



**Economic Impact Analysis
Virginia Department of Planning and Budget**

18 VAC 112-20 – Regulations Governing the Practice of Physical Therapy
Department of Health Professions
March 17, 2008

Summary of the Proposed Amendments to Regulation

The Board of Physical Therapy (Board) proposes to amend its regulations as a part of the periodic review process. The Board proposes to:

- 1) Add several definitions to the regulatory text,
- 2) Clarify that applicants educated outside of the United States (or Canada) can take the internet version of Test of English as a Foreign Language (TOEFL iBT) to prove English proficiency,
- 3) Clarify what remediation is required of applicants for licensure who have failed the national exam three times,
- 4) Require applicants for licensure by endorsement to provide current reports from both the Healthcare Integrity and Protection Data Bank (HIPDB) and the National Practitioner Data Bank (NPDB),
- 5) Require applicants for licensure by endorsement to provide proof of continuing education,
- 6) Modify the active practice requirement for applicants for licensure by endorsement so that 320 hours of active practice are required within the four years immediately preceding the filing of an application,
- 7) Limit, to one year, the length of time an unlicensed graduate may work as in a traineeship after failing the national licensure exam and while awaiting re-examination,

- 8) Allow graduation from a transitional Doctor of Physical Therapy program to satisfy continuing educational requirements for the biennium in which the degree is awarded,
- 9) Clarify that a licensee who fails to renew his license on time, but who seeks license reinstatement within two years of the date of license expiration, to reinstate his license by paying a renewal and late fee and providing proof of continuing education for the biennium before his license lapsed and for the period after that but before application for reinstatement,
- 10) Add a \$500 fee for reinstatement of a suspended license and
- 11) Add explicit standards of conduct.

Result of Analysis

The benefits likely exceed the costs for most of these proposed changes. There is insufficient data to measure the magnitude of costs versus benefits for continuing education that will be required of applicants for licensure by endorsement.

Estimated Economic Impact

Some of the amendments that the Board proposes to make to these regulations will likely have no significant economic impact. The Board proposes to add several definitions to the regulatory text, for example, that will provide the benefit of added clarity for individuals who are reading these regulations. Adding these definitions, however, will not increase (or lower) costs for entities that are subject to Board regulations in any substantial way. From the numbered list in the Summary of Changes above, proposed amendments 1, 2, 3, 9 and 11 fall into this category. Analysis of other changes is below.

Currently, the section of these regulations that govern licensure by endorsement requires applicants to hold a current, unrestricted license in another political jurisdiction (within the United States, its territories, the District of Columbia or Canada) and to meet the same educational requirements as applicants for licensure by examination. Alternately, these applicants may provide proof that they hold a current, unrestricted license and that they have worked at an active, clinical practice during the five years immediately preceding application. Applicants for licensure by endorsement must also provide documentation that they have passed

an exam that is equivalent to the Virginia exam or that they have passed the exam required by the political jurisdiction that issued their license and that they have worked at an active, clinical practice during the five years immediately preceding application. Currently, physical therapists who are applying for licensure by endorsement, but who have not actively practiced at least 160 hours in the last two years, must successfully complete a traineeship before they can be licensed.

The Board proposes to amend the conditions under which a traineeship would be required of applicants for licensure by endorsement so that individuals who have not actively practiced at least 320 hours in the last four years (rather than 160 in two years) must complete a traineeship before they can be licensed. The Department of Health Professions (DHP) reports that this amendment will better accommodate individuals who have taken a leave of absence to raise children (or for other reasons) and are reentering the field of physical therapy through this licensure program.

The Board also proposes to amend this section to require applicants for licensure by endorsement to submit current HIPDB and the NPDB reports. State Boards and insurance companies are required, by federal law, to report any instances of Board discipline and/or malpractice to these data banks. Requiring applicants to provide these reports will likely reduce the chance of someone gaining licensure who does not meet the Commonwealth's standards for competency and character. Applicants can obtain both of these reports for \$16 so the cost of this requirement is unlikely to affect an otherwise qualified therapist's decision to apply for Virginia licensure.

Additionally, the Board proposes to require applicants for licensure by endorsement to provide proof of 15 hours continuing education for each year of licensure in another political jurisdiction or 60 hours of continuing education over the four years preceding application for Virginia licensure. DHP reports that this change is proposed to ensure that individuals who are licensed by endorsement have had the same level of training as individuals who are already practicing in the state (physical therapist licensed in the Commonwealth must complete 30 hours of continuing education per biennium for license renewal). DHP also reports that the annual explicit cost of continuing education can range from costing nothing (for members of professional organizations or for licensees who can take advantage of free in-service training) to several hundred dollars (for licensees who fulfill continuing education requirements with for-fee

conferences). All individuals who are subject to continuing education requirements incur implicit cost for their time spent on training. Using Bureau of Labor Statistics (BLS) data for the (2006) average hourly wage for a physical therapist (\$32.72 p/h), these individuals could incur implicit costs equal to as much as \$1,963.¹ The opportunity cost for hours spent on continuing education could be lower or higher than this depending on how individuals value alternate uses of their time. Individuals who want to apply for licensure by endorsement, but who have either had fewer continuing education hours to complete or who have not been subject to continuing education requirements at all where they are currently licensed, will have to complete up to 60 hours of training before they can be licensed. This may affect these individuals' willingness to be licensed in Virginia and, so may mean that slightly fewer of these individuals end up working as physical therapists in the Commonwealth.

Current regulations contain a fairly generous list of approved continuing education. The Board proposes to add to this list by allowing graduation from a transitional Doctor of Physical Therapy program to satisfy continuing educational requirements for the biennium in which the degree is awarded. This change will benefit licensees by allowing them one more continuing education choice.

Current regulations allow unlicensed graduates to work as physical therapy trainees while they are awaiting their scores on the national examination. Traineeships must be terminated within two days of trainees receiving their exam scores; trainees who do not pass the exam may apply for a new traineeship which would last until they retake the exam and get their new results.

The Board proposes to only allow any traineeship that is approved after exam failure to last one year from the date the results of the first exam arrive. DHP reports that this change is proposed to ensure that individuals who have completed their initial education become licensed in a timely manner. The national exam is computerized and is given on demand six days a week. Given that individuals who fail the exam initially can avail themselves of multiple opportunities to retake the exam during the time period specified by the Board, this requirement is unlikely to significantly lower the number of individuals who are licensed by examination in any given year.

Finally, current regulation specifies a normal reinstatement fee of \$180 and a fee for reinstatement of a revoked license (\$1,000) but does not specifically address reinstatement of

¹ $60 * 32.72 = 1,963.20$

suspended licenses. This means that individuals who have had their license suspended, and who have to undergo an investigation and have the Board reinstate them, pay the same \$180 as someone who just let their license lapse for more than two years.

To help defray the cost of this process, the Board proposes to add a \$500 fee for reinstatement of a suspended license to the fee schedule. This change will increase the cost of reinstatement for individuals who have had their licenses suspended from \$180 to \$500.

Businesses and Entities Affected

DHP reports that there are 4,757 physical therapists and 1,849 physical therapist assistants who are licensed by the Commonwealth. DHP also reports that 351 individuals were newly licensed during the last fiscal year. All of these individuals will be affected by these regulatory changes.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This regulatory action will likely have little to no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

DHP reports that some of the 4,757 physical therapists who are licensed by the Commonwealth may meet the definition of a small business. Physical therapists who are already licensed in the state, and who count as proprietors of small businesses, will incur some extra cost for license reinstatement if they break the law and have their licenses suspended. Out-of-state small business physical therapists who are applying for licensure by endorsement may incur extra costs due to continuing education requirements added by the Board.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternatives to this regulatory action that both meet the aims of the Board and would further lower costs for small businesses in the Commonwealth.

Real Estate Development Costs

This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.