

Regulatory Impact Statement for changes to 12 NYCRR 329-1.3

1. Statutory Authority: Workers' Compensation Law (WCL) §117(1) and 142 authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL. Section 13-b of the WCL was recently amended to allow treatment by occupational and physical therapy assistants under the direct supervision of an authorized occupational or physical therapist.

2. Legislative Objectives: To establish clear regulatory guidelines about billing procedures when services are provided by occupational and physical therapy assistants under the direct supervision of an authorized occupational or physical therapist.

3. Needs and Benefits:

Section 13-b of the WCL was recently amended to extend the ability to treat injured workers to physical therapy and occupational therapy assistants (under the direct supervision of authorized physical and occupational therapists) was signed into law using basic framework. This change allows more efficiency within the workers' compensation system by expanding services to be performed by physical therapy and occupational therapy assistants, but without regulations about billing, there would be confusion – as the bill does not allow physical therapy and occupational therapy assistants to be *authorized* under the workers' compensation system, but treat injured workers under the supervision of authorized physical or occupational therapists. The proposed regulations provide further clarity and guidance, specifically around billing and what codes should be used – these regulations are necessary to reflect the changes to the workers' compensation system introduced by this bill.

4. Costs:

The proposed amendments should not impose significant costs. The proposal provides guidance and clarity to implement the statute, while avoiding costs outside what the law requires.

By providing explicit guidance about billing and codes to be used, the cost of unnecessary litigation about billing disputes when services are rendered by physical therapy and occupational therapy assistants should be avoided. These regulations just provide clarity about billing and neither the statute nor the regulations *require* physical or occupational therapy assistants to treat injured workers – it simply permits them as an option.

5. Local government mandates: The proposed amendments do not impose any additional program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The proposed amendments will require specific codes to be used in billing, but these are the same types of requirements already in place for every type of authorized treatment in the workers' compensation system.

7. Duplication: The proposal does not duplicate or conflict with any State or Federal requirements.

8. Alternatives: An alternative would be to not amend the regulation and not address this issue at all. However, without regulations in place to provide guidance and clarity, billing for when services are provided to injured workers by physical or occupational therapists would be difficult to implement, would increase paperwork and billing disputes, and lack of clarity could result in additional litigation.

9. Federal standards. There are no applicable Federal Standards.

10. Compliance schedule: All payers, as well as injured workers, and providers will need to comply with the proposed regulation upon publication of the Notice of Adoption in the State Register. The emergency adoption will take effect upon publication of the Notice of Emergency Adoption and Proposed Rule Making in the State Register and will align with the effective date of the statute (30 days after it is signed into law).