



Final Regulation Agency Background Document

Agency name	Board of Physical Therapy, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 112-20
Regulation title	Regulations Governing the Practice of Physical Therapy
Action title	Changes to traineeships and continuing education
Date this document prepared	8/24/11

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The amended regulations will increase the flexibility and accountability of traineeships by: 1) offering the option of meeting the standard on the Practice Review Tool in lieu of some training hours for applicants returning to practice through reinstatement, reactivation or endorsement; 2) reducing the traineeship hours for physical therapist assistants; 3) allowing part-time traineeships for graduates of non-approved physical therapy schools; and 4) limiting the numbers of supervisors for each trainee and requiring co-signing of trainee documentation in patient records and identification of a trainee for the patient. The proposed regulations will also reduce the burden of obtaining continuing education for licensees by eliminating the requirement for Type 1 hours to be face-to-face.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

On August 19, 2011, the Board of Physical Therapy adopted final amendments to 18VAC112-20-10 et seq., Regulations Governing the Practice of Physical Therapy.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Chapter 24 of Title 54.1 establishes the general powers and duties of health regulatory boards including the responsibility of the Board of Physical Therapy to promulgate regulations and administer a licensure and renewal program.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*

Chapter 34.1 requires a license to practice and the promulgation of regulation establishing requirements to ensure continuing competency.

§ 54.1-3474. Unlawful to practice without license; continuing competency requirements.

A. It shall be unlawful for any person to practice physical therapy or as a physical therapist assistant in the Commonwealth without a valid unrevoked license issued by the Board.

B. The Board shall promulgate regulations establishing requirements to ensure continuing competency of physical therapists and physical therapist assistants, which may include continuing education, testing, or such other requirements as the Board may determine to be necessary.

C. In promulgating continuing competency requirements, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

D. The Board may approve persons who provide or accredit programs to ensure continuing competency.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the regulatory action is to provide more flexibility and accountability in traineeships for graduates of approved or unapproved (foreign) programs in physical therapy and for applicants who have not had recent clinical experience and are seeking licensure by endorsement or reinstatement. Additionally, the goal of the amendments is to provide more opportunities for obtaining the necessary continuing education hours for physical therapists and physical therapist assistants to maintain current licensure.

During the periodic review of regulations conducted in 2008, there were several comments and issues relating to traineeships and continuing competency that the Board elected to refer to the Legislative/Regulatory Committee. In consultation with the Virginia Physical Therapy Association representatives and a faculty member at VCU Health Systems, the Committee and the Board concluded that it should retain traineeships but make certain adjustments that would offer more flexibility and licensee oversight. Certain requirements are added for more accountability and greater assurance of public safety including provisions that should result in the trainee being adequately supervised, that the diagnosis and treatment being provided by a trainee is appropriate, and that there is continuity of supervision. For the sake of public health and safety, a trainee should be so identified to the patient; and the progress notes from the trainee should be countersigned to document physical therapist oversight and responsibility for patient care.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The Board has recommended the following substantive provisions:

- 1) Clarify section 70 regarding traineeships to specify that the unlicensed graduate applying for a traineeship has been scheduled to take the national examination.
- 2) Amend section 140 to limit the number of supervisors for each trainee to no more than two PT's to ensure some continuity in training.
- 3) Amend section 140 to specify that a trainee be designated as a "PT Trainee" or "PTA Trainee" for the sake of public safety.
- 4) Amend section 140 to state that all patient progress notes must be countersigned by the trainee's supervisor. This includes computerized/electronic patient care notes to have documentation that the trainee is being supervised.
- 5) Amend section 50 D, which currently requires a 1,000 hour full-time traineeship to allow a part-time traineeship, but include a limitation of two years on the amount of time allotted for completion. The time limit could be waived or extended for hardship circumstances in which the trainee needs additional time for completion.
- 6) Allow the PTA traineeship to be a fewer number of hours than the PT traineeship, since PTA education programs are shorter than PT education programs, and the scope of services provided by the PTA is less than that provided by a PT. Traineeship hours for an unlicensed graduate or an inactive PTA would be reduced from 480 hours to 320 hours.
- 7) Eliminate "face-to-face" requirement for Type I courses to allow home study, online or audio courses offered by the approving organizations to be counted, but increase the number of hours that must be Type I from 15 to 20 per biennium for PT's and from 10 to 15 for PTA's. Type II hours would be reduced from 15 to 10 for PT's and from 20 to 15 for PTA's, so the total number of hours would remain the same.
- 8) Grant credit for all or part of the continuing competency hours for licensee who takes the new Practice Review Tool (PRT) of the Federation of State Boards of Physical Therapy. The amount of credit would be designated depending on whether the PT used the PRT as a self-assessment or as a measure of competency by meeting the standard set by the Federation.
- 9) Amend sections on endorsement, reinstatement or reactivation to use the new Practice Review Tool (PRT) of the Federation of State Boards of Physical Therapy as a competency assessment for PT's who have not been in active clinical practice. The PRT would be used to allow the PT to assess his or her areas of weakness, so a precepted experience could be more directed. Additionally, PT's who meet the standard on the review tool would be granted credit for some of the traineeship hours.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) The primary advantage to the public would be greater protection for patients in the practice of trainees by closer supervision of their practice and identification of their status as a trainee. Use of the PRT will offer applicants and licensees information about their weaknesses in current knowledge about practice to allow them to direct continuing education or supervised practice in those areas. Elimination of the face-to-face requirement for Type 1 hours will reduce the financial burden of PT’s and PTA’s while continuing to ensure the safety of the public, by allowing licensees to fulfill their CE requirements with less time from practice and patient care. There are no disadvantages to the public.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There is no other pertinent matter of interest related to this action.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	Sets out definitions used in the Chapter	Defined “FSBPT” as the Federation of State Boards of Physical Therapy Clarified that the PRT is an assessment “developed and administered by FSBPT”	Clarification of language; response to comment from FSBPT about the administration and use of the Practice Review Tool.
50	Sets out educational requirements for graduates of non-approved schools	Clarified that the Coursework Evaluation Tool is based on the year of graduation	Response to comment from FSBPT
65	Sets out requirements for licensure by endorsement	Clarified that an applicant for licensure by endorsement may document <i>meeting the standard</i> on the PRT, rather than <i>passing</i> the PRT	Clarification of language; response to comment from FSBPT about the administration and use of the Practice Review Tool.
131	Sets out continuing competency requirements	Clarified that the PRT is an assessment rather than an	Clarification of language; response to comment

		examination and PT's <i>meet the standard of the assessment</i> rather than pass the examination	from FSBPT about the administration and use of the Practice Review Tool.
135	Sets out requirements for reactivation of an inactive license	Clarified that an applicant for reactivation of an inactive license may document <i>meeting the standard</i> on the PRT, rather than <i>passing</i> the PRT	Clarification of language; response to comment from FSBPT about the administration and use of the Practice Review Tool.
136	Sets out requirements for reinstatement of a lapsed license	Clarified that an applicant for reinstatement of a lapsed license may document <i>meeting the standard</i> on the PRT, rather than <i>passing</i> the PRT	Clarification of language; response to comment from FSBPT about the administration and use of the Practice Review Tool.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Comment on the Proposed Regulations was requested from February 14, 2011 to April 15, 2011.

Commenter	Comment	Agency response
Leslie Adrian, Federation of State Boards of Physical Therapy (FSBPT)	<ul style="list-style-type: none"> • Add FSBPT as Type 1 CE approved provider • Refer to the Practice Review Tool as an assessment rather than an examination and replace "passage" with "meeting the standard" • The use of the Coursework Evaluation Tool should review to the year of graduation for an applicant from a non-approved school • Change the requirement for clinical practice to active practice 	<ul style="list-style-type: none"> • The Board added FSBPT as a Type 1 CE provider. • The Board amended regulations as requested to use the terms "assessment" and "meeting the standard" • The Board amended accordingly. • The Board did not revise the use of clinical practice because it would be a substantive change not addressed in the NOIRA.

Subsequent to the Comment Period on Proposed Regulation, the Board decided to re-publish with the changes adopted in response to comment from FSBPT. Comment on re-published regulations was received from June 20, 2011 to July 20, 2011.

Commenter	Comment	Agency response
Virginia Physical Therapy Association	Objected to inclusion of FSBPT as an approved provider of continuing education in Section 131.	The Board decided to eliminate that change in the adoption of final regulations.
Terri Ferrier, President of VPTA	Objected to inclusion of FSBPT as an approved provider of continuing education in Section 131.	The Board decided to eliminate that change in the adoption of final regulations.

Secili De Stefano, VP of VPTA	Objected to inclusion of FSBPT as an approved provider of continuing education in Section 131.	The Board decided to eliminate that change in the adoption of final regulations.
Jerry Humphrey	Objected to inclusion of FSBPT as an approved provider of continuing education in Section 131.	The Board decided to eliminate that change in the adoption of final regulations.
Frederik Friis	Supports the regulation; included a commercial website	No response necessary

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Current requirement	Proposed change and rationale
10	Sets out definitions for words and terms used in regulation	<ul style="list-style-type: none"> • Adds a definition for <i>PRT</i> as the Practice Review Tool for competency assessment offered by the Federation of State Boards of Physical Therapy. • Deletes the term “face-to-face” in the definition of Type 1 continuing learning activities because the requirement for face-to-face activities is being deleted. <p>Changes in the final regulations: Defined FSBPT as the Federation of State Boards of Physical Therapy. Clarified that the PRT is an assessment “developed and administered by FSBPT”.</p>
50	Sets out the educational requirements for graduates of schools that are not approved by an accrediting agency	<p>Subsection D requires a graduate of a non-approved PT or PTA program to complete a <i>full-time</i> 1,000-hour traineeship. The amended regulation specifies that the 1,000 hours must be completed with a two-year period, which would allow someone to work part-time in a traineeship. <i>For a variety of reasons, both economic and personal, it is not always possible for someone to be engaged full-time in a traineeship. Eliminating the “full-time” requirement, but adding a limitation on the length of time (2 years) someone can have to complete the traineeship, offers applicants more flexibility and yet assures that there will be some continuity in the training. The board has also added authorization to extend the two-year limitation for circumstances beyond the control of the applicant.</i></p> <p>Changes in the final regulations: Clarified that the Coursework Evaluation Tool is based on the year of graduation (Section 50).</p>

<p>65</p>	<p>Sets out requirements for licensure by endorsement from other states</p>	<p>Amendments to subsection C offer another option for applicants who were licensed in another state but have not actively practiced for at least 320 hours within the last four years preceding application in Virginia. Currently, the applicant for licensure as a PT is required to complete a 480-hour traineeship under supervision. The additional option is passage of the PRT (Practice Review Tool) within the two years preceding application for licensure and completion of a 320-hour traineeship.</p> <p><i>Passage of the PRT is an indication that the applicant is competent to return to active practice with a license in Virginia. It is an indicator of one’s current knowledge about the practice of physical therapy, but the board has retained the requirement a reduced number of traineeship hours to ensure that the skills of the therapist are also current and competent.</i></p> <p>Subsection D was added to address applicants by endorsement as PTA’s. Since the PRT is not offered for physical therapist assistants, passage of that examination is not an option. However, the board believes that a reduction in the traineeship hours is appropriate for PTA’s because their educational programs are shorter and their practice is under the supervision of a physical therapist. Therefore, the current requirement for a 480-hour traineeship has been reduced to a 320-hour traineeship for PTA’s.</p> <p>Changes in the final regulations:</p> <p>Clarified that an applicant for licensure by endorsement may document <i>meeting the standard on the PRT, rather than passing the PRT.</i></p>
<p>70</p>	<p>Establishes a traineeship for unlicensed graduate scheduled to sit for the national examination.</p>	<p>An amendment to subsection A clarifies that a traineeship may only be approved for a graduate who is registered with the Federation to sit for the examination. The Federation requires that a graduate take the examination within 60 days of registration, so there is a built-in limitation of the time period for a traineeship. If an applicant fails the examination, he must apply for a new traineeship (after he has re-registered for the examination). The Federation only allows three attempts at passage within a one-year period.</p>
<p>131</p>	<p>Establishes the continued competency requirements for renewal of an active license.</p>	<ul style="list-style-type: none"> • The board proposes to eliminate the requirement for all Type 1 activities or courses to be “face-to-face.” Without that restriction, there are considerably more options available to obtain courses or activities that are approved by one of the organizations listed in subsection B, including on-line or self-study courses. Given that the PT and PTA would have many more Type 1 options, the

		<p>board has adopted a different ratio of Type 1 and Type 2 hours. A PT would have to have a minimum of 20 of the required 30 hours in Type 1, and a PTA would have to have a minimum of 15 of the 30 hours in Type 1. The remaining hours could be either Type 1 or Type 2.</p> <ul style="list-style-type: none"> An additional option for documentation of continued competency would be completion of the PRT. If a PT can document that he took the PRT within the last two years, he could receive 10 hours of Type 1 credit. If he can document that he passed the PRT, he could receive 20 hours of Type 1 credit for the biennium in which the examination was passed. <i>There is a benefit to taking the PRT even if the PT does not achieve the standard on the assessment. The Federation provides written feedback on areas of strength and weakness in one’s knowledge and practice, so attempting the PRT is beneficial to one’s continued competence and knowledge. Passage of the PRT is a strong indicator of competency and would result in meeting all Type 1 hours for the biennium.</i> <p>Changes in the final regulations:</p> <p>Clarified that the PRT is an assessment rather than an examination and PT’s <i>meet the standard of the assessment rather than pass the examination.</i></p>
135	Sets out requirements for re-activation of an inactive license.	<p>The requirement for active practice of 320 hours within the past four years is the same as that for licensure by endorsement. Likewise, the amendments for traineeship hours and credit for passage of the PRT are identical to those explained in section 65.</p> <p>Changes in the final regulations:</p> <p>Clarified that an applicant for reactivation of an inactive license may document <i>meeting the standard on the PRT, rather than passing the PRT</i></p>
136	Sets out requirements for reinstatement of licensure	<p>The requirement for active practice of 320 hours within the past four years is the same as that for licensure by endorsement and reactivation of an inactive license. Likewise, the amendments for traineeship hours and credit for passage of the PRT are identical to those explained in section 65.</p> <p>Changes in the final regulations:</p> <p>Clarified that an applicant for reinstatement of a lapsed license may document <i>meeting the standard on the PRT, rather than passing the PRT</i></p>

<p>140</p>	<p>Sets out requirements for traineeships.</p>	<p>Subsection A – a modification was made for grammatical purposes.</p> <p>Subsection B is added to set out new requirements for supervision and identification of trainees. <i>The board is concerned about the lack of responsibility and oversight by some physical therapists for the trainees assigned to work under their supervision. If there are multiple supervisors, no one is fully aware of or takes responsibility for the trainee’s practice and progress. To limit supervision to one supervisor per trainee could limit the trainee’s opportunities to work and experience some variety in clients, so the board proposes a limitation of two physical therapists assigned to supervise each trainee.</i></p> <p><i>To ensure that there is oversight and supervision for the activities of a trainee, the board has added a requirement for the supervisor to countersign patient documentation for services provided by a trainee. Such a requirement will re-enforce the responsibility of the supervisor for client care by a trainee under his/her supervision and ensure that he or she has exercised some oversight. The board did not set a time requirement for countersigning as the timing may depend on a variety of factors, such as the setting in which physical therapy is being practiced – out-patient, school, in-patient, home health, etc.</i></p> <p><i>To ensure that the patient or client knows that he is receiving services by a trainee and not a licensee, the board has added a requirement for identification designating the traineeship status.</i></p>
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Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods, other than the amendments described in the Substance section.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the family and family stability.