

# PROPOSED RULEMAKING

## STATE BOARD OF PHYSICAL THERAPY

[ 49 PA. CODE CH. 40 ]

Post-Act 38 Revisions

The State Board of Physical Therapy (Board) proposes to amend §§ 40.16, 40.17, 40.20, 40.63, 40.67, 40.69, 40.152, 40.161, 40.163, 40.164, 40.165, 40.181 and 40.192 to read as set forth in Annex A.

### *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

### *Statutory Authority*

This proposed rulemaking is authorized under sections 3(a), 4(a), 6, 7.2, 9.1 and 11(a) of the Physical Therapy Practice Act (act) (63 P.S. §§ 1303(a), 1304(a), 1306, 1307.2, 1309.1 and 1311(a)).

### *Background and Need for the Amendments*

The act of July 4, 2008 (P.L. 293, No. 38) (Act 38) substantially amended the act, including qualifications for licensure as a physical therapist, continuing education for all physical therapists and physical therapist assistants, professional liability insurance for all physical therapists, physician referral, and supervision of physical therapist assistants by physical therapists on a basis that may be less than direct on-premises supervision. Due to the extensive nature and breadth of these amendments, the Board amended its regulations to implement Act 38 at 42 Pa.B. 7652 (December 22, 2012). After final promulgation, the Board discovered various typographical errors, necessary clarity edits and other items that were not, but could have been, addressed in the prior final-form rulemaking. This rulemaking proposes to address these items.

### *Description of the Proposed Amendments*

In its Act 38 amendments, the Board added § 40.20 (relating to inactive status of physical therapist license). Subsection (b) provided that a physical therapist whose license had expired or been placed on inactive status may not practice until the license has been reactivated. While reviewing comments on the proposed provisions concerning renewal of certification of physical therapist assistants, the Board concluded that it should clearly prohibit a physical therapist from practicing on a lapsed license and provide that one who does so is subject to disciplinary action under sections 4(a) and 11(a)(6) of the act. Without recognizing the existence of subsection (b), the Board added subsection (f) to the final-form rulemaking to do so. To remove this redundancy, the Board now proposes to delete subsection (f) and move the provisions into subsection (b).

Act 38 added section 9(b)(4)(iii.1) of the act (63 P.S. § 1309(b)(4)(iii.1)) to require a licensee practicing in this Commonwealth to maintain a level of professional liability insurance coverage in the minimum amount of \$1 million per occurrence or claims made with coverage provided through self-insurance, personally purchased liability insurance, or professional liability insurance provided through the physical therapist's employer or similar group. The Board added § 40.69 (relating to professional liability insurance) repeating those requirements in sub-

section (a). However, this provision incorrectly cites section 9.1(b)(4) of the act, rather than section 9(b)(4) of the act. The Board proposes to amend this subsection to correct the citation.

The Board also amended § 40.1 (relating to definitions) to add definitions for "APTA," "CAPTE" and "FSBPT," which are the commonly used acronyms of the American Physical Therapy Association (APTA), the Commission on Accreditation in Physical Therapy Education (CAPTE) and the Federation of State Boards of Physical Therapy (FSBPT). These defined terms are used throughout Chapter 40. However, § 40.1 limits those definitions to use in Subchapter A (relating to physical therapists). The Board did not amend § 40.152 (relating to definitions) to define these terms for use in Subchapter C (relating to physical therapist assistants). The Board proposes to amend § 40.152 to define these acronyms and to amend §§ 40.161(c), 40.163(a)(1) and 40.192(d)(1)(i) (relating to certification as physical therapist assistants; practice; exceptions; requirements for certification; and continuing education for certified physical therapist assistant) to use the acronyms.

Section 6(c) of the act previously permitted an applicant who had failed the physical therapist licensure examination the privilege of a second examination after the expiration of 6 months and within 2 years from the first failure. Section 40.14(a) (relating to examination; failure; reexamination) repeated this provision. Section 9.1(c) of the act contained an identical provision for a physical therapist assistant, which is repeated in § 40.164(b)(1) (relating to physical therapist assistant certification examination). Act 38 amended sections 6(c) and 9.1(c) of the act to allow for re-examination after 60 days and within 1 year of the failure. The Board amended § 40.14(a) accordingly, but did not amend § 40.164(b)(1). The Board proposes to amend § 40.164(b)(1) to permit re-examination upon a first failure of the physical therapist assistant certification examination after the expiration of 60 days and within 1 year of the date of the first failure.

Section 6(f) of the act previously authorized the Board to license foreign-educated physical therapists of appropriate age, good moral character, without addiction, who have completed educational requirements substantially equal to those of the act, and passed the licensure examination and, in the Board's discretion, have completed a supervised clinical program of up to 1 year. Act 38 amended this section to delete all the provisions except the discretionary clinical experience. In place of those deleted provisions, Act 38 added section 6(i) of the act to require that a foreign-educated applicant applies, pays the appropriate fee and provides proof of holding an unrestricted license in the country where the applicant was educated; that the applicant's education is substantially equivalent to the education generally required for licensure; and the applicant passes the licensure examination. To implement these changes, the Board amended § 40.17 (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience) by amending paragraph (1) to require the applicant to apply and pay the fee, amending paragraph (2) to require the applicant to provide documentation that the applicant has graduated from a physical therapist education program that prepares the applicant to engage without restriction in the practice of physical therapy (in addition to the existing requirement that the

school is recognized by the authorizing agency of that jurisdiction) and amending paragraph (5) to require satisfactory evidence by means of credentials evaluation that the applicant's education is substantially equivalent to the education of physical therapists in accredited programs in this country or that the program is accredited by CAPTE or other National organization recognized by the Board that accredits physical therapy programs. The Board did not amend paragraph (3), which requires the applicant to provide written documentation of authorization to practice as a physical therapist without limitations in the country where the professional education took place. A physical therapist applying for licensure in this Commonwealth generally no longer has a need to retain current authorization to practice in the foreign country in which the physical therapist was educated. Moreover, it is not unreasonable to foresee that some foreign jurisdictions might rescind the professional authorization to practice of one who has immigrated to the United States. Accordingly, the Board construes the requirement of "holding an unrestricted license in the country where the applicant was educated" to be not limited to the present time but instead having previously held the license. The Board proposes to amend § 40.17(3) to require a foreign-educated applicant to provide documentation of "having held authorization" to practice in the country of professional education. The Board believes that this construction is consistent with section 6(i)(2) of the act.

The Board further considered § 40.16 (relating to licensure by endorsement), which addresses applicants for licensure who are currently licensed in another state or territory of the United States. This section was not amended as a result of Act 38. The Board proposes to amend § 40.16(b) to provide that an applicant for licensure by endorsement who was educated in a foreign country shall also comply with § 40.16(a) for an applicant for licensure by endorsement. Current § 40.16(b) requires applicants for licensure by endorsement who were educated in a foreign country to comply with the educational requirements of § 40.17. Existing § 40.16(b) also requires an applicant for licensure by endorsement who was educated in a foreign country to submit documentary evidence that the applicant is authorized to practice as a physical therapist without limitation in the foreign country of education and hold a valid license by examination in the other state or territory of the United States. However, an applicant for licensure by endorsement, whether educated in a foreign country or in another state or territory of the United States, is required under section 6(d.1) of the act to hold a valid license in the other state or territory to become licensed without further examination. In addition, current § 40.16(a)(1) (now incorporated by reference for a foreign-educated applicant) already requires an applicant for licensure by examination to hold a valid license in another state or territory of the United States. Therefore, the requirement of § 40.16(b)(2) that an applicant hold a valid license by examination is redundant. Additionally, for an applicant who has become licensed in another state or territory of the United States, whether that applicant was authorized to practice in the country of education as required under § 40.16(b)(1) is essentially irrelevant. Accordingly, the Board proposes to amend § 40.16(b) to delete these two requirements.

Act 38 added section 7.2 of the act to require physical therapists to complete at least 30 hours of continuing physical therapy education during each 2-year renewal period. Act 38 also added section 9.1(j) of the act to require physical therapist assistants to complete at least 30 hours of continuing physical therapy education for

each certificate renewal. The Board added § 40.67 (relating to continuing education for licensed physical therapist) and § 40.192 to implement this new continuing education requirement. As part of these additions, §§ 40.67(d)(1)(i) and 40.192(d)(1)(i) recognize as preapproved providers APTA and its components, FSBPT and its jurisdictions, physical therapist and physical therapist assistant programs accredited by CAPTE, and the American Heart Association and the American Red Cross and their component organizations for continuing education in identifying and responding to emergency health conditions. Section 40.67(d)(1)(i) also recognizes as preapproved organizations credentialed by APTA to confer a fellowship or offer a residency program, but only for those purposes. The Board also provides in §§ 40.67(d)(1)(ii) and 40.192(d)(1)(ii) that any other provider could apply for preapproved provider status. Under §§ 40.67(d)(1) and 40.192(d)(1), a course or program of continuing education credit of a preapproved provider is approved for credit if it otherwise meets the content requirements of subsection (c)(2). Although not considered by the Board at the time, ProCert is an affiliate of FSBPT that reviews and certifies continuing education courses for FSBPT standards. Accordingly, the Board proposes to amend §§ 40.67(d)(1)(i) and 40.192(d)(1)(i) to add to the list of preapproved providers any provider whose course or program is certified by FSBPT's ProCert for those courses or programs so certified. Additionally, §§ 40.67(b)(2) and 40.192(b)(2) require licensed physical therapists and certified physical therapist assistants, respectively, to maintain records of continuing education for 5 years. Under § 40.63(c) (relating to continuing education for direct access certificateholder), the Board requires those physical therapists who are certified to provide services for a limited period of time without referral from a physician or other authorized referrer to maintain records of continuing education for 4 years. To make the requirements consistent, the Board proposes amending § 40.63(c) to require direct access certificateholders to maintain records of continuing education for 5 years, using the same language as in §§ 40.67(b)(2) and 40.192(b)(2).

Act 38 amended the act to permit a physical therapist assistant, in certain situations, to provide services under supervision by a physical therapist that is less than direct on-premises supervision. However, section 9.1(c)(4) of the act provides that a physical therapist assistant shall remain under the direct on-premises supervision of a physical therapist until being approved by the Board, based upon having either: at least 2,000 hours of experience providing patient-related acts and services verified by a supervising licensed physical therapist; or employment as a physical therapist assistant for at least 3 of the 5 years immediately preceding the effective date of section 9.1(c)(4) of the act. In response, the Board added § 40.165 (relating to authorization to provide services as a physical therapist assistant under indirect supervision). Section 40.165(b)(2)(i) requires that the applicant have at least 2,000 hours of experience providing patient-related services under the supervision of a licensed physical therapist, as verified by the prior supervising physical therapists. Section 40.165(b)(2)(ii) alternatively permits the applicant to provide documentation verifying that the applicant worked as a physical therapist assistant for at least 3 years between October 2, 2003, and October 2, 2008, the 5-year period immediately preceding the effective date of Act 38. Act 38 also added section 9.1(a.1) of the act to allow for temporary certification as a physical therapist assistant, limited to providing services only under the direct on-premises supervision of a licensed physical therapist, by one who meets all requirements for

certification except the examination. The temporary certificate is good for up to 6 months, but expires upon failure of the examination. The Board adopted § 40.166 (relating to temporary certificate to provide services as a physical therapist assistant) to implement this new provision. However, consideration was not given to whether experience providing services under a temporary certificate could be used to demonstrate qualification to provide services under less than direct on-premises supervision. Although the supervisory requirements for providing services under a temporary certificate are the same as those for providing services as a certified physical therapist assistant, the Board concluded that experience under a temporary certificate should not be considered. A temporary certificateholder, though having completed the educational component, has not passed the examination and fully demonstrated competence to provide services. Accordingly, the Board proposes to amend § 40.165(b)(2)(i) to require that the 2,000 hours of experience providing patient-related acts and services be while certified to do so under §§ 40.161—40.165 or predecessor registration or equivalent authorization in another jurisdiction.

The Board amended § 40.181 (relating to refusal, suspension or revocation of certification) to include as disciplinary grounds providing services under less than direct on-premises without authorization from the Board or other than as authorized by the act or this chapter. The Board did not consider other grounds for disciplinary action that could be implicated by providing services under less than direct on-premises supervision. The Board currently provides in § 40.52 (relating to unprofessional conduct; physical therapists) various grounds for disciplinary action. The Board may take disciplinary action against a physical therapist for: harassing, abusing or intimidating a patient; revealing information obtained as a result of the therapist-patient relationship to a third party who is not involved in the patient's care, without the prior written consent of the patient, except as authorized or required by statute; or violating a provision of the act or Board regulations that establish a standard of conduct. The disciplinary grounds in § 40.181 do not include similar provisions. With lesser supervision, there may be greater need to protect patients from these actions. The Board therefore proposes to amend § 40.181(a) to include these grounds for disciplinary action of a physical therapist assistant.

*Fiscal Impact and Paperwork Requirements*

This proposed rulemaking would not have adverse fiscal impact on the Commonwealth or its political subdivisions. This proposed rulemaking will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 15, 2016, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Regulatory Unit Counsel, Department of State, P.O. Box 2649, Harrisburg, PA 17105-2649 or RA-STRegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-6517 (Post-Act 38 Revisions) when submitting comments.

SUSAN L. WHITNEY, PhD, PT,  
*Chairperson*

**Fiscal Note:** 16A-6517. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY**

**Subchapter A. PHYSICAL THERAPISTS LICENSURE**

**§ 40.16. Licensure by endorsement.**

\* \* \* \* \*

(b) [ An ] In addition to the requirements of subsection (a), an applicant for licensure by endorsement who received education in a country outside of the United States is required to meet the educational requirements as set forth in § 40.17(5) and (6) (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience) [ and comply with the following: ].

[ (1) The applicant shall submit documentary evidence that the applicant is authorized to practice as a physical therapist without limitation in the country where the professional education occurred.

(2) The applicant shall hold a valid license by examination in another state or territory of the United States providing the requirements were, at the time of receiving the license, substantially equivalent to the requirements as set forth in the act. ]

**§ 40.17. Foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience.**

To be eligible to take the examination for licensure, foreign-educated applicants for licensure shall comply with the following conditions:

\* \* \* \* \*

(3) The applicant shall provide written documentation of **having held legal** authorization to practice as a physical therapist without limitations in the country where the professional education took place.

\* \* \* \* \*

§ 40.20. Inactive status of physical therapist license.

\* \* \* \* \*

(b) A [ **physical therapist** ] licensee whose license has expired or been placed on inactive status may not practice as a physical therapist in this Commonwealth until the license has been reactivated. A licensee who practices the profession in this Commonwealth after the license has expired and before it has been renewed or reactivated is subject to disciplinary action under sections 4(a) and 11(a)(6) of the act (63 P.S. §§ 1304(a) and 1311(a)(6)), as set forth in § 40.52(11) (relating to unprofessional conduct; physical therapists). A licensee who has engaged in practice during a period in which the license was not active may be subject to criminal prosecution under section 12 of the act (63 P.S. § 1312).

\* \* \* \* \*

(e) In addition to the other requirements of this section, a licensee whose license has been inactive for 5 years or more shall demonstrate current competence to practice as a physical therapist by at least one of the following:

(1) Successful completion of the licensure examination required under § 40.13 (relating to areas of examination) and section 6(b) of the act (63 P.S. § 1306(b)).

(2) Satisfaction of the requirements of § 40.16 (relating to licensure by endorsement) and proof of licensed practice of physical therapy in one or more other jurisdictions of the United States or Canada for at least 36 months of the 5 years immediately preceding application for reactivation.

[ (f) A licensee who has not renewed the license may not practice the profession in this Commonwealth until the license has been renewed or reactivated. A licensee who practices the profession in this Commonwealth after the license has expired and before it has been renewed or reactivated is subject to disciplinary action under sections 4(a) and 11(6) of the act (63 P.S. §§ 1304(a) and 1311(6)), as set forth in § 40.52(11) (relating to unprofessional conduct; physical therapists). A licensee who has engaged in practice during a period in which the license was not active may be subject to criminal prosecution under section 12 of the act (63 P.S. § 1312). ]

PRACTICE WITHOUT REFERRAL

§ 40.63. Continuing education for direct access certificateholder.

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(c) *Reports to the Board.* A certificateholder shall certify compliance with the continuing education hours requirement at the time of biennial renewal of the certificate. A certificateholder shall retain [ for at least 4 years certificates, transcripts or other documentation showing completion of the prescribed number of hours ] proof of completion of continuing education

for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required or applied, whichever is later. These records are subject to audit by the Board.

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CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

\* \* \* \* \*

(d) *Approval of continuing education courses and programs.* Continuing education courses and programs may be approved in accordance with this subsection.

(1) Provided that the course or program otherwise meets the requirements of subsection (c)(2) and the provider issues to each attending licensee a certificate of completion record in accordance with subsection (b)(1), a course or program of continuing education from a provider preapproved under this paragraph is approved by the Board.

(i) The following providers are preapproved:

\* \* \* \* \*

(G) The American Board of Physical Therapy Specialization or its successor organization, only for specialty certification.

(H) Any provider whose course or program is certified by FSBPT's ProCert for those courses or programs so certified.

(ii) Any other provider seeking preapproved provider status shall:

\* \* \* \* \*

PROFESSIONAL LIABILITY INSURANCE

§ 40.69. Professional liability insurance.

(a) *Professional liability insurance requirements.* As required under section [ 9.1(b)(4) ] 9(b)(4) of the act (63 P.S. § [ 1309.1(b)(4) ] 1309(b)(4)), a licensed physical therapist shall maintain professional liability insurance in the minimum amount of \$1 million per occurrence or claims made as a condition of practicing as a physical therapist in this Commonwealth. Coverage may be provided through:

\* \* \* \* \*

Subchapter C. PHYSICAL THERAPIST ASSISTANTS

GENERAL PROVISIONS

§ 40.152. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

**APTA**—The American Physical Therapy Association.

**Act**—The Physical Therapy Practice Act (63 P.S. §§ 1301—1313).

**CAPTE**—The Commission on Accreditation in Physical Therapy Education.

**FSBPT**—The Federation of State Boards of Physical Therapy.

*Indirect supervision*—Supervision of a physical therapist assistant by a licensed physical therapist that is not direct on-premises supervision, as authorized under section 9.1(c) of the act (63 P.S. § 1309.1(c)) and this subchapter, including § 40.173 (relating to supervision of physical therapist assistant by licensed physical therapist).

\* \* \* \* \*

**CERTIFICATION**

**§ 40.161. Certification as physical therapist assistants; practice; exceptions.**

\* \* \* \* \*

(c) This subchapter does not prohibit physical therapist assistant students from assisting a physical therapist licensed to practice without restriction in this Commonwealth under the direct on-premises supervision of the physical therapist as is incidental to their course of study in a program which has been approved for the education and training for physical therapist assistants by [ **the Commission on Accreditation in Physical Therapy Education (CAPTE)** ] CAPTE.

\* \* \* \* \*

**§ 40.163. Requirements for certification.**

(a) Under section 9.1(a) of the act (63 P.S. § 1309.1(a)), an applicant for certification by examination shall submit evidence of the following:

(1) Graduation from a physical therapist assistant program which has been approved for the education and training [ **for** ] of physical therapist assistants by [ **the Commission on Accreditation in Physical Therapy Education (CAPTE)** ] CAPTE.

\* \* \* \* \*

**§ 40.164. Physical therapist assistant certification examination.**

\* \* \* \* \*

(b) *Failure and reexamination.* In the case of failure of examination, the following apply:

(1) After failing the first examination, the applicant has, after the expiration of [ **6 months** ] **60 days** and within [ **2 years** ] **1 year** of the date of the first failure, the privilege of a second examination upon the filing of a new application under subsection (a) and upon payment of the appropriate fee.

\* \* \* \* \*

**§ 40.165. Authorization to provide services as a physical therapist assistant under indirect supervision.**

\* \* \* \* \*

(b) Unless there are grounds to deny the application under § 40.181 (relating to refusal, suspension or revocation of certification), the Board will grant a certificate of authority as described in this section to an applicant who:

(1) Demonstrates that the applicant satisfies the requirements of §§ 40.161—40.164.

(2) Demonstrates that the applicant satisfies the requirements of section 9.1(c)(4) of the act (63 P.S. § 1309.1(c)(4)) for certification to provide services as a

physical therapist assistant under indirect supervision of a licensed physical therapist by either verifying that the applicant:

(i) Has at least 2,000 hours of experience providing patient-related acts and services **while certified to do so under §§ 40.161—40.165 or predecessor registration or equivalent authorization in another jurisdiction** under the supervision of one or more licensed physical therapists, as verified by those physical therapists.

\* \* \* \* \*

**DISCIPLINE**

**§ 40.181. Refusal, suspension or revocation of certification.**

(a) Under section 9.1(f) of the act (63 P.S. § 1309.1(f)), the Board may refuse, suspend or revoke the certification of a person who has:

\* \* \* \* \*

(11) Provided services as a physical therapist assistant under indirect supervision other than as authorized by section 9.1(c) of the act and § 40.173 (relating to supervision of physical therapist assistant by licensed physical therapist).

(12) **Harassed, abused or intimidated a patient.**

(13) **Revealed information obtained as a result of the therapist-patient relationship to a third party who is not involved in the patient's care, without the prior written consent of the patient, except as authorized or required by statute.**

(14) **Violated a provision of the act or this chapter that establishes a standard of conduct.**

(b) Actions taken by the Board regarding the refusal, suspension or revocation of a registration are taken subject to the right of notice, hearing and adjudication, and the right of appeal therefrom under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to [ **the** ] Administrative Agency Law).

**MAINTENANCE OF CERTIFICATION**

**§ 40.192. Continuing education for certified physical therapist assistant.**

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(d) *Approval of continuing education courses.* Continuing education courses or programs may be approved in accordance with this subsection.

(1) Provided that the course or program otherwise meets the requirements in subsection (c)(2) and the course or program provider issues to each attending certified physical therapist assistant a certificate of completion record in accordance with subsection (b)(1), a course or program of continuing education from a provider preapproved under this paragraph is approved by the Board.

(i) The following providers are preapproved:

(A) [ **The American Physical Therapy Association** ] APTA or its components.

(B) [ **The Federation of State Boards of Physical Therapy** ] FSBPT and its jurisdictions.

(C) A physical therapist or physical therapist assistant educational program accredited by [ **the Commission on Accreditation in Physical Therapy Education** ] **CAPTE**.

(D) The American Heart Association and the American Red Cross and their component organizations, only for purposes of providing continuing education in identifying and responding to emergency health conditions as required under subsection (a)(1).

**(E) Any provider whose course or program is certified by FSBPT's ProCert for those courses or programs so certified.**

(ii) Any other provider seeking preapproved provider status shall:

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