hospital inpatient and skilled nursing.* For hospital inpatients and skilled nursing patients, a supervising physical therapist must directly participate in physical therapy services a minimum of once per calendar week. A calendar week is defined as Sunday through Saturday.
- b. *All other settings.* In all other settings, a supervising physical therapist must directly participate in the provision of physical therapy services at least every eighth visit or every thirty calendar days, whichever comes first.

200.6(7) Unlicensed assistive personnel. A physical therapist is responsible for patient care provided by unlicensed assistive personnel under their supervision. A physical therapist is responsible for assuring the qualifications of any unlicensed assistive personnel and shall maintain written documentation of their education

or training. Unlicensed assistive personnel may assist a physical therapist assistant in the delivery of physical therapy services only if the physical therapist assistant maintains in-sight supervision of the unlicensed assistive personnel and the physical therapist assistant is primarily and significantly involved in that patient's care. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The physical therapist has direct participation in the patient's treatment or evaluation, or both, each treatment day;
- b. Unlicensed assistive personnel may provide independent patient care only while under the on-site supervision of the physical therapist;
- c. Documentation made in a physical therapy record by unlicensed assistive personnel shall be cosigned by the physical therapist; and
- d. The physical therapist provides periodic reevaluation of any unlicensed assistive personnel's performance in relation to the patient.

Item 2. Amend paragraphs 645--206.8(2) "a" and "b" as follows:

- a. Provide supervision to a licensed OTA, OT limited permit holder and OTA limited permit holder any time occupational therapy services are rendered. Supervision may be provided on-site or through the use of telecommunication or other technology.
- b. Ensure every OTA, OT limited permit holder, and OTA limited permit holder being supervised is aware of who the supervisor is and how they can be contacted any time occupational therapy services are rendered. Provide on-site supervision or supervision by telecommunication as long as the occupational therapy services are rendered in accordance with the provisions of subrule 206.8(5).

Item 3. Amend subrule 645—206.8(5) as follows:

206.8(5) Minimum frequency of OT interaction. At a minimum ~~the~~ OT must directly participate in treatment, either in-person or through a telehealth visit, including direct face to face patient contact every twelfth visit or 60 calendar days, whichever comes first, for all patients regardless of setting and must document each visit. An occupational therapist shall participate at a higher frequency when the standard of care dictates such.

Item 4. Amend sub-paragraphs 645—206.8(6) "a" (7) and (8) as follows:

206.8(6) Occupational therapy assistant responsibilities.

- a. The occupational therapy assistant:
 - (7) Shall be supervised by an occupational therapist, either on-site or through the use of telecommunication or other technology, at all times when occupational therapy services are being rendered. Shall have on-site or immediate telecommunicative supervision as long as the occupational therapy services are rendered in accordance with the provisions of subrule 206.8(5);
 - (8) May receive supervision from any number of occupational therapists; and
 - (9) Shall maintain documentation of supervision on a daily basis that shall be available for review upon request of the board. Shall record on every patient chart the name of the OTA's supervisor for each treatment session.