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Final Regulation Agency Background Document

Agency name	Board of Physical Therapy, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC112-20
Regulation title(s)	Regulations Governing the Practice of Physical Therapy
Action title	Use of assessment tool oPTion
Date this document prepared	11/17/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The Board proposes to replace the Practice Review Tool, an assessment tool previously offered by the Federation of State Boards of Physical Therapy with oPTion, the tool currently available. Attainment of at least Level 2 on oPTion may be used for continuing education credits or to replace hours in a supervised traineeship for applicants for licensure by endorsement, or for reinstatement or reactivation, if the physical therapist has not been engaged in active practice for the two years immediately preceding application for an active license.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

FSBPT = Federation of State Boards of Physical Therapy
PRT = Practice Review Tool

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 taking the action; and 3) the title of the regulation.

On November 17, 2017, the Board of Physical Therapy amended 18VAC112-20-10 et seq., Regulations Governing the Practice of Physical Therapy.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Physical Therapy the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

6. (Effective until January 1, 2017) To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) 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 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title.

The Board has specific authority to require professional activity or to serve in a traineeship as evidence of competency to practice:

§ 54.1-3479. Licensure by examination or endorsement; traineeships.

D. In granting licenses to out-of-state applicants, the Board may require physical therapists or physical therapist assistants to meet the professional activity requirements or serve traineeships according to regulations promulgated by the Board.

Additionally, the Board has a statutory mandate to require continuing education for renewal:

§ 54.1-3480.1. Continuing education.

As a prerequisite to renewal of a license or reinstatement of a license, each physical therapist shall be required to take biennial courses relating to physical therapy as approved by the Board. The Board shall prescribe criteria for approval of courses of study and credit hour requirements. The Board may approve alternative courses upon timely application of any licensee. Fulfillment of education requirements shall be certified to the Board upon a form provided by the Board and shall be submitted by each licensed physical therapist at the time he applies to the Board for the renewal or reinstatement of his license. The Board may waive individual requirements in cases of certified illness or undue hardship.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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 Board currently recognizes PRT, the Practice Review Tool for competency assessment developed and administered by the Federation of State Boards of Physical Therapy (FSBPT). Physical therapists who take the assessment and those who meet the standard, as set by FSBPT, can receive continuing education credits. Meeting the standard on the PRT also allows an applicant for licensure by endorsement or for reinstatement, who has not been actively practicing, to reduce the required number of hours in a traineeship.

FSBPT has informed member boards that, as of November 30, 2016, it will no longer offer the PRT and has replaced it with a different assessment tool called oPTion. oPTion uses scenarios and multiple-choice questions that emphasize clinical application of knowledge necessary for safe, effective practice. Each scenario is followed by three to five multiple-choice questions, for a total of 100 questions. With the shift to oPTion, the FSBPT has also eliminated the PRT “standard” and replaced it with an assessment report that categorizes the therapist’s performance into levels 1 through 4.

The purpose of the proposed action is to utilize a self-assessment tool which allows physical therapists to compare their knowledge, skills, and abilities to entry-level general physical therapy practice. A physical therapist cannot fail oPTion, and the results are not an assurance of minimal competence. Therefore, the Board must balance its responsibility to adopt regulations that protect the public health and safety with an opportunity for applicants to reduce the number of traineeship hours or receive continuing education credits by taking the assessment tool oPTion.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

Since meeting the “standard” on the PRT has been replaced with four levels of competency, the Board proposes to replace the Practice Review Tool, an assessment tool previously offered by the Federation of State Boards of Physical Therapy with oPTion, the tool currently available. Attainment of at least Level 2 on oPTion may be used for continuing education credits or to replace hours in a supervised traineeship for applicants for licensure by endorsement, or for reinstatement or reactivation, if the physical therapist has not been engaged in active practice for the two years immediately preceding application for an active license.

According to FSBPT, the levels are described as: 1) Level 1 indicates the ability to apply entry-level knowledge, concepts, and principles across a limited range of patient conditions; 2) Level 2 indicates the ability to apply entry-level knowledge, concepts, and principles across a moderate range of patient conditions; 3) Level 3 demonstrates ability in a broad range of patient conditions; and 4) Level 4 demonstrates ability across an extensive range of patient conditions.

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 of the amendments is more flexibility in meeting requirements for evidence of continued competency – both for current licensees to meet the hours of Type 1 CE required for renewal and for applicants who have not been engaged in active practice in the past two years. There are no disadvantages to the public because attaining a minimum of Level 2 on oPTion would not be the only requirement necessary for continuing competency. Such assessment tools are advantageous in that they indicate to the licensee their areas of strength and weakness to encourage them to seek additional education and/or training if needed.
- 2) There are no advantages or disadvantages to the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “*promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system.*”
The proposed amendments are a foreseeable result of the statute requiring the Board to protect the health and safety of patients in the Commonwealth. They are optional and offer licensees more flexibility; and therefore, they do not constitute any restraint on competition.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Family impact

Please assess the impact of this 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.

Changes made since the proposed stage

*Please list all changes that made to the text since the proposed regulation was published in the Virginia Register of Regulations and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

There are no changes to the text.

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. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

There was a public comment public from August 23, 2017 to October 22, 2017; a public hearing was conducted on October 13, 2017. No public comment was received.

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. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions for words and terms used in the chapter	<p>Section 10 is amended to delete the “PRT” and to add the definition for an “assessment tool” as meaning oPTion or any other competency assessment tool developed or approved by FSBPT.</p> <p>oPTion is the name of the current assessment tool used by FSBPT. The Board has chosen to name oPTion in the definition but include “any other competency assessment tool developed and approved by FSBPT.” Therefore, if the name changes, but the basic format for the assessment tool and the levels assigned for performance remain intact, the Board would not have to amend its regulations.</p>
65	Sets out requirements for licensure by endorsement	<p>Subsection B is amended to replace the option of meeting the standard of the PRT with “<u>attaining at least Level 2 on the FSBPT assessment tool.</u>” If the applicant has not been engaged in active practice in another jurisdiction, he can replace 160 hours of a required traineeship by attaining at least Level 2 on oPTion within the two years preceding application for licensure in Virginia.</p> <p><i>According to FSBPT, Level 2 indicates the ability to apply entry-level knowledge, concepts, and principles across a moderate range of patient conditions. The Board considered Level 2 to be the lowest level acceptable for replacement of supervised training for those applicants who have not been engaged in active practice.</i></p>
131	Sets out continued competency requirements for renewal of an active license	<p>Subsection B (5) is amended to allow a physical therapist who can document that he attained at least Level 2 on the FSBPT assessment tool to receive 5 hours of Type 1 credit for the biennium in which the assessment tool was taken. A physical therapist who can document that he attained at least Level 3 or 4 on the FSBPT assessment tool may receive 10 hours of Type 1 credit for the biennium in which the assessment tool was taken. Continuing competency credit can only be granted for the FSBPT assessment tool once every four years.</p> <p><i>As noted above, Level 2 indicates the ability to apply entry-level knowledge, concepts, and principles across a moderate range of patient conditions. The Board considered Level 2 to be the lowest level acceptable for</i></p>

		<p><i>granting CE credit; five of the 20 hours may be credited for attaining Level 2. If the assessment results in a Level 1, there is an indication that the PT only has entry-level knowledge to treat a limited range of conditions. Therefore, additional education or training should be necessary for independent, unsupervised practice. Level 3 or 4 indicates a higher level of expertise, so the PT may be credited with 10 of the 20 hours of Type 1 CE required for biennial renewal. Since there are limited variations of the assessment tool, the Board determined that repeating it in each biennium should not replace CE hours and other types of learning.</i></p>
<p>135</p>	<p>Sets out the provisions relating to inactive licensure and reactivation to an active license.</p>	<p>Subsection B is amended to replace the option of meeting the standard of the PRT with <u>“attaining at least Level 2 on the FSBPT assessment tool.”</u> If the inactive licensee has not been engaged in active practice in another jurisdiction, he can replace 160 hours of a required traineeship by attaining at least Level 2 on oPTion within the two years preceding application for licensure in Virginia.</p> <p><i>As noted above, Level 2 indicates the ability to apply entry-level knowledge, concepts, and principles across a moderate range of patient conditions. The Board considered Level 2 to be the lowest level acceptable for replacement of supervised training for those applicants who have not been engaged in active practice.</i></p>
<p>136</p>	<p>Sets out requirements for reinstatement of a lapsed license.</p>	<p>Subsection B is amended to replace the option of meeting the standard of the PRT with <u>“attaining at least Level 2 on the FSBPT assessment tool.”</u> If the PT with a lapsed license has not been engaged in active practice, he can replace 160 hours of a required traineeship by attaining at least Level 2 on oPTion within the two years preceding application for licensure in Virginia.</p> <p><i>As noted above, Level 2 indicates the ability to apply entry-level knowledge, concepts, and principles across a moderate range of patient conditions. The Board considered Level 2 to be the lowest level acceptable for replacement of supervised training for those applicants who have not been engaged in active practice.</i></p>