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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Health Professions, Board of Physical Therapy
Virginia Administrative Code (VAC) citation	18VAC112-20
Regulation title	Regulations Governing the Practice of Physical Therapy
Action title	Approval of certifying bodies for credentialing applicants from non-approved schools
Document preparation date	August 25, 2004

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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The intent of the proposed regulatory action is to consider 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. The goal of an amended regulation would be 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 such applicants.

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 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.*

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that

the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Board proposed to amend section 50 in order to allow applicants for licensure who are graduated 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 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. 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 is necessary for the Board to do its job to protect the public's health and safety in receiving physical therapy.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

Since 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, there are no alternatives to amending the regulations. 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, the FCCPT has fallen behind in processing certification applications, causing delays in obtaining credentialing. 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 believes it is now appropriate to consider amending its regulation.

The Board does have alternatives related to the content of the amended regulation. One option would be to list alternate or additional credentialing organizations in regulation, but the list would likely be incomplete and would unintentionally omit a viable entity. Another option would be to state in regulation the specific elements or requirements that must be documented and the criteria for board approval of a credentialing organization. The Board has discussed the latter as the preferable alternative in promulgating amended language for this regulation.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability, except to the extent that additional options for credentialing may enable a person to be licensed and employed sooner than is currently possible.