



Proposed 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	Credentialing for graduates of non-approved programs and requirements for licensure by endorsement
Document preparation date	8/25/05

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The proposed regulatory action will establish criteria for acceptance of organizations other than the Foreign Credentialing Commission on Physical Therapy (FCCPT) for credentialing applicants for physical therapy licensure who are graduates of schools that are not approved or accredited and will allow an applicant for licensure by endorsement to substitute evidence of active, clinical practice with an unrestricted license in another U. S. jurisdiction for the past five years in lieu of documentation of having met the educational and examination requirements of these regulations.

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., the 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, levy fees, 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.*

The specific mandate for an applicant to submit evidence satisfactory to the Board of graduate from a school acceptable to the Board is found in:

§ 54.1-3477. Requirements for licensure as a physical therapist.

An applicant for licensure as a physical therapist shall submit evidence, verified by affidavit and satisfactory to the Board, that the applicant:

- 1. Is eighteen years of age or more;*
- 2. Is a graduate of a school of physical therapy approved by the American Physical Therapy Association or is a graduate of a school outside of the United States or Canada which is acceptable to the Board; and*
- 3. Has satisfactorily passed an examination approved by the Board.*

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The Board proposes to amend section 50 in order to allow applicants for licensure who are graduates of non-approved physical therapy programs to submit their credentials to a credentialing organization that meets the criteria established by the Board in regulation. In addition to determining equivalency in education and training, the credentialing body should also be able verify licensure or authorization to practice in another country to ensure that the applicant does not have a history of unprofessional conduct or substandard practice. Verification of passage of English equivalency examinations will also be necessary in order to ensure that a person licensed as a physical therapist will be able to adequately communicate with patients in Virginia.

In addition, the Board has created another pathway for a person who has been licensed in another U. S. jurisdiction and has actively practiced for at least 5 years without restriction or disciplinary action to be licensed in Virginia by endorsement. The Board's primary function is to license persons as physical therapists who are minimally competent to provide care and treatment to patients. Adequate credentialing of persons who were educated in non-approved schools and practicing in other countries or evidence of an extended period of practice in providing patient care is necessary for the Board to do its job to protect the public's health and safety in receiving physical therapy.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed action will amend sections 50 and 65 to make it easier for foreign-trained applicants to obtain credentialing and for applicants for licensure by endorsement to meet the requirements. In amending section 50, the Board proposes to establish the criteria by which a credentialing body could be approved to validate a foreign-trained applicant's eligibility to be licensed and practice in Virginia with minimal competency. All of the criteria specified in regulation are currently performed by the Foreign Credentialing Commission on Physical Therapy (FCCPT). In amending section 65, the Board proposes to provide an alternative for an applicant for licensure by endorsement to substitute five years of active, clinical practice with an unrestricted license in another state for the required education and/or examination documentation. The goal of an amended regulation is to provide options to applicants seeking to have their credentials reviewed and deemed equivalent to those of graduates of approved educational programs and to facilitate licensure of applicants for licensure by endorsement.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

1) The primary advantage to the public would be to provide alternatives to current requirements for licensure that may have the benefit of increasing the number of licensees and the availability of physical therapy services in the Commonwealth. There are no disadvantages; the Board believes the alternatives adopted provide evidence of competency to practice at least equivalent to the current requirements.

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.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no additional on-going costs.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The entities that are likely to be affected by these regulations would be applicants for licensure as physical therapists.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The agency has no estimate of the number of entities affected since the number that may apply in the future is unknown. In the past fiscal year, there were 351 persons newly licensed as physical therapists, but data on the number who were licensed from non-approved educational programs or licensed by endorsement is not available. It is unlikely that any of the applicants affected by the proposed regulation would be small businesses,</p>

	since they would become employees of existing physical therapy practices.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	There would be no cost related to these regulations for the affected entities.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Section 50 of Chapter 20 requires that an applicant for initial licensure, who is not a graduate of an approved physical therapy program, must submit documentation of certification by the FCCPT. The FCCPT was established by the Federation of State Boards of Physical Therapy to provide reliable credentialing of foreign-educated physical therapists. FCCPT certification assures that the applicant has been prescreened for work visas, as required by current immigration laws, has had a credential review (including course work equivalency), has verification of any license or authority to practice in another country, and has passed the English proficiency examinations. Credentialing by the FCCPT has been a very effective and efficient mechanism for processing and approving applications from foreign-trained physical therapists.

Recently, however, the Board has received complaints about the length and complexity of the process. One applicant approached a Virginia legislator about intervening on her behalf. Given the problem created by recognizing only one credentialing body, the Board determined that it was appropriate to amend its regulation to set out the criteria by which other credentialing bodies could also be approved. Rather than listing alternate or additional credentialing organizations in regulation, the Board has stated in regulation the specific elements or requirements that must be documented and the criteria for board approval of a credentialing organization.

In the process of looking at regulations for approval of educational credentials for foreign-trained applicants, the Board became aware that physical therapists licensed and practicing in other states sometimes had great difficulty in being credentialed for licensure in Virginia. Current regulations specify that an applicant for licensure by endorsement must provide the same evidence of education as an applicant for initial licensure by examination. Applicants who attended a PT school many years ago, particularly those from other countries, often find it difficult, if not impossible, to produce the necessary transcripts and other documents.

Therefore, the Board has adopted an alternative for those PT’s who are seeking licensure by endorsement and who can provide evidence of competency by virtue of having at least five years of active, clinical practice in patient care without disciplinary action in another jurisdiction. The option of being licensed by endorsement by evidence of active practice should be far less burdensome for some persons who may be looking at Virginia as a place to practice.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

The Notice of Intended Regulatory Action was published on November 1, 2005 with comment received until December 1, 2004. There was no public comment received during that period.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.

Detail of changes

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

Current section number	Current requirement	Proposed change and rationale
50	<p>Subsection A establishes the documentation that must be provided by a graduate of a non-approved educational program in applying for licensure as a physical therapist. Currently, the only credentialing body approved to review documents and verify eligibility is the Foreign Credentialing Commission on Physical Therapy.</p> <p>Current subsections B and C are not being amended.</p>	<p>The amendments would offer an alternative to FCCPT for verification of the physical therapist eligibility for licensure from any other credentialing agency approved by the board that substantiates that the physical therapist has been evaluated in accordance with requirements of subsection B.</p> <p>New subsection B establishes that an accrediting body would be approved provided it:</p> <ol style="list-style-type: none"> 1. Utilizes the Coursework Evaluation Tool for Foreign Educated Physical Therapists of the Federation of State Boards of Physical Therapy and utilizes original source documents to establish substantial equivalency to an approved physical therapy program; 2. Conducts a review of any license or registration held by the physical therapist in any country or jurisdiction to ensure that the license or registration is current and unrestricted or was unrestricted at the time it expired or was lapsed; and 3. Verifies English language proficiency by passage of the

		<p>TOEFL and TSE examination or by review of other evidence of English proficiency.</p> <p><i>In determining the criteria for approval, the Board examined the key elements of a FCCPT review and selected those that are essential for validation of an applicant’s eligibility to be licensed and practice in Virginia with minimal competency. All of those specified in regulation are currently performed by FCCPT.</i></p> <p><i>The Coursework Evaluation Tool has been developed by the Federation of State Boards of Physical Therapy and is the measure by which FCCPT evaluates coursework in a foreign PT program to determine equivalency with approved PT programs. The Tool is available to other credentialing agencies for the cost of \$1.</i></p> <p><i>It is also essential that the credentialing body review any license or registration held, and if applicable, verify that it is unrestricted. All health regulatory boards require applicants to provide information about the status of licenses held in other jurisdictions or countries in order to ensure that problem practitioner do not move to Virginia to continue substandard practice.</i></p> <p><i>English proficiency is also required for licensure for both approved and non-approved programs, so any credentialing agency would need to verify the applicant’s proficiency by passage of tests of written and spoken English or by other evidence, such as the PT educational program was conducted in English.</i></p>
<p>65</p>	<p>Subsections A and C are not being amended.</p> <p>Subsection B establishes the requirements for licensure by endorsement and currently requires:</p> <p>Documentation of having met the educational requirements in sections 40 or 50; and</p> <p>Passage of an examination equivalent to the Virginia examination at the time of initial licensure or passage of an exam required in another state and active practice for a minimum of</p>	<p>Subsection B is being amended to allow alternatives to the educational and examination requirements for licensure by endorsement.</p> <p>In lieu of meeting the educational requirements, an applicant may provide evidence of clinical practice during the five years immediately preceding application for licensure in Virginia with a current, unrestricted license issued by another U. S. jurisdiction.</p> <p><i>Sometimes, it can be virtually impossible for an applicant who graduated from a PT program a number of years ago to provide documentation of educational qualification as required by sections 40 or 50. It can be especially difficult for foreign-trained applicants. In the Board’s opinion, active practice over a period of years in another state with an unrestricted license is evidence of minimal competency and should be acceptable for licensure by endorsement. The Board determined that 5 years of practice (at least part-time) was the least amount of time necessary to ensure that the PT</i></p>

	<p>five years.</p>	<p><i>has been adequately prepared. In addition, a person who has been recently licensed should be able to obtain copies of transcripts, etc. from an educational program without difficulty.</i></p> <p>Currently, the Board allows an applicant to submit evidence of active practice with an unrestricted license for 7 years in lieu of documentation of passage of an examination equivalent to the Virginia examination at the time of initial licensure. For consistency with the educational requirement, the Board proposes to shorten that to active practice for 5 years. An amendment will also clarify that active practice means clinical practice, seeing patients in the practice of physical therapy.</p> <p><i>The Board will also provide a definition of active, clinical practice to mean at least 2,500 hours of patient care over a five-year period. The 2,500 hours could allow a PT to practice on a part-time basis or to have gaps in practice and still qualify for the exceptions allowed to requirements for licensure by endorsement.</i></p>
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