

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2024-227

Rule Number Phy 410.02

1. Agency Name & Address:
**Governing Board of Physical Therapists
Office of Professional Licensure and
Certification
7 Eagle Square
Concord, NH 03301**

2. RSA Authority: RSA 328-F:11, II(a)
3. Federal Authority: N/A
4. Type of Action:
 Adopt
 Repeal
 Readoption
 Readoption w/amendment

5. Short Title: **Required Referrals**

6. Contact person for copies and questions:

Name: **Chantell B. Wheeler**
Address: **OPLC
7 Eagle Square
Concord, NH 03301**

Title: **Rules Administrator**
Phone #: **603-271-8831**

7. The rulemaking notice appeared in the Rulemaking Register on **October 31, 2024**.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.
9. A report of public comments received on the Initial Proposal, including information on how the comment was incorporated into the final rule, or, if not incorporated, a detailed explanation justifying why the agency did not amend the rule, pursuant to RSA 541-A:12, II(e).
10. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.
11. Yes N/A Agency form(s) as required by RSA 541-A:12, II-a which this rule incorporates by reference or whose requirements are set forth in the rule pursuant to RSA 541-A:19-b.
12. Yes N/A The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).
13. Yes N/A The amended fiscal impact statement pursuant to RSA 541-A:5, VI because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS), or there is an error in the original FIS which must be corrected.
14. Yes N/A Report of Implementation of Expired Rules if the filing contains expired rules and do not fall under the extension of RSA 541-A:14-a.

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3. Federal Authority: N/A

4. Type of Action:

Adoption _____

Repeal _____

Readoption _____

Readoption w/amendment X

5. Short Title: **Required Referrals**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

Phy 410.02 outlines the conditions under which a physical therapist must refer a patient or client to another licensed healthcare practitioner. RSA 328-A:9, II, as amended pursuant to 2023, 231:1, effective October 7, 2023, removed this requirement. Physical therapists are no longer obligated to refer a patient or client if there has been no documented improvement within 25 days of initiating treatment. The Governing Board of Physical Therapists proposes to readopt Phy 410.02 with amendment to eliminate this referral requirement.

This rule proposal will implement 2023, 231:2 for the first time.

6. (b) Brief description of the groups affected:

The rule affects licensed physical therapists and clients seeking physical therapy.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Statute Implemented
Phy 410.02	2023, 231:1

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Chantell B. Wheeler**

Title: **Rules Administrator**

Mailing Address: **OPLC, 7 Eagle Square**

Phone #: **603-271-8311**

Address: **Concord, NH 03301**

Fax#: **N/A**

E-mail: **OPLC-Rules@oplc.nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, December 27, 2024, at 4:00 p.m.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, December 17, 2024, at 8:30 a.m.**

Physical Location: **OPLC, 7 Eagle Square, Concord, NH**

Electronic Access (if applicable): **N/A**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # 24:230, dated 10/21/24

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**
There is no difference in costs when comparing the proposed rules to the existing rules.
2. **Cite the Federal mandate. Identify the impact on state funds:**
No federal mandate, no impact on state funds.
3. **Cost and benefits of the proposed rule(s):**
 - A. **To State general or State special funds:**
None.
 - B. **To State citizens and political subdivisions:**
None.
 - C. **To independently owned businesses:**
None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs associated with this proposed action, and this proposed action does not apply to political subdivisions. This proposed action does not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures, and so does not violate Part I, Article 28-a of the N.H. Constitution.

REPORT OF PUBLIC COMMENT

Notice Number 2024-227

Rule Number

Phy 410.02

1. Agency Name & Address:

**Governing Board of Physical
Therapists
Office of Professional Licensure and
Certification
7 Eagle Square
Concord, NH 03301**

2. Were there attendees at
the public hearing?

Yes No

3. Was public comment
submitted during the
public hearing?

Yes No

4. Was public comment
submitted during the
public comment period?

Yes No

5. Short Title: **Required Referrals**

6. Comments received and responses, if applicable:

Rule Section:

Phy 410.02

Comment:

“Hello,

I am writing in support of the proposed rule change to Phy 410.02 which would remove the requirement for physical therapists to refer patients to other healthcare providers if there’s no improvement after 25 days of treatment. Consistency in administrative rules is vital to any profession, therefore, I wholly endorse this change.

Regards,

Ernest”

Action Taken:

None.

Submitted by:

Ernest Roy PT, DPT, COS-C

CONSENT

Text added to IP shown in *bold italics*
Text deleted from IP rules shown ~~struck through~~

FP – Fixed Text - 1-21-25 - 1

Readopt with amendment Phy 410.02, effective 1-20-17 (Document #12088), to read as follows:

Phy 410.02 Required Referral.

(a) Pursuant to RSA 328-A:9, II, a physical therapist shall refer a client to one of the practitioners listed in (b) below when:

(1) The client requires services outside the practice of physical therapy as defined in RSA 328-A:2, XI; or

(2) Physical therapy is contraindicated.

(b) Practitioners to be referred to shall be:

(1) A person licensed to practice:

a. Medicine;

b. Dentistry;

c. Chiropractic;

d. Podiatry; or

e. Naturopathic medicine; or

(2) A person licensed as a physician assistant or advanced registered nurse practitioner.

(c) The referring physical therapist shall note the referral in the client's medical record.

APPENDIX I

Rule	Statute
Phy 410.02	2023, 231:2; RSA 328-A:9, II