Virginia Department of Health Professions
Board of Physical Therapy

Agenda
Full Board Meeting

November 13, 2018
Board Room #4
9:30 a.m.

Call to Order – Arkena L. Dailey, PT, DPT, Board President

- Welcome and Introductions
- Emergency Egress Procedures
- Mission of the Board

Approval of Minutes

- Board Meeting – August 16, 2018
- For informational purposes – Informal Conferences August 16, 2018

Ordering of Agenda

Public Comment

The Board will receive public comment at this time. The Board will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Agency Report

Staff Reports – Pages 13 – 21

- Executive Director's Report – **Corie E. Tillman Wolf, Executive Director**
- Discipline Report – **Lynne Helmick, Deputy Executive Director**

Board Counsel Report - Erin Barrett, Assistant Attorney General

Committee and Board Member Reports – Pages 22 – 40

- Board of Health Professions Report – **Allen R. Jones, Jr., PT, DPT**
- Reports from the FSBPT Annual Meeting – **Arkena L. Dailey, PT, DPT, and Elizabeth Locke, PT, PhD**

Legislation and Regulatory Actions – Elaine Yeatts, Sr. Policy Analyst – Pages 41 – 61

- Report on Regulatory Actions
- Update on Legislation for Physical Therapy Licensure Compact
- Consideration of Revisions to Guidance Documents
  - Guidance Document 112-21: Guidance on Telehealth
  - Guidance Document 112-10: Board Guidance on Credit for Continuing Education

- Guidance Document 112-22: Procedures for Auditing Continued Competency Requirements

New Business – Pages 62 – 86

- Presentation - Use of the Revised Sanctioning Reference Points Worksheet – **Kim Small, VisualResearch, Inc.**
- Board Committee Assignments – **Arkena L. Dailey, PT, DPT**
- Survey of Licensees Regarding Interest in PT Licensure Compact – **Corie E. Tillman Wolf**
- Consideration of Board Membership in INPTRA – **Corie E. Tillman Wolf**

Next Meeting – February 19, 2019

Meeting Adjournment

This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3708(D).

The Virginia Board of Physical Therapy convened for a full board meeting on Thursday, August 16, 2018 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #3, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Allen R. Jones, Jr., PT, DPT, President
Arkena L. Dailey, PT, DPT, Vice-President
Tracey Adler, PT, DPT
Elizabeth Locke, PT, PhD
Mira H. Mariano, PT, PhD
Susan Palmer, MLS
Sarah Schmidt, PTA, MPH

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Barbara Allison-Bryan, MD, DHP Chief Deputy Director
Erin Barrett, Assistant Attorney General, Board Counsel
David Brown, DC, DHP Director
Sarah Georgen, Licensing and Operations Manager
Lynne Helmick, Deputy Director
Corie Tillman Wolf, Executive Director
Elaine Yeatts, Sr. Policy Analyst

GUESTS PRESENT

Joshua Bailey, PT, DPT, Virginia Physical Therapy Association
Richard Grossman, Virginia Physical Therapy Association

CALL TO ORDER

Dr. Jones called the meeting to order at 10:15 a.m. and asked the Board members and staff to introduce themselves.

With seven members present at the meeting, a quorum was established.

Dr. Jones read the mission of the Board, which is also the mission of the Department of Health Professions.

Dr. Jones provided reminders to the Board members and audience regarding microphones, sign in sheets, computer agenda materials, and breaks.

Ms. Tillman Wolf then read the emergency egress instructions.

APPROVAL OF MINTUES

Upon a **MOTION** by Ms. Schmidt, and properly seconded by Dr. Dailey, the Board voted to accept the following meeting minutes:

- Board Meeting – May 1, 2018
- Telephonic Conference Call – March 2, 2018

The motion passed unanimously.

ORDERING OF THE AGENDA

Ms. Tillman Wolf requested to add Dr. Dailey to the Reports from FSBPT Leadership Issues Forum.

Upon a **MOTION** by Ms. Schmidt and properly seconded by Ms. Palmer, the Board voted to accept the agenda as written with the notations from Ms. Tillman Wolf. The motion passed unanimously.

PUBLIC COMMENT

There was no public comment.

AGENCY REPORT

Dr. Brown noted that preparation for the legislative session of the upcoming General Assembly in 2019 begins in August with the agency presenting bills for consideration. Dr. Brown stated that the Physical Therapy Compact Licensure bill will be high priority. Dr. Brown noted several other bills from past sessions that were moving forward and being reviewed by workgroups.

Dr. Brown also stated that he is looking into furthering Board member education on a variety of topics. Rather than one yearly Board member training, he is asking Boards to incorporate training sessions into Board meetings throughout the year, which would allow for regularly scheduled times for board members to receive training topics, including confidentiality, probable cause reviews, and FOIA.

Dr. Allison-Bryan announced an initiative to review the safety measures of the building to ensure the safety of employees, board members and the public. She noted some changes can already be seen, including a change to the reception desk on the first floor to allow for quicker egress and a sign-in and sign-out policy. She and Lisa Hahn are working with the Virginia State Police and the Henrico Police Department's Crime Prevention Through Environmental Design Unit (CPTED) to thoroughly review the building and safety measures. Dr. Allison-Bryan stated that more information would be provided at the next meeting.

With no further questions, Dr. Brown and Dr. Allison-Bryan concluded their reports.

STAFF REPORTS

Executive Director's Report – Corie E. Tillman Wolf, J.D.

Ms. Tillman Wolf congratulated the Board on receiving the FSBPT's Excellence in Regulation Award for 2018. She noted that the FSBPT will present the award at the October Annual meeting.

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of May 31, 2018.

Cash Balance as of June 30, 2017	$1,457,317
YTD FY18 Revenue	$199,705
Less YTD Direct & In-Direct Expenditures	$555,402
Cash Balance as of June 30, 2018	**$1,101,620**

Ms. Tillman Wolf provided FSBPT updates from the June 8-10, 2018 Regulatory Training in Alexandria, VA attended by Dr. Locke and Dr. Mariano. She also provided updates from the Leadership Issues Forum attended by Ms. Tillman Wolf, Dr. Jones, and Dr. Dailey on July 14-15, 2018.

Ms. Tillman Wolf announced the next FSBPT Annual Meeting will be held on October 25-27, 2018. She noted that Dr. Dailey was a candidate for the FSBPT Board of Directors.

Ms. Tillman Wolf provided the Board with updates regarding the status of the PT Compact adoption in other jurisdictions. She also provided updates regarding aPTitude and oPTions offered through the FSBPT.

Ms. Tillman Wolf announced that the FSBPT has a new resource on their website to assist foreign educated applicants through the application process.

Ms. Tillman Wolf announced the progress made on the 2018 planning completed by the Board members and Board staff to include the completion of the updated Sanction Reference Points and the completion of a review of and updates to Guidance Documents. She reported that efforts to increase communications to licensees are ongoing.

Ms. Tillman Wolf presented licensure statistics that included the following information:

Licensure Statistics – All Licenses

License	April 27, 2018	August 14, 2018	Change +/-
Physical Therapist	**8,342**	**8,779**	437
Physical Therapist Assistant	**3,460**	**3,630**	170
Total PT's and PTA's	**11,802**	**12,409**	607
Direct Access Certification	**1,196**	**1,211**	15

Ms. Tillman Wolf presented the PT Exam Statistics from July 24-25, 2018:

	# who took exam	# Passed	1st time test takers	Repeat test takers	# Failed	1st time testers	Repeat Test Takers
US Applicants	211	195	185	10	16	11	5
Non-CAPTE Applicants	6	2	2	0	4	0	4
Total	217	197	187	10	20	11	9

Ms. Tillman Wolf presented the PTA Exam Statistics from July 10, 2018:

	# who took exam	# Passed	1st time test takers	Repeat test takers	# Failed	1st time testers	Repeat Test Takers
US Applicants	144	114	107	7	30	22	8
Non-CAPTE Applicants	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Total	144	114	107	7	30	22	8

Ms. Tillman Wolf announced that CAPTE has accredited Emory and Henry University's DPT Program effective June 1, 2018. She also announced that Northern Virginia Community College's PTA program had their accreditation reaffirmed in July 2018.

Ms. Tillman Wolf provided the following statistics regarding the Virginia Performs – Customer Satisfaction Survey Results:

- Q3 2017 – 100%
- Q4 2017 – 98.9%
- Q1 2018 – 97.3%
- Q2 2018 – 100%
- Q3 2018 – 86.8%
- Q4 2018 – 100%

Ms. Tillman Wolf announced that the customer satisfaction statistics from the FSBPT show that Virginia's statistics are above the national average at 91.3%.

Ms. Tillman Wolf thanked Ms. Schmidt for her dedication to the Board and offered her best wishes in the future.

The remaining Board meeting dates for 2018 are:

- November 13, 2018 – 9:30 a.m.

The Board meeting dates for 2019 are:

- February 19, 2019 – 9:30 a.m.
- May 16, 2019 – 9:30 a.m.
- August 13, 2019 – 9:30 a.m.
- November 12, 2019 – 9:30 a.m.

Ms. Tillman Wolf provided reminders to the Board members regarding changes in contact information.

With no further questions, Ms. Tillman Wolf concluded her report.

Discipline Report – Lynne Helmick, Deputy Executive Director

Ms. Helmick, Deputy Executive Director, reported on the current number of open cases, discipline statistics and Key Performance Measures.

As of August 10, 2018, Ms. Helmick reported the following disciplinary statistics:

- 51 total cases
    - 1 in Administrative Proceedings Division
    - 1 in Formal Hearing
    - 3 in Informal Conferences
    - 15 in Investigation
    - 30 in Probable Cause

Ms. Helmick reported updated information on Total Cases Received and Closed from Q3 and Q4 2018:

- Q1 2018 – 6/10
- Q2 2018 – 15/7
- Q3 2018 – 9/2
- Q4 2018 – 4/4

Ms. Helmick reported the following Virginia Performs statistics for Q3 2018:

- Clearance Rate – 0% Received 5 patient cases and closed 0 cases
- Pending Caseload over 250 days was at 28% which is over the 20% goal
- Cases closed within 250 days is 0% - 0 cases closed within 250 days (Goal is over 90%)

Ms. Helmick reported the following Virginia Performs statistics for Q4 2018:

- Clearance Rate – 75% Received 4 patient cases and closed 3 cases

- Pending Caseload over 250 days was at 32% which is over the 20% goal. It represented 11 cases.
- Cases closed within 250 days is 0% - 0 cases closed within 250 days (Goal is over 90%)

Ms. Helmick provided the following information regarding all cases:

- Percentage of all cases closed in 250 days

	Q4 – 2017	Q1 – 2018	Q2 – 2018	Q3 – 2018	Q4 - 2018
PT	44%	90%	100%	100%	90.5%
Agency	86.7%	82.2%	86.7%	87.6%	80.6%

- Average days to close a case

	Q4 – 2017	Q1 – 2018	Q2 – 2018	Q3 – 2018	Q4 – 2018
PT	291.3	239.4	112	152.5	412.8
Agency	194.1	255.7	186.5	196.4	201.1

Ms. Helmick provided information on the categories of cases adjudicated in Fiscal Year 2018:

- 9 cases total
  - 1 records fraud
  - 1 impairment
  - 2 out of state Orders
  - 3 CE audit cases
  - 1 confidentiality
  - 1 records (other)

With no further questions, Ms. Helmick concluded her report.

BOARD COUNSEL REPORT

Closed Meeting

Upon a **MOTION** by Dr. Dailey, and duly seconded by Dr. Adler, the Board voted to convene in a closed meeting pursuant to Section 2.2-3711(A)(7) of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigation. Additionally, she moved that Ms. Barrett, Ms. Tillman Wolf, Ms. Helmick, Ms. Georgen, Ms. Yeatts, Dr. Brown, and Dr. Allison-Bryan attend the closed meeting because their presence in the closed meeting is deemed necessary and would aid the Board in its consideration of the topic. The motion passed unanimously.

Reconvene

Upon a **MOTION** by Dr. Dailey, and duly seconded by Dr. Locke, it was certified that the matters discussed in the preceding closed session met the requirements of Section 2.2-3712 of the *Code of Virginia* and the Board reconvened in open session. The motion passed unanimously.

COMMITTEE AND BOARD MEMBER REPORTS

Board of Health Professions Report – Allen R. Jones, Jr., PT, DPT

Dr. Jones noted that the minutes of the Board of Health Professions were included in the agenda packet. Upon a **MOTION** by Ms. Schmidt, duly seconded by Dr. Dailey, the Board accepted Dr. Jones' report.

Reports from FSBPT Regulatory Training, Leadership Issues Forum – Elizabeth Locke, PT, PhD, Mira Mariano, PT, PhD, Allen R. Jones, Jr., PT, DPT, Arkena L. Dailey, PT, DPT

Dr. Locke and Dr. Mariano provided their takeaways from the FSBPT Regulatory Training meeting.

Dr. Dailey and Dr. Jones provided their takeaways from the FSBPT Leadership Issues Forum meeting.

LEGISLATION AND REGULATORY ACTIONS

Ms. Yeatts provided a brief overview of the status of current regulations.

Ms. Yeatts reported that Guidance Document 112-9: Guidance on Dry Needling in the Practice of Physical Therapy, is not currently on the board's website, but had not been formally repealed by the Board. Board counsel had previously advised that it should be removed. Ms. Barrett clarified that the removal of the guidance document would not alter the Board's ability to take disciplinary action, as the Board has general statutory authority relating to practitioner competence and patient safety.

Upon a **MOTION** by Dr. Adler, and properly seconded by Ms. Schmidt, the Board voted repeal Guidance Document 112-9: Guidance on Dry Needling in the Practice of Physical Therapy. The motion passed unanimously.

BREAK

The Board took a break at 11:35 a.m. and returned at 11:44 a.m.

NEW BUSINESS

Election of Officers

The Board members received nomination forms from Dr. Dailey and Dr. Adler for the position of President, and Dr. Locke for the position of Vice-President. There were no additional nominations from the floor.

Upon a **MOTION** by Ms. Palmer, and properly seconded by Dr. Dailey, the Board voted to elect Dr. Locke as Vice-President for the Board.

Upon a **MOTION** by Dr. Locke, and properly seconded by Ms. Palmer, the Board included Dr. Dailey and Dr. Adler on the ballot as President for the Board.

Dr. Jones called for a voice vote for Dr. Dailey as President of the Board. Dr. Jones noted that five votes were provided for Dr. Dailey (Mariano, Jones, Dailey, Locke and Palmer).

Dr. Jones called for a voice vote for Dr. Adler as President of the Board. Dr. Jones noted that two votes were provided for Dr. Adler (Adler and Schmidt).

Upon a **MOTION** by Dr. Locke, and properly seconded by Ms. Palmer, the Board voted to elect Dr. Dailey as President for the Board. The motion passed 5-2.

RECOGNITION OF SERVICE

Dr. Jones presented Ms. Schmidt with a plaque to recognize her service and dedication to the Board of Physical Therapy. He thanked her for all of her hard work and wished her well on her future endeavors.

NEXT MEETING

The next meeting date is November 13, 2018.

ADJOURNMENT

With all business concluded, the meeting adjourned at 12:01 p.m.

_____	_____
Arkena L. Dailey, PT, DPT, Board President	Corie Tillman Wolf, J.D., Executive Director
_____	_____
Date	Date

UNAPPROVED

VIRGINIA BOARD OF PHYSICAL THERAPY
SPECIAL CONFERENCE COMMITTEE
MINUTES

August 16, 2018	**Department of Health Professions** **Perimeter Center** **9960 Mayland Drive, Suite #300** **Henrico, Virginia 23233**

CALL TO ORDER: A Special Conference Committee of the Board was called to order at 1:15 p.m.

MEMBERS PRESENT: Sarah Schmidt, PTA, MPH, Chair
Tracey Adler, PT, DPT

DHP STAFF PRESENT: Lynne Helmick, Deputy Executive Director
Candace Carey, Discipline Operations Assistant
Jessica Kelley, Adjudication Specialist

MATTER: **Carolo Mikhail L. Capulong, P.T.**
License # 2305-207622
Case # 173870,175463

DISCUSSION: Mr. Capulong did appear before the Committee in accordance with the Notice of Informal Conference, dated May 30, 2018. Mr. Capulong was present and represented by attorney Jonathan S. Rochkind, Esq.

The Committee fully discussed the allegations as outlined in the Notice of Informal Conference.

CLOSED SESSION: Upon a motion by Dr. Adler, and duly seconded by Ms. Schmidt, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Carlo Mikhail L. Capulong, PT. Additionally, she moved that Ms. Helmick and Ms. Carey attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions. The Committee entered into closed session at 2:28 p.m.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session at 3:06 p.m.

DECISION: Upon a motion by Dr. Adler and duly seconded by Ms. Schmidt, the Committee moved to order a reprimand to Mr. Capulong

and ordered indefinite probation for not less than 1 year and to complete 6 hours of Type 1 pre-approved continuing education in ethics and documentation.

The motion carried.

ADJOURNMENT: The Committee adjourned at 3:10 p.m.

_____ _____

Sarah Schmidt, Chair Corie Tillman Wolf, Executive Director

_____ _____

Date Date

Virginia Department of Health Professions
Cash Balance
As of September 30, 2018

	116- Physical Therapy
Board Cash Balance as June 30, 2018	$ 1,101,620
YTD FY19 Revenue	40,330
Less: YTD FY19 Direct and Allocated Expenditures	149,752
Board Cash Balance as September 30, 2018	992,198

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11600 - Physical Therapy

For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	34,525.00	159,125.00	124,600.00	21.70%
4002406	License & Renewal Fee	2,010.00	1,194,470.00	1,192,460.00	0.17%
4002407	Dup. License Certificate Fee	200.00	550.00	350.00	36.36%
4002409	Board Endorsement - Out	3,300.00	9,600.00	6,300.00	34.38%
4002421	Monetary Penalty & Late Fees	295.00	5,235.00	4,940.00	5.64%
4002432	Misc. Fee (Bad Check Fee)	-	35.00	35.00	0.00%
	Total Fee Revenue	40,330.00	1,369,015.00	1,328,685.00	2.95%
	Total Revenue	40,330.00	1,369,015.00	1,328,685.00	2.95%
5011110	Employer Retirement Contrib.	3,346.88	14,378.00	11,031.12	23.28%
5011120	Fed Old-Age Ins- Sal St Emp	1,761.93	8,135.00	6,373.07	21.66%
5011130	Fed Old-Age Ins- Wage Earners	-	796.00	796.00	0.00%
5011140	Group Insurance	324.31	1,394.00	1,069.69	23.26%
5011150	Medical/Hospitalization Ins.	7,535.38	43,248.00	35,712.62	17.42%
5011160	Retiree Medical/Hospitalizatn	290.14	1,245.00	954.86	23.30%
5011170	Long term Disability Ins	154.92	660.00	505.08	23.47%
	Total Employee Benefits	13,413.56	69,856.00	56,442.44	19.20%
5011200	Salaries				
5011230	Salaries, Classified	24,762.50	106,340.00	81,577.50	23.29%
5011250	Salaries, Overtime	34.70	-	(34.70)	0.00%
	Total Salaries	24,797.20	106,340.00	81,542.80	23.32%
5011300	Special Payments				
5011340	Specified Per Diem Payment	250.00	3,250.00	3,000.00	7.69%
5011380	Deferred Compnstn Match Pmts	10.50	960.00	949.50	1.09%
	Total Special Payments	260.50	4,210.00	3,949.50	6.19%
5011400	Wages				
5011410	Wages, General	-	15,100.00	15,100.00	0.00%
	Total Wages	-	15,100.00	15,100.00	0.00%
5011600	Terminatn Personal Svce Costs				
5011640	Salaries, Cmp Leave Balances	70.68	-	(70.68)	0.00%
	Total Terminatn Personal Svce Costs	70.68	-	(70.68)	0.00%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	38,541.94	195,506.00	156,964.06	19.71%
5012000	Contractual Svs				
5012100	Communication Services				
5012110	Express Services	-	50.00	50.00	0.00%
5012140	Postal Services	1,359.20	5,750.00	4,390.80	23.64%
5012150	Printing Services	102.44	600.00	497.56	17.07%
5012160	Telecommunications Svcs (VITA)	89.28	1,000.00	910.72	8.93%
5012190	Inbound Freight Services	5.48	-	(5.48)	0.00%
	Total Communication Services	1,556.40	7,400.00	5,843.60	21.03%
5012200	Employee Development Services				

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11600 - Physical Therapy

For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012210	Organization Memberships	-	2,500.00	2,500.00	0.00%
5012240	Employee Trainng/Workshop/Conf	-	1,000.00	1,000.00	0.00%
	Total Employee Development Services	-	3,500.00	3,500.00	0.00%
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	300.00	300.00	0.00%
	Total Health Services	-	300.00	300.00	0.00%
5012400	Mgmnt and Informational Svcs	-			
5012420	Fiscal Services	26.92	18,000.00	17,973.08	0.15%
5012440	Management Services	43.58	4,000.00	3,956.42	1.09%
5012470	Legal Services	-	300.00	300.00	0.00%
	Total Mgmnt and Informational Svcs	70.50	22,300.00	22,229.50	0.32%
5012500	Repair and Maintenance Svcs				
5012520	Electrical Repair & Maint Srvc	-	25.00	25.00	0.00%
5012530	Equipment Repair & Maint Srvc	464.10	600.00	135.90	77.35%
	Total Repair and Maintenance Svcs	464.10	625.00	160.90	74.26%
5012600	Support Services				
5012630	Clerical Services	-	19.00	19.00	0.00%
5012640	Food & Dietary Services	153.93	750.00	596.07	20.52%
5012660	Manual Labor Services	114.23	700.00	585.77	16.32%
5012670	Production Services	505.68	2,245.00	1,739.32	22.52%
5012680	Skilled Services	3,549.66	13,000.00	9,450.34	27.31%
	Total Support Services	4,323.50	16,714.00	12,390.50	25.87%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	447.46	3,500.00	3,052.54	12.78%
5012840	Travel, State Vehicles	-	500.00	500.00	0.00%
5012850	Travel, Subsistence & Lodging	-	1,500.00	1,500.00	0.00%
5012880	Trvl, Meal Reimb- Not Rprtble	-	300.00	300.00	0.00%
	Total Transportation Services	447.46	5,800.00	5,352.54	7.71%
	Total Contractual Svs	6,861.96	56,639.00	49,777.04	12.12%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	551.91	1,000.00	448.09	55.19%
	Total Administrative Supplies	551.91	1,000.00	448.09	55.19%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	50.00	50.00	0.00%
	Total Manufctrng and Merch Supplies	-	50.00	50.00	0.00%
5013500	Repair and Maint. Supplies				
5013530	Electrcal Repair & Maint Matrl	-	15.00	15.00	0.00%
	Total Repair and Maint. Supplies	-	15.00	15.00	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	6.41	200.00	193.59	3.21%
5013630	Food Service Supplies	41.93	-	(41.93)	0.00%
	Total Residential Supplies	48.34	200.00	151.66	24.17%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11600 - Physical Therapy

For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5013700	Specific Use Supplies				
5013730	Computer Operating Supplies	-	10.00	10.00	0.00%
	Total Specific Use Supplies	-	10.00	10.00	0.00%
	Total Supplies And Materials	600.25	1,275.00	674.75	47.08%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015160	Property Insurance	38.44	29.00	(9.44)	132.55%
	Total Insurance-Fixed Assets	38.44	29.00	(9.44)	132.55%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	1.83	-	(1.83)	0.00%
5015350	Building Rentals	1.20	-	(1.20)	0.00%
5015390	Building Rentals - Non State	1,544.38	6,226.00	4,681.62	24.81%
	Total Operating Lease Payments	1,547.41	6,226.00	4,678.59	24.85%
5015500	Insurance-Operations				
5015510	General Liability Insurance	138.09	107.00	(31.09)	129.06%
5015540	Surety Bonds	8.15	7.00	(1.15)	116.43%
	Total Insurance-Operations	146.24	114.00	(32.24)	128.28%
	Total Continuous Charges	1,732.09	6,369.00	4,636.91	27.20%
5022000	Equipment				
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	60.00	60.00	0.00%
	Total Educational & Cultural Equip	-	60.00	60.00	0.00%
5022600	Office Equipment				
5022610	Office Appurtenances	-	35.00	35.00	0.00%
	Total Office Equipment	-	35.00	35.00	0.00%
	Total Equipment	-	95.00	95.00	0.00%
	Total Expenditures	47,736.24	259,884.00	212,147.76	18.37%
	Allocated Expenditures				
20600	Funeral\LTCA\PT	29,712.36	104,110.65	74,398.29	28.54%
30100	Data Center	20,267.71	73,000.12	52,732.41	27.76%
30200	Human Resources	1,081.54	13,875.89	12,794.34	7.79%
30300	Finance	13,937.23	65,163.22	51,225.99	21.39%
30400	Director's Office	6,786.49	24,906.22	18,119.73	27.25%
30500	Enforcement	13,039.81	60,944.65	47,904.83	21.40%
30600	Administrative Proceedings	5,536.56	17,173.44	11,636.88	32.24%
30700	Impaired Practitioners	282.11	1,650.52	1,368.41	17.09%
30800	Attorney General	1,416.71	12,118.43	10,701.71	11.69%
30900	Board of Health Professions	4,954.71	20,712.64	15,757.93	23.92%
31100	Maintenance and Repairs	-	2,289.91	2,289.91	0.00%
31300	Emp. Recognition Program	2.32	318.67	316.36	0.73%
31400	Conference Center	37.47	181.02	143.55	20.70%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11600 - Physical Therapy

For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
31500	Pgm Devlpmnt & Implmentn	4,961.11	15,037.52	10,076.41	32.99%
	Total Allocated Expenditures	102,016.14	411,482.90	309,466.77	24.79%
	Net Revenue in Excess (Shortfall) of Expenditures	$ (109,422.38)	$ 697,648.10	$ 807,070.47	15.68%

Upcoming License Renewals

HELPFUL INFORMATION FOR LICENSEES

As a reminder, licensees must renew their license no later than **December 31, 2018**. Electronic renewal notices for the upcoming biennium (January 1, 2019 – December 31, 2020) will be sent to licensees with directions for the online renewal process approximately *45 days prior* to the renewal date.

To ensure that you receive your renewal notice electronically, please Update Your Information on the DHP website as soon as possible and add the Board's email address (ptboard@dhp.virginia.gov) to your safe recipient list to ensure that you receive all email communications.

In the meantime, below is some helpful information as you prepare for renewal of your license.

Click here to access the Regulations Governing the Practice of Physical Therapy for all requirements for renewal.

Track CE Hours with aPTitude

aPTitude is a free continuing competence resource developed by FSBPT that can be used by PT and PTA licensees, providers of continuing competence and continuing education (CC/CE) activities, and state licensing boards.

- Licensees can use aPTitude to maintain a record of their continuing education (CE) activities in one place; track their CE requirements and deadlines and completion progress; and search for available CE programs and activities.
- CE Providers can use aPTitude to market and list their available CE offerings and receive feedback from PTs and PTAs who participate in their courses or activities.
- State licensing boards can use aPTitude to provide information to licensees about CE requirements.

For more information about aPTitude or to register for an account, visit the aPTitude website, or the aPTitude/Continuing Competence page on the FSBPT website.

In This Issue

Contact the Board

Virginia Board of Physical Therapy
9960 Mayland Drive, Suite 300
Henrico, VA 23233
804-367-4674 – Office
804-527-4413 – Fax
ptboard@dhp.virginia.gov

Website:
http://www.dhp.virginia.gov/PhysicalTherapy/

Continuing Education

A total of at least 30 hours of continuing education (CE) learning activities is required for renewal. For a PT, at least 20 hours must be Type 1 CE courses, and for a PTA, at least 15 hours must be Type 1 CE courses. No more than 10 of the contact hours required for PTs and 15 of the contact hours required for PTAs may be Type 2 activities or courses.

What are Type 1 CE courses?

The Board's regulations (18VAC112-20-131(B)(1)) specify the following:

A minimum of 20 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants shall be in Type 1 courses. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

a. The Virginia Physical Therapy Association;
b. The American Physical Therapy Association;
c. Local, state or federal government agencies;
d. Regionally accredited colleges and universities;
e. Health care organizations accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation;
f. The American Medical Association - Category I Continuing Medical Education course;
g. The National Athletic Trainers' Association; or
h. The Federation of State Boards of Physical Therapy.

Can I obtain Type 1 credits in other ways?

Type 1 continuing education credit may also be obtained by physical therapists who can document completion of the FSBPT Assessment Tool, currently known as oPTion:

A physical therapist who can document that he attained at least Level 2 on the FSBPT assessment tool may receive five 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 shall only be granted for the FSBPT assessment tool once every four years. (18VAC112-20-131(B)(5)).

To access the oPTion assessment tool, visit the website of the Federation of State Boards of Physical Therapy at: https://www.fsbpt.org/SecondaryPages/Licensees/ContinuingCompetence/oPTion.aspx.

Are there other ways to earn CE credits?

Additional activities may also qualify for continuing education credit. To view a full listing of the activities that may satisfy continuing education requirements, please review 18VAC112-20-131. In addition, Guidance Document 112-10, Board Guidance on Credit for Continuing Education provides guidance regarding the calculation and classification of hours for certain activities.

What are Type 2 CE courses?

The Board's regulation (18VAC112-20-131(B)(2)) provides the following:

No more than 10 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include consultation with colleagues, independent study, and research or writing on subjects related to practice.

Up to two of the Type 2 continuing education hours may be satisfied through delivery of physical therapy services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. The form to document CE for volunteer service may be found by clicking here.

Active Practice

Renewal applicants are required to have completed a minimum of 160 hours of active practice in the preceding two years.

"Active practice" is defined by the Board's regulations (18VAC112-20-10) as: "a minimum of 160 hours of professional practice as a physical therapist or physical therapist assistant within the 24-month period immediately preceding renewal. Active practice may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services."

Obtaining an Inactive License

This year, you will be able to change your licensure status from Current Active to Inactive through the online renewal process. You will be required to submit payment of the inactive renewal fee of $70 for a PT and $35 for a PTA.
An inactive licensee shall not be entitled to perform any act requiring a license to practice physical therapy in Virginia.

New Licensees (Initial License)

If you were **initially licensed by examination** in Virginia in 2017 or 2018, and this is your first renewal, you are exempt from the requirement that you complete at least 30 hours of continuing education (CE) for the two year period immediately preceeding renewal (18VAC112-20-131(C)).

Change of Name/Address

Please ensure that your information is updated with the Board prior to renewal notices being issued in order to receive important communications from the Board. You can change your address online by clicking here.

Name changes cannot be completed online. Please use the "Name/Address Change Form" available by clicking here and provide the required documentation to the Board office.

CE Extensions/Exemptions

The Board may grant an extension of the deadline for continuing competency requirements for up to one year for *good cause* shown upon a written request from the licensee prior to the renewal date.

The Board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as *temporary disability, mandatory military service, or officially declared disasters*.

Active Duty Military Service Extensions

Licensees serving on active duty as a member of the military or in the foreign service outside the United States or their spouses are accorded the benefit of an extension of time for any deadline or requirement pertaining to renewal of a license. For more information on the policy related to Active Duty Military Service Extensions, click here.

Maintaining Documentation

All licensees should document the required continuing education hours by using the Continued Competency Active and Assessment Form. All licensees must retain CE documentation for four (4) years following active renewal.

FSBPT's oPTion Assessment Tool

Effective February 7, 2018, updates to the Board's regulations became effective to recognize the oPTion online assessment tool offered by the Federation of State Boards of Physical Therapy (FSBPT) as a means for physical therapists to self-assess their competency level and to review PT concepts. The updates replace reference to the Practice Review Tool (PRT), which was discontinued by FSBPT in November 2016.

As FSBPT describes the tool, "oPTion is a self-assessment tool … to allow physical therapists to compare their knowledge, skills, and abilities to current entry-level general physical therapy practice. It is also an opportunity to review PT fundamentals."

Licensees may earn continuing education credit for completion of the oPTion assessment tool (18VAC112-20-131(B)(5)):

5. *A physical therapist who can document that he attained at least Level 2 on the FSBPT assessment tool may receive five 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 shall only be granted for the FSBPT assessment tool once every four years.*

In addition, licensees seeking reinstatement of their lapsed or inactive licenses have the choice of using the FSBPT assessment tool to meet certain requirements for reinstatement or reactivation, as applicable. For more information, please refer to 18VAC112-20-135 (Inactive License) and 18VAC112-20-136 (Reinstatement Requirements), or contact the Board with questions.

For more information or to access oPTion, please visit FSBPT's oPTion webpage.

Board of Health Professions Full Board Meeting

August 23, 2018
10:00 a.m. - Board Room 4
9960 Mayland Dr, Henrico, VA 23233

In Attendance	Kevin Doyle, EdD, LPC, LSATP, Board of Counseling
	Allen R. Jones, Jr., DPT, PT, Board of Physical Therapy
	Derrick Kendall, NHA, Board of Long-Term Care Administrators
	Trula E. Minton, MS, RN, Board of Nursing
	Kevin P. O'Connor, MD, Board of Medicine
	Martha S. Perry, MS, Citizen Member
	Herb Stewart, PhD, Board of Psychology
	Jacquelyn Tyler, RN, Citizen Member
	Laura P. Verdun, MA, CCC-SLP, Board of Audiology & Speech-Language Pathology
	James Wells, RPh, Citizen Member
Absent	Lisette P. Carbajal, Citizen Member
	Helene D. Clayton-Jeter, OD, Board of Optometry
	Mark Johnson, DVM, Board of Veterinary Medicine
	Ryan Logan, RPh, Board of Pharmacy
	Maribel E. Ramos, Citizen Member
	James D. Watkins, DDS, Board of Dentistry
	Vacant – Board of Social Work
	Vacant – Board of Funeral Directors and Embalmers
DHP Staff	Barbara Allison-Bryan, Deputy Director, DHP
	David Brown, Director, DHP
	Elizabeth A. Carter, Ph.D., Executive Director BHP
	Jaime Hoyle, Executive Director Behavioral Sciences Boards, DHP
	Laura L. Jackson, MSHSA, Operations Manager, BHP
	Elaine Yeatts, Senior Policy Analyst DHP
	Diane Powers, Communications Director, DHP
	Corie Tillman Wolf, Executive Director, Boards of Funeral Directors and Embalmers, Physical Therapy, Long-Term Care Directors, DHP
OAG Representative	Charise Mitchell

Presenters	Amy Marschean, DARS
	Dr. Richard Lindsay, Lindsay Institute for Innovations in Caregiving
	Christine Jensen, PhD, Riverside
	Stephanie Willinger, Deputy Director,
	Stephanie Willinger, Deputy Executive Director Licensing, Board of Nursing
	Na'im Campbell, Backgrounds Investigation Supervisor, CBC Unit DHP
Speakers	No speakers signed-in
Observers	Sarah Deaver, AATA
	Kandra Orr
	Terri Giller, VATA
	Darlene Green, VATA
	Carol Olson, VATA
	Gretchen Graves, VATA
Media	Katie O'Connor, Virginia Mercury
Emergency Egress	Dr. Carter

Call to Order

Acting Chair: Dr. Jones, Jr. **Time** 10:02 a.m.

Quorum Established

Public Comment

Discussion

There was no public comment

Approval of Minutes

Presenter Dr. Jones, Jr.

Discussion

The June 26, 2018 Full Board meeting minutes were approved with no revisions. All members in favor, none opposed.

Welcome

Presenter Dr. Jones, Jr.

Dr. Allen R. Jones, Jr. was acting Chair for this meeting as Dr. Clayton-Jeter is out of the state on business. He thanked the board members for their commitment to the Commonwealth and thanked staff for their work and dedication to DHP.

Directors Report

Presenter Dr. Brown

Discussion

Dr. Brown stated that the agency is gearing up for the 2019 legislative session.

In follow-up to the 2018 session:

- Dr. Brown briefed the Board on an upcoming e-prescribing meeting;
- Dr. Allison-Bryan will be meeting with stakeholders to take a preliminary look into regulating community health workers;
- DHP will be convening a meeting of the Behavioral Sciences Unit, Board of Nursing and Board of Medicine to come up with a common set of regulations regarding conversion therapy for minors;
- A workgroup will be convening to see how the PMP may be automated for greater efficiency in ER physicians notifying prescribers of a patient overdose;
- In lieu of yearly board member orientation, DHP will be initiating at the board level, 45 minute board member orientation sessions to train board members on changes relevant to the board and the agency;
- Ms. Hahn and Dr. Allison-Bryan are continuing to work with Virginia State Police and the Henrico County Crime Prevention Environmental Divide Unit to establish agency safety protocol.

Invited Presentations

Presenter Ms. Marschean

Virginia Family Caregivers

Dr. Richard Lindsay provided a PowerPoint presentation on the status of today's caregiving community. Ms. Marschean followed up with an overview of the Virginia Department for Aging and Rehabilitative Services report on Recommendations for Improving Family Caregiver Support in Virginia 2018. Dr. Jenson provided details of different approaches Riverside is taking to support their staff of caregivers.

Criminal Background Checks

Presenter Ms. Willinger

Discussion

Ms. Willinger provided a PowerPoint presentation on how the Virginia Board of Nursing obtained authority and the methods and impact on public safety of criminal background checks. The Board of Pharmacy is also utilizing CBCs for applicants seeking a Pharmaceutical Processor permit. *Attachment 1*

***Break**

Regulatory Research Committee - Art Therapist Study Recommendation

Presenter Mr. Wells

Discussion

Mr. Wells provided information regarding the Committee's recommendation to license Art Therapists in Virginia. He stated that the burden of regulation was justified and proof of The Criteria was supported.

Motion

A motion was made to accept the recommendation of the Regulatory Research Committee to license Art Therapists in Virginia was made and by a vote of eight (8) members in favor, one (1) opposed, was properly seconded.

Legislative and Regulatory Report

Presenter Ms. Yeatts

Discussion

Ms. Yeatts advised the Board that there are 13 proposals to move forward in the 2019 legislative session. Updates to regulations and General Assembly legislative actions relevant to DHP were also provided. *Attachment 2*

***Lunch**

Executive Directors Report

Presenter Dr. Carter

Board Budget

Dr. Carter stated that the Board is operating within budget.

Agency Performance

Dr. Carter reviewed the agencies performance measures in relation to clearance rate, age of pending caseload and time to disposition.

Sanction Reference Points (SRP) - Update

Dr. Carter advised that the Board of Long Term Care had just completed its latest SRP revisions, and the Board of Dentistry is next.

Policies and Procedures

Dr. Carter discussed the updating of the Board's sunrise policies and procedures guidance document, and that the matter will be placed on the December agenda for the full Board's consideration and vote.

New FTE Allocation

Dr. Carter advised the Board of a new FTE to the unit. Dr. Allison-Bryan added that the agency's statistical analysis and data reporting functions are returning to BHP. The new data analyst position will focus on data validation, analysis and reporting, methods documentation, and providing technical analytic support related to agency performance measures, strategic planning, and support for DHP HWDC increasing users.

Healthcare Workforce Data Center (HWDC)

Presenter Dr. Carter

Discussion

Dr. Carter stated that all 2017 profession workforce surveys have been approved by the respective Board and are posted on the agencies website. HWDC collaboration with VLDS is still ongoing. The HWDC released its first newsletter in August with quarterly reports to follow.

Board Reports

Presenter Dr. Jones, Jr.

Board of Audiology & Speech Language Pathology

Ms. Verdun was not in attendance.

Board of Counseling

Dr. Doyle stated that the Board of Counseling is convening a Supervisor's Summit on September 7, 2018 that will allow an opportunity to explain the laws and regulations around supervision. He stated that the board is also registering Qualified Mental Health Professionals. With the additional of QMHPs, the Board of Counseling now has an applicant count of over 24,000. He stated that the Behavioral Sciences Boards would also be participating in the conversion therapy for minor's workgroup.

Board of Dentistry

Dr. Watkins was not in attendance.

Board of Funeral Directors & Embalmers

The seat for this Board is currently vacant.

Board of Long Term Care Administrators

Mr. Kendall stated that the Board has finalized its revisions to the Sanction Reference Point manual and that the periodic review of the Regulations Governing the Practice of Nursing Home Administrators was in its final stage at the Secretary's Office. He was happy to announce that the Board has no vacancies at this time.

Board of Medicine

Dr. O'Connor reported that the board has five (5) new members. The Executive Committee met August 3, 2018 and discussed autonomous practice for Nurse Practitioners; the Board is currently undergoing a periodic review of regulations; and the Board of Medicine will be participating in the conversion therapy for minor's workgroup.

Board of Nursing

Ms. Minton attended the 40th annual NCSBN national meeting and was very excited to announce that Ms. Douglas, Executive Director for the Board of Nursing, has been appointed to the NCSBN Board. She also advised that the NCSBN is working to address the role of nurses working with patients who use medical marijuana. She also discussed that "Nursing Now" is a global campaign that aims to improve health by raising the profile of nursing worldwide.

Board of Optometry

Dr. Jones, Jr. provided the report as follows:

*Next meeting is scheduled for July 13, 2018.

Complaints FY2016: Received 13
Complaints FY2017: Received 36

Licenses (in state/out of state based on address of record provided by licensee)
FY2017: Total – 1,921 TPA – 1,148/390 DPA – 27/90 Professional Designations – 266
Y-T-D FY2018: Total – 1,929 TPA – 1,168/400 DPA – 20/84 Professional Designations – 257

Continuing Education: Audit has not yet commenced.

Regulatory Changes: The Board adopted emergency regulations for the prescribing of opioids, which became effective on 10/30/17. The final replacement regulations under review in the Secretary's office. In addition, a periodic review is in the proposed stage and is still under consideration by the administration.

In response to a petition for rulemaking, the Board moved forward with a NOIRA to add inactive licenses to the regulations.

Board of Pharmacy

Mr. Logan was not in attendance.

Board of Physical Therapy

Dr. Jones, Jr., reported that he is no longer the President of the Board, that Arkena Daily was appointed President at the August 16, 2018 meeting. He stated that the Virginia Board of Physical Therapy was chosen as one of two Boards across the country to receive the 2018 Excellence in Regulation Award from the Federation of State Boards of Physical Therapy (FSBPT). The Boards guidance documents have been reviewed and updated. The Board voted to pursue legislation to enact the Physical Therapy Licensure Compact.

Board of Psychology

Dr. Stewart stated they have approximately 6,500 applicants. The Board has a member seat specific to applied psychologist and due to the low number in the profession, this seat has been vacant for an extended period of time. The board is considering requesting reallocation of the seat. The Board is performing a top to bottom review of existing regulations and has submitted for a one-time fee reduction. The Board of Psychology will also be participating in the conversion therapy for minor's workgroup. In July, the Board voted to endorse PSYPAC and it has been added to 2019 legislation.

Board of Social Work

The seat for this Board is currently vacant.

Board of Veterinary Medicine

Dr. Johnson was not in attendance.

New Business

Presenter Dr. Jones, Jr.

There was no new business to discuss.

Next Full Board Meeting – December 4, 2018

Presenter Dr. Jones, Jr.

Dr. Jones, Jr. announced the next Full Board meeting date as December 4, 2018.

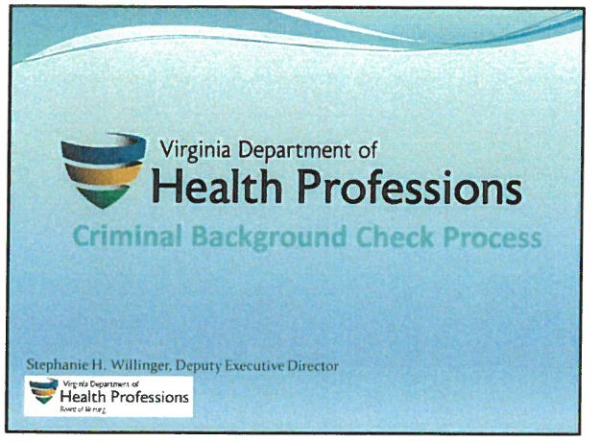
Adjourned 1:26 p.m.

Acting Chair Allen R. Jones, Jr., DPT, PT

Signature: _____ Date: _____/_____/_____

Board Executive Director Elizabeth A. Carter, Ph.D.

Signature: _____ Date: _____/_____/_____



Objectives

- Authority for Criminal Background Checks ("CBCs")
- Method for CBCs
- CBCs and impact on public safety
- Terms, Tools and Resources used by VBON in the Criminal Background Check ("CBC") process
- Identify how CBC information may be utilized in licensure decision making

Who?

- Applicants seeking initial licensure from the Board of Nursing for Registered Nurse (RN), License Practical Nurse (LPN) and Licensed Massage Therapist (LMT)(applicants includes licensure by exam, endorsement and reinstatement).
- Applicants seeking a Pharmaceutical Processor permit from the Board of Pharmacy (applicants include all owners/operators).

Current Authority for CBCs (DHP)

- Virginia Code § 54.1 – 3005.1 (Effective 1/1/16):

*The Board shall require each **applicant** for licensure as a **practical nurse, registered nurse or licensed massage therapist** to submit **fingerprints** and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information...*

- Virginia Code § 54.1-3442.6 (Starting in 8/18):

*The Board shall require an **applicant** for a **pharmaceutical processor permit** to submit to **fingerprinting** and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information...*

Licensed Massage Therapist added effective January 1,2017.

How?

- **Fingerprint-based** and entail a state (through Virginia State Police or VSP) and FBI (national) search.
- DHP CBC vendor is Fieldprint VA.
- Applicants request fingerprint appointment through Fieldprint VA (secure web-based portal).
- Fingerprinting is done via electronic transmission or *Live Scan* service.
- *Live Scan* service is available to our applicants in over 1,200 sites around the US, Virgin Islands and Puerto Rico.

Why?

- Required by law.
- Fingerprint-based CBCs are objective and reliable.
- Casts a wider 'net' to include more than just single state criminal history information.
- Applicants with criminal histories may omit information on applications.
- Allows better 'vetting' of applicant backgrounds in the interest of public safety.

What?

- **Criminal background check**(CBC) –using fingerprints (biometrics), a search for evidence of an individual's criminal history in the national criminal history record files (FBI) and state criminal justice data repositories (VSP).
- **Criminal conviction record** means criminal history information obtained from a variety of sources pertaining to an individual's conviction of a crime.
- **Source Documents** – Includes arrest reports, charging documents, pre-sentence reports, plea agreements, sentencing reports, court conviction documents, probation reports.
- **FBI identification record**-a listing of certain information taken from fingerprint cards, submitted to and retained by the FBI. If a criminal offense, the identification record includes the date arrested or received, the arrest charge, and the disposition of the arrest if known to the FBI *and as submitted* by agencies having criminal justice responsibilities.
- **RAP Sheet**-Record of Arrests and Prosecution as maintained by state and federal databases (e.g. FBI/VSP).

What is a considered a Criminal Conviction?

- The final judgement on a verdict or finding of guilty, plea of guilty, or a plea of *nolo contendere* and does not include a final judgment which has been *expunged* by pardon, reversed, set aside or otherwise rendered nugatory (See Black's Law Dictionary).
- In Virginia, a "conviction" occurs upon a verdict or finding of guilt, the pronouncement of sentence, and the entry of the final order by the trial court (See Rule 1:1 Virginia Supreme Court).

Disclosure

License/Permit Applicants are required to disclose:

- Any convictions (as defined).

Applicants are not required to disclose:

- Arrests if not convicted and no further action resulted from the arrest(s).
  - However, if an applicant was fingerprinted upon arrest for a criminal offense, it will show up on a 'RAP' sheet.

How long?

DHP receives CBC Results:

- **24-48 hours** to receive electronic response for those applicants **without** arrest/conviction history.
- **15-30 days** to receive 'hard copy' results for those applicants **with** arrest/conviction history mailed to DHP CBC Unit by VSP.

CBC Results

Results are screened by CBC Unit for all Boards to determine:

- if contains any convictions;
- if convictions align with information disclosed on current/previous licensure application(s) (if information is not aligned, summary memo generated to applicant).
- if final review/approval is required by Board.

For BOP: if contains felony or misdemeanor convictions precluding approval for permit as pharmaceutical processor under § 54.1-3443

For BON: if contains felony conviction or on a 'case by case basis" a misdemeanor conviction related to nursing practice under § 54.1-3007 (may not be eligible for a nursing license with *multi-state privilege*).

Convictions Referred for Board Actions under § 54.1-3007

- Conviction of any felony or any misdemeanor involving "moral turpitude" (lying, cheating, stealing, etc.).
- Convictions that indicate a possible impairment or pattern of impairment (DUI, drug possession, etc.).
- Convictions not disclosed on current or previous applications.
  - Failure to disclose convictions may be considered *fraud or deceit in procuring or attempting to procure a license.*

Screening Applications for Determination

For **Nursing**:

- License applications are screened case by case and there are NO absolute bars to obtaining a nursing or massage therapist license. However, the following factors are considered:
  - Number and/or pattern of convictions.
  - Nature of convictions.
  - Recency of convictions (See: BON Guidance 90-19 and BON Guidance 90-59).
- RN/LPN license applications are screened for felony convictions and misdemeanor convictions related to nursing practice. If determined, applicant is only eligible for a *single state* license (VA only), as part of the new Uniform Licensure Requirements (ULRs) under the *Enhanced Nurse Licensure Compact* (eNLC).

For **Pharmacy**:

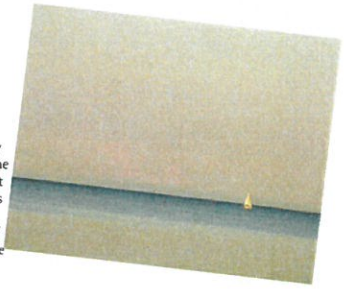
- Applicants with any felony conviction(s) or any offense referenced in section F of Virginia Code § 54.1-3442.6 are not eligible for a permit to operate a pharmaceutical processor.

See also DHP Joint Statement with the VBON with regard to the impact of criminal histories on licensure (or employment) at: [illegible] Joint Guidance Doc 90-55.doc

On the Horizon

CBCs for Board of Physical Therapy:

- Board of Physical Therapy contemplating entering the Physical Therapy Compact which would require CBCs for licensure applicants similar to requirements of Enhanced Nurse Licensure Compact (eNLC).
- CBC requirement would have to be included in any proposed legislation to revise laws/regulations.



Board — Board of Audiology and Speech-Language Pathology

Chapter		Action / Stage Information
[18 VAC 30 - 21]	Regulations Governing the Practice of Audiology and Speech-Language Pathology	Endorsement requirements [Action 5007] Fast-Track - *Register Date: 8/6/18* [Stage 8225]

Board — Board of Counseling

Chapter		Action / Stage Information
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	Credential review for foreign graduates [Action 5089] NOIRA - *At Governor's Office* [Stage 8338]
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	Acceptance of doctoral practicum/internship hours towards residency requirements [Action 4829] Proposed - *Register Date: 8/6/18* [Stage 8140]
[18 VAC 115 - 30]	Regulations Governing the Certification of Substance Abuse Counselors	Updating and clarifying regulations [Action 4691] Proposed - *At Governor's Office* [Stage 8021]
[18 VAC 115 - 70]	Regulations Governing the Registration of Peer Recovery Specialists [under development]	Initial regulations for registration [Action 4890] Proposed - *At Secretary's Office* [Stage 8296]
[18 VAC 115 - 80]	Regulations Governing the Registration of Qualified Mental Health Professionals [under development]	Initial regulations for registration [Action 4891] Proposed - *DPB Review in progress* [Stage 8297]

Board — Board of Dentistry

Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Change in renewal schedule [Action 4975] NOIRA - *Register Date: 8/6/18* [Stage 8169]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Amendment to restriction on advertising dental specialties [Action 4920] NOIRA - *Register Date: 8/6/18* [Stage 8235]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Administration of sedation and anesthesia [Action 5056] NOIRA - *Register Date: 8/6/18* [Stage 8292]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Prescribing opioids for pain management [Action 4778] Proposed - *Register Date: 7/9/18* [Stage 8060]

[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Conforming rules to ADA guidelines on moderate sedation [Action 4748] Final - *At Governor's Office* [Stage 8233]
[18 VAC 60 - 25]	Regulations Governing the Practice of Dental Hygienists	Continuing education for practice by remote supervision [Action 4917] Fast-Track - *Register Date: 8/6/18* [Stage 8288]
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	Education and training for dental assistants II [Action 4916] NOIRA - *Register Date: 8/6/18* [Stage 8069]

Board **Board of Funeral Directors and Embalmers**

Chapter		Action / Stage Information
[18 VAC 65 - 20]	Regulations of the Board of Funeral Directors and Embalmers	Students assisting with embalming [Action 5105] Fast-Track - *DPB Review in progress* [Stage 8360]
[18 VAC 65 - 20]	Regulations of the Board of Funeral Directors and Embalmers	Clarification of permission to embalm and refrigeration of human remains [Action 4765] Final - *At Governor's Office* [Stage 8282]
[18 VAC 65 - 20]	Regulations of the Board of Funeral Directors and Embalmers	CE credit for board meetings [Action 4806] Final - *At Secretary's Office* [Stage 8283]
[18 VAC 65 - 40]	Regulations for the Funeral Service Intern Program	Oversight of funeral intern program [Action 4895] NOIRA - *Register Date: 8/6/18* [Stage 8183]

Board **Department of Health Professions**

Chapter		Action / Stage Information
[18 VAC 76 - 20]	Regulations Governing the Prescription Monitoring Program	(E) Definition of covered substances [Action 5088] Final - *Register Date: 9/3/18* [Stage 8337]

Board **Board of Long-Term Care Administrators**

Chapter		Action / Stage Information
[18 VAC 95 - 20]	Regulations Governing the Practice of Nursing Home Administrators	Periodic review [Action 4723] Final - *At Secretary's Office* [Stage 8173]

Board **Board of Medicine**

Chapter		Action / Stage Information
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine,	Supervision and direction for laser hair removal [Action 4860] Proposed - *At Governor's Office* [Stage 8174]

	Podiatry, and Chiropractic	
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	Licensure by endorsement [Action 4716] Final - *Register Date: 8/6/18* [Stage 8266]
[18 VAC 85 - 21]	Regulations Governing Prescribing of Opioids and Buprenorphine	Initial regulations [Action 4760] Final - *Register Date: 7/9/18* [Stage 8216]
[18 VAC 85 - 50]	Regulations Governing the Practice of Physician Assistants	Definitions of supervision and weight loss rules [Action 4943] Fast-Track - *Register Date: 8/6/18* [Stage 8217]
[18 VAC 85 - 130]	Regulations Governing the Practice of Licensed Midwives	Practical experience under supervision [Action 4944] Fast-Track - *Register Date: 8/6/18* [Stage 8115]
[18 VAC 85 - 170]	Regulations Governing the Practice of Genetic Counselors	Temporary licensure [Action 5066] Fast-Track - *At Secretary's Office* [Stage 8308]

Board **Board of Nursing**

Chapter		Action / Stage Information
[18 VAC 90 - 19]	Regulations Governing the Practice of Nursing	Clarification of 90-day authorization to practice [Action 5058] Fast-Track - *At Secretary's Office* [Stage 8294]
[18 VAC 90 - 19]	Regulations Governing the Practice of Nursing	Clinical nurse specialist requirement for registration [Action 5059] Fast-Track - *At Secretary's Office* [Stage 8295]
[18 VAC 90 - 27]	Regulations Governing Nursing Education Programs	Definition of full approval and timing of criminal background checks for nursing education programs [Action 4926] Fast-Track - *Register Date: 8/6/18* [Stage 8077]
[18 VAC 90 - 30]	Regulations Governing the Licensure of Nurse Practitioners	Supervision and direction of laser hair removal [Action 4863] Proposed - *At Secretary's Office* [Stage 8259]
[18 VAC 90 - 40]	Regulations for Prescriptive Authority for Nurse Practitioners	Elimination of separate license for prescriptive authority [Action 4958] NOIRA - *Register Date: 7/23/18* [Stage 8137]
[18 VAC 90 - 40]	Regulations for Prescriptive Authority for Nurse Practitioners	Prescribing of opioids [Action 4797] Proposed - *Register Date: 7/9/18* [Stage 8063]

Board **Board of Optometry**

Chapter		Action / Stage Information

[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	Inactive licenses [Action 5006] NOIRA - *Register Date: 8/6/18* [Stage 8224]
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	Periodic review [Action 4780] Proposed - *At Governor's Office* [Stage 8042]
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	Prescribing of opioids [Action 4892] Proposed - *At Secretary's Office* [Stage 8222]

Board **Board of Pharmacy**

Chapter		Action / Stage Information
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Brown bagging and white bagging [Action 4968] NOIRA - *Register Date: 8/6/18* [Stage 8158]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Delivery of dispensed prescriptions; labeling [Action 5093] NOIRA - *At Governor's Office* [Stage 8346]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Controlled substances registration for naloxone and teleprescribing [Action 4789] Proposed - *Register Date: 7/9/18* [Stage 8101]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Periodic review result of Chapters 20 and 50; Promulgation of Chapters 16 and 25 [Action 4538] Proposed - *At Governor's Office* [Stage 8119]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Requirement for applicants and licensees to have an e-profile ID number [Action 4909] Proposed - *Register Date: 9/17/18* [Stage 8253]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Increase in fees [Action 4938] Proposed - *At Secretary's Office* [Stage 8270]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Rescission of pharmacy permit [Action 5080] Fast-Track - *At Agency* [Stage 8328]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Prohibition against incentives to transfer prescriptions [Action 4186] Final - *At Governor's Office* [Stage 7888]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	Response to petitions for rulemaking [Action 4694] Final - *At Governor's Office* [Stage 8157]
[18 VAC 110 - 20]	Regulations Governing the Practice of Pharmacy	(E) Scheduling of drugs or chemicals [Action 5082] Final - *Register Date: 8/6/18* [Stage 8330]

[18 VAC 110 - 50]	Regulations Governing Wholesale Distributors, Manufacturers and Warehousers	Delivery of Schedule VI prescription devices [Action 5084] Emergency/NOIRA - *AT Attorney General's Office* [Stage 8333]
[18 VAC 110 - 50]	Regulations Governing Wholesale Distributors, Manufacturers and Warehousers	(E) Registration of nonresident warehousers and nonresident third party logistics providers [Action 5083] Final - *AT Attorney General's Office* [Stage 8331]
[18 VAC 110 - 60]	Regulations Governing Pharmaceutical Processors	New regulations [Action 4695] Emergency/NOIRA - *AT Attorney General's Office* [Stage 8332]

Board **Board of Physical Therapy**

Chapter		Action / Stage Information
[18 VAC 112 - 20]	Regulations Governing the Practice of Physical Therapy	Practice of dry needling [Action 4375] Proposed - *At Governor's Office* [Stage 8144]
[18 VAC 112 - 20]	Regulations Governing the Practice of Physical Therapy	Type 2 CE credit for attendance at board meetings or hearings [Action 4971] Fast-Track - *At Secretary's Office* [Stage 8164]

Board **Board of Psychology**

Chapter		Action / Stage Information
[18 VAC 125 - 20]	Regulations Governing the Practice of Psychology	Periodic review amendments [Action 4897] Proposed - *At Secretary's Office* [Stage 8298]

Board **Board of Social Work**

Chapter		Action / Stage Information
[18 VAC 140 - 20]	Regulations Governing the Practice of Social Work	Hours of ethics for continuing education [Action 5010] NOIRA - *Register Date: 8/6/18* [Stage 8228]
[18 VAC 140 - 20]	Regulations Governing the Practice of Social Work	Examination requirements [Action 5011] Fast-Track - *Register Date: 8/6/18* [Stage 8230]
[18 VAC 140 - 20]	Regulations Governing the Practice of Social Work	BSW and LSW licensure [Action 5070] Fast-Track - *DPB's fast-track authorization pending* [Stage 8344]

Board **Board of Veterinary Medicine**

Chapter		Action / Stage Information
[18 VAC 150 - 20]	Regulations Governing the Practice of Veterinary	Reinspection for reinstatement [Action 5017]

	Medicine	Fast-Track - *Register Date: 8/6/18* [Stage 8242]
[18 VAC 150 - 20]	Regulations Governing the Practice of Veterinary Medicine	Prescribing of opioids [Action 4808] Final - *Register Date: 7/9/18* [Stage 8240]

Department of Health Professions

2019 Session of the General Assembly

An Act to amend and reenact § 54.1-2400.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34.1 of Title 54.1 a section numbered § 54.1-3484 relating to criminal background checks, and an article numbered 2, consisting of sections numbered 54.1-3485.1 through 54.1-3485.12 relating to the licensure of physical therapists and physical therapist assistants; Physical Therapy Licensure Compact.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2400.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484, and an Article numbered 2, consisting of sections numbered 54.1-3485.1 through 54.1-3485.12, as follows:

§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty.

A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;

2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3030, and the data system as set forth in § 54.1-3485.8;

3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;

4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;

5. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or

6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by the Department of Health Professions or any board, or disclosed by the Department of Health Professions or a board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority.

The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. This section shall not prohibit the Director of the Department of Health Professions, following consultation with the relevant health regulatory board president or his designee, from disclosing information about a suspected violation of state or federal law or regulation to other agencies within the Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over the suspected violation or requesting an inspection or investigation of a licensee by such state or federal agency when the Director has reason to believe that a possible violation of federal or state law has occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or federal agency having jurisdiction over the suspected violation of state or federal law to conduct an inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to requests for inspections or investigations of licensees. Nothing in this subsection shall require the Director to make any disclosure. Nothing in this section shall permit any agency to which the Director makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials received from the Department.

G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, the source and the subject of a complaint or report shall be provided information about the investigative and disciplinary procedures at the Department of Health Professions. Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee shall be provided with a copy of the complaint or report and any records or supporting documentation, unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subdivision A 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

§ 54.1-3484. Criminal history background checks.

The Board shall require each applicant for licensure as a physical therapist or physical therapist assistant to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.

The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the Board, which shall be a governmental entity. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. The information shall not be disseminated except as provided in this section.

Article 2.

Physical Therapy Licensure Compact.

§ 54.1-3485.1. Declaration of purpose.

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient is located at the time of the patient encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;

4. Support spouses of relocating military members;

5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

§ 54.1-3485.2. Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

2. "Adverse Action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

3. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

6. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

7. "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

8. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

9. "Home state" means the member state that is the licensee's primary state of residence.

10. "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

11. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

12. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. "Member state" means a state that has enacted the Compact.

14. "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

15. "Physical therapist" means an individual who is licensed by a state to practice physical therapy.

16. "Physical therapist assistant" means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. "Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist as defined by § 54.1-3473.

18. "Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

19. "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

20. "Remote State" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

21. "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.

22. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

§ 54.1-3485.3. State participation in the Compact.

A. To participate in the Compact, a state must:

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with subsection B of § 54.1-3485.4;

5. Comply with the rules of the Commission;

6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

7. Have continuing competence requirements as a condition for license renewal.

B. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 42 U.S.C. §14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

D. Member states may charge a fee for granting a compact privilege.

§ 54.1-3485.4. Compact Privilege.

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. Hold a license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with subsections D, G, and H;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of subsection A to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and
2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection A to obtain a compact privilege in any remote state.

G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;
2. All fines have been paid; and
3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of subsection G have been met, the license must meet the requirements in subsection A to obtain a compact privilege in a remote state.

§ 54.1-3485.5. Active duty military personnel or their spouses.

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

A. Home of record;

B. Permanent Change of Station (PCS); or

C. State of current residence if it is different than the PCS state or home of record.

§ 54.1-3485.6. Adverse actions.

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in subsection D of § 54.1-3485.4 against a licensee's compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint Investigations.

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

§ 54.1-3485.7. Establishment of the Physical Therapy Compact Commission.

A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings.

1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.

2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the Commission.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board.

The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact

1. The Executive Board shall be composed of nine members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

c. One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Board as provided in bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following Duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission.

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in § 54.1-3485.9.

2. The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount

shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

§ 54.1-3485.8. Data system.

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for such denial; and
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

§ 54.1-3485.9. Rulemaking.

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least 25 persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least 25 members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

§ 54.1-3485.10. Oversight, dispute resolution, and enforcement.

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination.

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution.

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

§ 54.1-3485.11. Date of implementation of the Interstate Commission for Physical Therapy Practice and associated rules, withdrawal, and amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in

that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

§ 54.1-3485.12. Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2. That the provisions of this act shall become effective on January 1, 2020.

3. That the Board of Physical Therapy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

Virginia Board of Physical Therapy
Guidance on Telehealth

Section One: Preamble

The Board of Physical Therapy recognizes that using telehealth services in the delivery of physical therapy services offers potential benefits in the provision of care. Advancements in technology have created expanded and innovative treatment options for physical therapist and clients. The appropriate application of these services can enhance care by facilitating communication between practitioners, other health care providers, and their clients. The delivery of physical therapy services by or under the supervision of a physical therapist via telehealth in physical therapy falls under the purview of the existing regulatory body and the respective practice act and regulations. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telehealth services. Therefore, physical therapy practitioners must apply existing laws and regulations to the provision of telehealth services.

The Board issues this guidance document to assist practitioners with the application of current laws to telehealth service practices. These guidelines should not be construed to alter the scope of physical therapy practice or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. For clarity, a physical therapist using telehealth services must take appropriate steps to establish the practitioner-patient (client) relationship and conduct all appropriate evaluations and history of the client consistent with traditional standards of care for the particular client presentation. As such, some situations and client presentations are appropriate for the utilization of telehealth services as a component of, or in lieu of, in-person provision of physical therapy care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The board has developed these guidelines to educate licensees as to the appropriate use of telehealth services in the practice of physical therapy. The Board is committed to ensuring patient access to the convenience and benefits afforded by telehealth services, while promoting the responsible provision of physical therapy services.

It is the expectation of the Board that practitioners who provide physical therapy care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of the client first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the physical therapy profession;
- Adhere to applicable laws and regulations;
- Properly supervise PTA's and support personnel;
- Protect client confidentiality.

Section Two: Definition

Telehealth is the use of electronic technology or media including interactive audio or video to engage in the practice of physical therapy. *This guidance on* "telehealth" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

Section Three: Responsibility for and Appropriate Use of Technology

A client's appropriateness for evaluation and treatment via telehealth should be determined by the Physical Therapist on a case-by–case basis, with selections based on physical therapist judgment, client preference, technology availability, risks and benefits, and professional standards of care. A PT is responsible for all aspects of physical therapy care provided to a client, and should determine and document the technology used in the provision of physical therapy. Additionally, the PT is responsible for assuring the technological proficiency of those involved in the client's care.

Section Four: Verification of Identity

Given that in the telehealth clinical setting the client and therapist are not in the same location and may not have established a prior in-person relationship, it is critical, at least initially, that the identities of the physical therapy providers and client be verified. Photo identification is recommended for both the client and all parties who may be involved in the delivery of care to the client. The photo identification, at minimum, should include the name of the individual; however, personal information such as address or driver's license number does not have to be shared or revealed. The client may utilize current means, such as state websites, to verify the physical therapy provider is licensed in the originating jurisdiction (where the client is located and receiving telehealth services).

Section Five: Informed Consent

Clients should be made aware of any limitations that telehealth services present as compared to an in-person encounter for that client's situation, such as the inability to perform hands-on examination, assessment and treatment, clients should give consent to such services and evidence documenting appropriate client informed consent for the use of telehealth services should be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the client, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telehealth services (e.g. such as photography, recording or videotaping the client.);
- Details on security measures taken with the use of telehealth services, as well as potential risks to privacy notwithstanding such measures;

- Hold harmless clause for information lost due to technical failures; and
- Requirement for express client consent to forward client-identifiable information to a third party.

Section Six: Physical therapist/Client Relationship

Developing a physical therapist/client relationship is relevant regardless of the delivery method of the physical therapy services. As alternative delivery methods such as telehealth emerge, it bears stating that the PT/client relationship can be established in the absence of actual physical contact between the PT and client. Just as in a traditional (in-person) encounter, once the relationship is established, the therapist has an obligation to adhere to the reasonable standards of care for the client (duty of care).

Section Seven: Licensure

The practice of physical therapy occurs where the client is located at the time telehealth services are provided. A practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the client is located ~~and the state where the practitioner is located~~. Practitioners who evaluate or treat through online service sites must possess appropriate licensure in all jurisdictions where clients receive care.

Section Eight: Standards of Care

It is the responsibility of the PT to ensure the standard of care required both professionally and legally is met. As such, it is incumbent upon the PT to determine which clients and therapeutic interventions are appropriate for the utilization of technology as a component of, or in lieu of, in-person provision of physical therapy care. Physical therapy providers should be guided by professional discipline, best available evidence, and any existing clinical practice guidelines when practicing via telehealth. Physical therapy interventions and/or referrals/consultations made using technology will be held to the same standards of care as those in traditional (in-person) settings. The documentation of the telehealth encounter should be held at minimum to the standards of an in-person encounter. Additionally, any aspects of the care unique to the telehealth encounter, such as the specific technology used, should be noted.

Section Nine: Privacy and Security of Client Records and Exchange of Information

In any physical therapy encounter, steps should be taken to ensure compliance with all relevant laws, regulations and codes for confidentiality and integrity of identifiable client health information. Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telehealth services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required client information to be included in the communication, such as client name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be

periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Ten: Client Records

The client record should include, if applicable, copies of all client-related electronic communications, including client-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth services. Informed consents obtained in connection with an encounter involving telehealth services should also be filed in the medical record. The client record established during the use of telehealth services should be accessible to both the practitioner and the client, and consistent with all established laws and regulations governing client healthcare records.

Section Eleven: Technical Guidelines

Physical therapy providers need to have the level of understanding of the technology that ensures safe, effective delivery of care. Providers should be fully aware of the capabilities and limitations of the technology they intend to use and that the equipment is sufficient to support the telehealth encounter, is available and functioning properly and all personnel are trained in equipment operation, troubleshooting, and necessary hardware/software updates. Additionally, arrangements should be made to ensure access to appropriate technological support as needed.

Section Twelve: Emergencies and Client Safety Procedures

When providing physical therapy services, it is essential to have procedures in place to address technical, medical, or clinical emergencies. Emergency procedures need to take into account local emergency plans. Alternate methods of communication between both parties should be established prior to providing telehealth services in case of technical complications. It is the responsibility of the provider to have all needed information to activate emergency medical services to the clients' physical location if needed at time of the services are being provided. If during the provision of services the provider feels that the client might be experiencing any medical or clinical complications or emergencies, services should be terminated and the client referred to an appropriate level of service.

Section Thirteen: Guidance Document Limitations

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telemedicine services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Guidance on Credit for Continuing Education

Board of Physical Therapy

In response to requests for interpretation on continuing education credits, the Board has adopted the following guidance:

- One credit hour of a college course is considered equivalent to 15 contact hours of Type 1 continuing education.

- Courses directly related to the clinical practice of physical therapy and are sponsored by providers approved by other state licensing boards may be considered for Type 1 continuing education.

- Research and preparation for the clinical supervision experience or teaching of workshops or courses in a classroom setting constitute Type 2 activities.

- Classroom teaching of physical therapy topics and clinical supervision constitute Type 2 activities.

- *For every __ hours of classroom teaching of physical therapy or research and preparation for teaching workshops or courses in a classroom setting, ___ contact hour of Type 2 activities may be granted.*

- For every 40 hours of clinical instruction *or research and preparation for the clinical supervision experience*, one contact hour of Type 2 activities may be granted.

Virginia Board of Physical Therapy

Procedures for Auditing Continued Competency Requirements

The Board of Physical Therapy may audit a random sample of licensees to investigate compliance with the Board's continuing competency requirements and active practice requirements. The Board may also audit active licensees, who by terms of a Confidential Consent Agreement ("CCA") or a Pre-Hearing Consent Order ("PHCO"), are required to take continuing education ("CE") courses in addition to the continued competency requirements for renewal of a license.

1. Board staff reviews each audit report and either:

    a. Sends an acknowledgement letter of fulfillment of the continuing competency requirements and active practice requirements, or
    b. Opens a case for probable cause.

2. Once a case is opened for probable cause, Board staff may:

    a. Issue a CCA if the licensee was truthful in responding to the renewal attestation and the licensee has not previously been found in violation of CE or active practice requirements.
        1. For those licensees who fail to meet the CE requirements, the CCA may require the licensee to submit proof of completion of the missing contact hours(s) within 90 days of the effective date of the CCA. Such contact hours cannot be used toward fulfillment of the next biennial CE requirement for renewal;
        2. *For those licensees who fail to meet the active practice requirements, the CCA may require the licensee to submit proof that they meet at least Level 2 on the current assessment tool as developed and administered by the FSBPT within 90 days of CCA entry*; or

    b. Issue a PHCO if the licensee was not truthful in responding to the renewal attestation or if the licensee has previously been found in violation of CE or active practice requirements. The following sanctions may apply:

        (i) Monetary Penalty of $100 per missing contact hour, up to a maximum of $1,000;
        (ii) Monetary Penalty of $300 for a fraudulent renewal certification; and
        (iii) For those licensees who fail to meet the CE requirements, submission of proof of completion of the missing contact hour(s) within 90 days of Order entry. These contact hours cannot be used toward the next biennial requirement for renewal; *or*
        (iv) For those licensees who fail to meet the active practice requirements, submission of proof that they meet at least Level 2 on the current assessment tool as developed and administered by the FSBPT within 90 days of Order entry.

3. The case will be referred to an informal fact-finding conference if the licensee:

   a. Fails to respond to the audit or does not wish to sign the CCA or PHCO that is offered; or
   b. Has previously been disciplined pursuant to a Board Order for not meeting the CE requirements.

Sanctioning Reference Points Instruction Manual

Board of Physical Therapy

Guidance Document 112-17
Adopted November 2009
(Revised May 2012)
(Revised November 2017)

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November 2017

Dear Interested Parties:

In the spring of 2001, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia's 13 health regulatory boards. The purpose of the study was to "*...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members...*" The purposes and goals of the study were consistent with state statutes which specify that the Board of Health Professions (BHP) periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

After interviewing Board of Physical Therapy members and staff, a committee of board members, staff, and research consultants assembled a research agenda involving the most exhaustive statistical study of sanctioned Physical Therapists and Physical Therapist Assistants ever conducted in the United States. The analysis included collecting over 100 factors on all Board of Physical Therapy sanctioned cases in Virginia over a ten year period. These factors measured case seriousness, respondent characteristics, and prior disciplinary history. After identifying the factors that were consistently associated with sanctioning, it was decided that the results provided a solid foundation for the creation of sanctioning reference points. Using both the data and collective input from the Board of Physical Therapy and staff, analysts developed a usable sanctioning worksheet as a way to implement the reference system.

More recently, BHP recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. After conducting board member and staff interviews and an updated analysis to assess worksheet factors, scores, and sanctioning recommendations, the Board of Physical Therapy made a number of revisions to its Sanctioning Reference Points worksheet. This manual reflects those adopted revisions and provides the Board with a new SRP worksheet representing the most current sanctioning data available.

Sincerely yours,

David E. Brown, D.C.
Director
Virginia Department of Health Professions

Cordially,

Elizabeth A. Carter, Ph.D.
Executive Director
Virginia Board of Health Professions

Table of Contents

General information

Overview

The Virginia Board of Health Professions has spent the last 15 years studying sanctioning in disciplinary cases. The study is examining all 13 health regulatory boards. Focusing on the Board of Physical Therapy (PT), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, and a revised worksheet with offense and respondent factors that are scored in order to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Virginia Board of Physical Therapy. Moreover, the worksheets and sanctioning thresholds have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The current SRP system is comprised of a single worksheet which scores a number of offense and respondent factors identified using quantitative and qualitative analyses and built upon the Department's effort to maintain consistence in sanctioning over time. The original PT SRP Manual was adopted in November 2009, and has been applied to cases closed in violation for the past 8 years.

These instructions and the use of the SRP system fall within current DHP and PT policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board and are specified within existing Virginia statutes. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or policy supersedes the worksheet recommendation.

Background

In 2010, the Board of Health Professions (BHP) recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. The purpose of this study was to evaluate the SRP system against its own unique set of objectives. The SRPs were designed to aid board members, staff and the public in a variety of ways. This Effectiveness Study sought to examine whether or not the SRPs were successful, and if not, which areas required improvement. The study resulted in changes to the manual for the Board of Physical Therapy. This manual is the result of those adopted changes.

Goals

The Board of Health Professions and the Board of Physical Therapy cite the following purposes and goals for establishing Sanctioning Reference Points:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for the Board and those involved in proceedings.
- "Neutralizing" sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Constraining the influence of undesirable factors—e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for probation services and terms

Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A normative approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments, in order to ensure and maintain a system that better reflects current sanctioning practice. The SRP manual adopted in 2009 was based on a descriptive approach with a limited number of normative adjustments. This study was conducted in a similar manner; however, it draws on data covering a more recent historical time period (2012-2016, partial 2017) and relies on the full PT Board's input to inform SRP system modifications.

Qualitative Analysis

Researchers conducted in-depth personal interviews with board members and staff. Researchers also had informal conversations with representatives from the Attorney General's office and the Executive Director of BHP. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further guide this study's analysis. Additionally, interviews helped ensure the factors that board members consider when sanctioning continued to be included during the quantitative phase of the study. Previous scoring factors were examined for their continued relevance and sanctioning influence.

Quantitative Analysis

In 2009, researchers collected detailed information on all PT disciplinary cases ending in a violation between 1999 and 2009; ten years of sanctioning data. Over 100 different factors were collected on each case in order to describe the case attributes board members identified as potentially impacting sanction decisions. Researchers used data available through the DHP's case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, board notices, board orders, and all other documentation that is made available to board members when deciding a case sanction.

A comprehensive database was created to analyze the factors that were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the relevant factors along with their relative weights were derived. Those factors and weights were formulated into a sanctioning worksheet, which became the SRPs. The current worksheet represents a revised analysis to update the worksheet factors and scores in order to represent the most current practice.

Offense factors such as financial or material gain were examined along with such factors as prior board or criminal history and past substance abuse. Some factors were deemed inappropriate for use in a structured sanctioning reference system. Although many factors, both "legal" and "extra-legal," can help explain sanction variation, only those "legal" factors the Boards felt should consistently play a role in a sanction decision were included on the final worksheet. By using this method, the hope is to achieve more neutrality in sanctioning by making sure the same set of "legal" factors are considered in every case.

Wide Sanctioning Ranges

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Boards with a sanctioning model that encompasses roughly 75% of historical practice. This means that approximately 25% of past cases receive sanctions either higher or lower than what the reference points indicate, recognizing that aggravating and mitigating factors play a legitimate role in sanctioning. The wide sanctioning ranges allow the Board to individualize sanctions within the broader SRP recommended range to fit the circumstances of each case.

Voluntary Nature

The SRP system should be viewed as a decision-aid to be used by the Board of Physical Therapy. Sanctioning within the SRP ranges is totally voluntary, meaning that the system is viewed strictly as a tool and the Board may choose any sanction outside the recommendation. The Board maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Board is not provided with the appropriate coversheet and worksheet in every case eligible for scoring. A coversheet and worksheet should be completed in cases resolved by Informal Conferences and Pre-Hearing Consent Orders. The coversheet and worksheet will be referenced by Board members during Closed Session after a violation has been determined.

Worksheets Not Used in Certain Cases

The SRPs will not be applied in any of the following circumstances:

Formal Hearings — SRPs will not be used in cases that reach a Formal Hearing level.

Mandatory Suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the licensee must be suspended. The sanction is defined by law and is therefore excluded from the SRPs system.

Compliance/Reinstatements – The SRPs should be applied to new cases only.

Action by another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Physical Therapy, the Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Physical Therapy usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply as the case has already been heard and adjudicated by another Board.

Confidential Consent Agreements (CCAs) – SRPs will not be used in cases settled by CCA.

Certain Pre-Defined Sanctions – The Sanctioning Reference Points system does not apply to certain cases that have already been assigned pre-determined actions as set by the health regulatory board. The Board of Physical Therapy has adopted Guidance Documents in the areas of Practicing on an Expired License (Guidance document 112-18) and Continuing Education Deficiencies (Guidance document 112-21) as follows:

Practicing on an Expired License, Guidance document 112-18	Possible Action
First offense; 90 days or less	Confidential Consent Agreement
First offense; 91 days to 6 months	Consent Order; Monetary Penalty of $1000
First offense; 6 months to one year	Consent Order; Monetary Penalty of $1500
First offense; over 1 year	Consent Order; Monetary Penalty of $2500
Second offense	Consent Order; Monetary Penalty of $2500

Continuing Education Deficiencies, Guidance document 112-21	Possible Action
If the licensee was truthful in responding to the renewal attestation and the licensee has not previously been found in violation of CE or active practice requirements. Issue a CCA for those licensees who fail to meet the CE requirements.	The CCA may require the licensee to submit proof of completion of the missing contact hours(s) within 90 days of the effective date of the CCA. Such contact hours cannot be used toward fulfillment of the next biennial CE requirement for renewal
If the licensee was not truthful in responding to the renewal attestation or if the licensee has previously been found in violation of CE or active practice requirements. The corresponding sanctions may be applied by issuance of a PHCO	(i) Monetary Penalty of $100 per missing contact hour, up to a maximum of $1,000; (ii) Monetary Penalty of $300 for a fraudulent renewal certification; and (iii) For those licensees who fail to meet the CE requirements, submission of proof of completion of the missing contact hour(s) within 90 days of Order entry. These contact hours cannot be used toward the next biennial requirement for renewal.
If the licensee fails to respond to the audit or does not wish to sign the CCA or PHCO that is offered or has previously been disciplined pursuant to a Board Order for not meeting the CE requirements.	The case will be referred to an informal fact-finding conference.

Case Selection When Multiple Cases Exist

When multiple cases have been combined into one "event" (one order) for disposition by the Board, only one coversheet and worksheet should be completed and it should encompass the entire event. If a case (or set of cases) has more than one offense type, one case type is selected for scoring according to the offense group which appears highest on the following table. For example, a respondent found in violation for Practicing Beyond the Scope and Impairment Due to Alcohol would receive 50 points, since Inability to Safely Practice is above Unlicensed Activity in the Case Type Group column and receives more points. If an offense type is not listed, the most analogous offense type is used.

Sanctioning Reference Points Case Type Table

Case Type Group	Included Case Categories	Applicable Points
Abuse/Inappropriate Relationship	• Any sexual assault or mistreatment of a patient • Dual, sexual or other boundary issue Includes inappropriate touching and written or oral communications	70
Inability to Safely Practice/ Drug Related-Patient Care	• Impairment due to use of alcohol, illegal substances, or prescription drugs • Incapacitation due to mental, physical or medical conditions. • Prescription forgery, drug adulteration, patient deprivation, stealing drugs from patients, or personal use	50
Neglect	• Inappropriate termination of provider/patient relationship, leaving a patient unattended in a health-care environment, failure to do what a reasonable person would do in a similar situation	45
Business Practice Issues/ Continuing Education	• Advertising, solicitation, records, audits, self-referral of patients, required report not filed, or disclosure • Failure to obtain or document CE requirements.	40
Fraud/Standard of Care/ Unlicensed Activity	• Performing unwarranted/unjust services or the falsification/alteration of patient records • Improper patient billing, falsification of licensing/ renewal documents. • Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues • Practicing outside the permitted functions of license granted • Other patient care cases that cannot adequately fit into any other standard of care case type • Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity	30

Completing the Coversheet and Worksheet

Ultimately, it is the responsibility of the Board to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the board and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, the manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: www.dhp.virginia.gov (paper copy also available on request).

Scoring Factor Instructions

To ensure accurate scoring, instructions are provided for scoring each factor on the SRP worksheet. When scoring a worksheet, the numeric values assigned to a factor on the worksheet *cannot be adjusted*. The scores can only be applied as 'yes or no'- with all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board members have final say in how a case is scored.

Using Sanctioning Thresholds to Determine a Specific Sanction

The Physical Therapy worksheet has four scoring thresholds with increasing point values and respectively increasing sanction severities. The table here shows the historically used sanctions for each threshold. The column to the left, "Worksheet Score," contains the threshold scores located at the bottom of the worksheet. The column to the right, "Available Sanctions," shows the specific sanction types that each threshold level covers. After considering the sanction recommendation, the Board may fashion a more detailed sanction(s) based on individual case circumstances.

Sanctioning Reference Points Threshold Table

Worksheet Score	Available Sanctions
0 - 49	• No Sanction • Reprimand
50 - 129	• Reprimand • Monetary Penalty • Continuing Education (CE)
130 - 239	• Monetary Penalty • Stayed Suspension • Corrective Action includes the following: ◦ Probation ◦ HPMP ◦ Begin/continue treatment for alcohol/substance abuse ◦ Begin/continue therapy/counseling ◦ Quarterly self reports ◦ Quarterly reports from employer ◦ Quarterly reports from therapist, counselor, doctor, etc. ◦ Inform all current and future employers of license status ◦ Provide a copy of order to all current and future employers ◦ Unrestricted communication between the board and employer ◦ Complete FSBPT/oPTion assessment tool ◦ Shall not work in home health setting ◦ *Either* take CE/oPTion *or* place license on inactive status ◦ Shall not treat opposite sex patients
240 or more	• Revocation • Suspension • Surrender • Refer to Formal Hearing

Sanctioning Reference Points Coversheet, Worksheet, & Instructions

SRP Coversheet for Physical Therapy

Adopted 11/23/17

Case Number(s): | | | | | | | | | | | | | | | | | | |

Respondent Name: _____ _____
First Last

License Number: _____

Case Type:
___ Abuse/Inappropriate Relationship
___ Inability to Safely Practice/Drug Related-Patient Care
___ Neglect
___ Business Practice Issues/Continuing Education
___ Fraud/Standard of Care/Unlicensed Activity

Sanctioning Recommendation:
___ No Sanction/Reprimand (0 - 49)
___ Reprimand/Monetary Penalty/Continuing Education (50 - 129)
___ Monetary Penalty/Stayed Suspension/Corrective Action (130 - 239)
___ Loss of License/Refer to Formal (240 or more)

Imposed Sanction(s):
___ No Sanction
___ Reprimand
___ Monetary Penalty: $_____ enter amount
___ Probation: _____ duration in months
___ Stayed Suspension: _____ duration in months
___ Refer to Formal
___ Accept Surrender
___ Revocation
___ Suspension
___ Other sanction: _____
___ Terms: _____

Was imposed sanction a departure from the recommendation? ___No ___Yes, give reason below

Reasons for Departure from Sanction Grid Result (if applicable): _____

_____

_____

Worksheet Preparer's Name: _____

Date Worksheet Completed: _____

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia

SRP Worksheet Instructions for Physical Therapy

Adopted 11/23/17

Step 1: Case Type – Select the case type from the list and score accordingly. If a case has multiple aspects, enter the point value for the one most serious case type that is highest on the list. (score only one)

Abuse/Inappropriate Relationship – 70 Points

- Any sexual assault, mistreatment of a patient
- Dual, sexual or other boundary issue. Includes inappropriate touching and written or oral communications

Inability to Safely Practice/Drug Related-Patient Care – 50 Points

- Impairment due to use of alcohol, illegal substances, or prescription drugs
- Incapacitation due to mental, physical or medical conditions
- Drug adulteration, patient deprivation, stealing drugs from patients, or personal use

Neglect – 45 Points

- Inappropriate termination of provider/patient relationship, leaving a patient unattended in a health care environment, failure to do what a reasonable person would do in a similar situation

Business Practice Issues/CE – 40 Points

- Records, inspections, audits
- Required report not filed
- Failure to obtain or document CE requirements

Fraud/Standard of Care/Unlicensed Activity – 30 Points

- Performing unwarranted/unjust services
- Falsification/alteration of patient records
- Improper patient billing
- Falsification of licensing/renewal documents
- Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues.
- Practicing outside the permitted functions of license granted
- Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.

Step 2: Offense and Respondent Factors – Score all factors reflecting the totality of the case(s) presented. (score all that apply)

Enter "50" if a patient was intentionally or unintentionally injured. This includes any injury requiring medical care ranging from first-aid treatment to hospitalization.

Enter "50" if the case involved inappropriate physical contact. Inappropriate contact is indicated by the unwanted/unsolicited physical contact of a patient by the respondent. If this factor is scored, case category should be "Abuse/Inappropriate Relationship."

Enter "50" if the respondent was impaired at the time of the offense due to substance abuse (alcohol or drugs) or mental/physical incapacitation.

Enter "30" if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.

Enter "30" if the respondent received a sanction from his/her employer in response to the current violation. A sanction from an employer may include: suspension, review, or termination.

Enter "30" if there was a concurrent civil or criminal action related to this case.

Enter "30" if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities, or physical capabilities. Scored here would be: prior convictions for DUI/ DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting the ability to function safely or properly.

Enter "30" if the respondent has previously been sanctioned by any other state or entity. Sanctioning by an employer is not scored here.

Enter "10" if the patient is especially vulnerable. Patients in this category must be at least one of the following: under age 18, over age 65, or mentally/physically handicapped.

Enter "10" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Enter "10" if the case involved falsification/alteration of patient records. This would include cases in which the respondent did not stay with the patient for as long as records show, or the respondent did not visit the patient at all. This would also include the falsification of medical records such as vital signs.

Enter "10" if the respondent has any prior violations decided by the Virginia Board of Physical Therapy.

Step 3: Add Case Type and Offense and Respondent Factor scores to arrive at a Total Worksheet Score

Step 4: Determining the Sanction Recommendation

The Total Worksheet Score corresponds to the Sanctioning Reference Points recommended sanction located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score for the current worksheet. That range has a corresponding range of recommended sanctions. For instance, a case with a Total Worksheet Score of 100 is recommended for "Reprimand/Monetary Penalty/CE."

Step 5: Coversheet

Complete the coversheet including the SRP sanction result, the imposed sanction and the reasons for departure if applicable. Both a coversheet and worksheet must be completed for applicable cases.

SRP Worksheet for Physical Therapy

Adopted 11/23/17

Case Type (score only one)	**Points**	**Score**
Abuse/Inappropriate Relationship	70	_____
Inability to Safely Practice/Drug Related-Patient Care	50	_____
Neglect	45	_____
Business Practice Issues/Continuing Education	40	_____
Fraud/Standard of Care/Unlicensed Activity	30	_____

Offense and Respondent Factors (score all that apply)		
Patient Injury	50	_____
Inappropriate physical contact	50	_____
Respondent impaired during incident	50	_____
Respondent failed to take corrective action	30	_____
Sanctioned by employer due to incident	30	_____
Concurrent civil or criminal action	30	_____
Past difficulties (drugs, alcohol, mental/cognitive, physical)	30	_____
Sanctioned by another state or entity	30	_____
Patient particularly vulnerable	10	_____
Act of commission	10	_____
Case involved falsification/alteration of patient records	10	_____
Any prior VA Board of Physical Therapy violations	10	_____

Total Worksheet Score ☐

Score	Sanctioning Recommendations
0 - 49	No Sanction/Reprimand
50 - 129	Reprimand/Monetary Penalty/Continuing Education
130 - 239	Monetary Penalty/Stayed Suspension/Corrective Action
240 or more	Loss of License/Refer to Formal

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia

Board of Physical Therapy Committee Members
2017-2018
(updated August 21, 2018)

Arkena L. Dailey, PT, DPT, President
Elizabeth Locke, PT, PhD, Vice-President

Credentials Committee
Arkena L. Dailey, PT, DPT, Chair
Mira Mariano, PT, PhD
Rebecca Duff, PTA

Special Conference Committee
Elizabeth Locke, PT, PhD, Chair
Tracey Adler, PT, DPT
Arkena L. Dailey, PT, DPT (alt.)
Mira Mariano, PT, PhD (alt.)

Regulatory/Legislative Committee
Tracey Adler, PT, DPT, Chair
Allen R. Jones, Jr., PT, DPT
Elizabeth Locke, PT, PhD
Susan Palmer, MLS, Citizen Member

Continuing Competency Committee
Allen R. Jones, Jr., PT, DPT, Chair
Arkena L. Dailey, PT, DPT

VIRGINIA BOARD OF PHYSICAL THERAPY
BYLAWS

ARTICLE I: GENERAL

The organizational year for the Board of Physical Therapy shall be from July 1st through June 30th. The officers of the Board of Physical Therapy shall be a President and a Vice-President. At the first regularly scheduled meeting of the organizational year, the board shall elect its officers. The term of office shall be one year, an officer may be re-elected in that same position for a second consecutive term. Nominations for office shall be selected by open ballot, and election shall require a majority of the members present.

For purposes of these Bylaws, the Board schedules full board meetings to take place during each quarter, with the right to change the date or cancel any board meeting, with the exception that a minimum of one meeting shall take place annually. Board members shall attend all board meetings in person, unless prevented by illness or similar unavoidable cause. A majority of the members of the Board shall constitute a quorum for the transaction of business. The current edition of Robert's Rules of Order, revised, shall apply unless overruled by these bylaws or when otherwise agreed.

Members shall attend all scheduled meetings of the Board and committee to which they serve. In the event of two consecutive unexcused absences at any meeting of the Board or its committees, the President shall make a recommendation about the Board member's continued service to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.

ARTICLE II: OFFICERS OF THE BOARD

1. The President presides at all meetings and formal administrative hearings in accordance with parliamentary rules and the Administrative Process Act, and requires adherence of it on the part of the board members. The President shall appoint all committees and committee chairpersons unless otherwise ordered by the Board.

2. The Vice-President shall act as President in the absence of the President.

3. In the absence of both the President and Vice-President, the President shall appoint another board member to preside at the meeting and/or formal administrative hearing.

4. The Executive Director shall be the custodian of all Board records and all papers of value. She/He shall preserve a correct list of all applicants and licensees. She/He shall manage the correspondence of the Board and shall perform all such other duties as naturally pertain to this position.

ARTICLE III: ORDER OF THE BUSINESS MEETINGS

The order of the business shall be as follows:

1. Call to order with statement made for the record of how many and which board members are present and that it constitutes a quorum.

2. Approval of minutes.

3. The Executive Director and the President shall collaborate on the remainder of the agenda.

ARTICLE IV: COMMITTEES

There shall be the following committees:

A. Standing Committees:

1. **Special Conference Committee.** This committee shall consist of two board members who shall review information regarding alleged violations of the physical therapy laws and regulations and determine if probable cause exists to proceed with possible disciplinary action. The President may also designate another board member as an alternate on this committee in the event one of the standing committee members becomes ill or is unable to attend a scheduled conference date. Further, should the caseload increase to the level that additional special conference committees are needed, the President may appoint additional committees.

2. **Credentials Committee.** The committee shall consist of two board members. The members of the committee will review non-routine licensure applications to determine the credentials of the applicant and the applicability of the statutes and regulations.

3. **Legislative/Regulatory Committee.** The committee shall consist of at least three Board members. The Board delegates to the Legislative/Regulatory Committee the authority to recommend actions to petitions for rulemaking. This committee is responsible for the development of proposals for new regulations or amendments to existing regulations with all required accompanying documentation; the development of proposals for legislative initiatives of the Board; the drafting of Board responses to public comment as required in conjunction with rulemaking; conducting the required review of all existing regulations as required by the Board's Public Participation Guidelines and any Executive Order of the Governor, and other required tasks related to regulations. In accordance with the Administrative Process Act, any proposed draft regulation and response to public comment shall be reviewed and approved by the full Board prior to publication.

4. **Continuing Education Committee.** This committee shall consist of at least two board members who review requests from licensees who seek a waiver or extension of time in complying with their continuing competency requirements.

B. Ad Hoc Committees

There may be **Ad Hoc Committees,** appointed by the Board as needed each of which shall consist of at least two persons appointed by the Board who are knowledgeable in the particular area of practice or education under consideration by the Board. The committee shall review matters as requested by the Board and advise the Board relative to the matters or make recommendations for consideration by the Board.

ARTICLE V.: GENERAL DELEGATION OF AUTHORITY

1. The Board delegates to Board staff the authority to issue and renew licenses, registrations and certificates where minimum qualifications have been met.

2. The Board delegates to the Executive Director the authority to reinstate licenses, registrations and certificates when the reinstatement is due to the lapse of the license, registration or certificate and not due to previous Board disciplinary action.

3. The Board delegates to Board staff the authority to develop and approve any and all forms used in the daily operations of the Board business, to include, but not limited to, licensure applications, renewal forms and documents. New or revised forms must be presented to the Board at its next regularly scheduled meeting.

4. The Board delegates to the Executive Director the authority to sign as entered any Order or Board-approved Consent Order resulting from the disciplinary process.

5. The Board delegates to the Executive Director, who may consult with a special conference committee member, the authority to provide guidance to the agency's Enforcement Division in situations wherein a complaint is of questionable jurisdiction and an investigation may not be necessary, and the authority to approve requests for disclosure of investigative information pursuant to Virginia Code § 54.1-2400.2 (D) and (F).

6. The Board delegates to the President, the authority to represent the Board in instances where Board "consultation" or "review" may be requested where a vote of the Board is not required and a meeting is not feasible.

7. The Board delegates an informal fact-finding proceeding to any agency subordinate upon determination that probable cause exists that a licensee may be subject to a disciplinary action. Cases that may not be delegated to an agency subordinate include, but are not limited to, those that involve: intentional or negligent conduct that causes or is likely to cause injury to a patient; mandatory suspension resulting from action by another jurisdiction or a felony conviction; impairment with an inability to practice with skill and safety; sexual misconduct; and unauthorized practice. The Board may delegate to the Executive Director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being convened.

8. The Board delegates to the Executive Director, the authority to approve applications with criminal convictions in accordance with Guidance Document 112-23

ARTICLE V1. AMENDMENTS

A board member or staff personnel may propose amendments to these Bylaws by presenting the amendment in writing to all Board members prior to any regularly scheduled meeting of the Board. Such proposed amendment shall be adopted upon favorable vote of at least two-thirds of the Board members present at said meeting.

International Network of Physiotherapy Regulatory Authorities

Facilitating international cooperation and collaboration

INPTRA Membership

Support our goals by becoming an Organizational Member, Partner or Affiliate of INPTRA!

INPTRA's purpose is to provide a forum for existing and emerging physiotherapy regulatory authorities, and other related organizations, to participate in exploring and furthering understanding of regulatory systems, issues and opportunities around the world, and to facilitate international cooperation and collaboration on issues of mutual interest.

As a Member, you will have the satisfaction of knowing that your organization was instrumental in furthering INPTRA's purpose.

Overall goals include the following:

- Develop a website to serve as a resource to physiotherapy regulators
- Mentorship of developing regulatory structures
- Providing educational webcasts and meetings on timely topics of physiotherapy regulation
- Sharing resources

We believe that INPTRA will provide physiotherapy regulators with the following opportunities.

- To share approaches, information, practices and best practices
- To learn from other regulatory approaches
- To see different futures
- To culturally expand as we understand the similarities, differences and underlying assumptions that impact our world
- To provide individuals with the opportunity for involvement in a international physiotherapy regulation organization through committee work
- To explore topics such as centralized or decentralized regulation, entry-level examinations, scope of practice, diversity in the scope of practice, supply and demand forecasting, mobility and the need for a unified professional educational model, accreditation and the need for assessment of professional education

INPTRA Membership

Dues

Join Now/Renew

standards, credentialing assessment of education standards, disciplinary processes, professional databases (licensure, exam, discipline, practice settings) and continuing professional development models

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International Network of Physiotherapy Regulatory Authorities

Facilitating international cooperation and collaboration

Membership Dues

In an effort to assess membership dues for INPTRA using an equitable foundation, the following annual dues structure is based upon each country's current Gross National Income (GNI) per capita, as grouped and determined by the World Bank. A complete listing of countries can be found below. Categories will be updated whenever the World Bank updates its Gross National Income per capita data.

Category 4 = High Income Countries (earnings of $12,736 or more)
Category 3 = Upper-Middle Income Countries (earnings of $4,126 to $12,735)
Category 2 = Lower-Middle Income Countries (earnings of $1,046 to $4,125)
Category 1 = Low Income Countries (earnings of $1,045 or less)

INPTRA Membership

Dues

Join Now/Renew

SEARCH

Input your search...

Search

Annual Dues Structure

Members[1]				
Income Level	**Physiotherapy regulatory associations[2]**	**National physiotherapy regulatory authorities[3]**	**Jurisdiction physiotherapy regulatory authorities[4]**	**Individual members[5]**
Category 4	$1000	$1000	$500	$100
Category 3	$750	$750	$375	$75
Category 2	$500	$500	$250	$50
Category 1	$200	$200	$100	$25

Partners[6]	
Income Level	**Dues**

Category 4	$500
Category 3	$300
Category 2	$200
Category 1	$100

Affiliates[7]

Income Level	Dues
Category 4	$500
Category 3	$300
Category 2	$200
Category 1	$100

[1]Multinational and international organizations fall in the category for the country in which their headquarters or secretariats are located.
[2]National associations of physiotherapy regulatory authorities.
[3]A national organization recognized by the government of a specific country as being responsible for the registration/licensing of physiotherapists whereby such persons are entitled to practice the profession and/or the regulation and discipline of such physiotherapists in that country.
[4]A political subdivision of a country (state, province, commonwealth, territory, dependency or other term used by the country) that is responsible for regulating the practice of physiotherapy in that jurisdiction within the country.
[5]Individuals who have an interest in physiotherapy regulation from an international perspective.
[6]An organization, which is national, multinational and/or international in scope, and has a nexus to INPTRA as indicated by its interest in physiotherapy regulation, including credentialing, evaluation and assessment, education or other matters related to quality and integrity of the practice of physiotherapy and can reasonably be expected to add a unique perspective or bring expertise to the deliberations of the organization and is not otherwise eligible for membership.
[7]International organizations of other healthcare regulatory associations.

DUES CATEGORIES

Based on World Bank Analytic Classification by Income[7]

NOTE: Argentina, which was classified as high income in FY16, is temporarily unclassified pending the expected release of revised national accounts statistics.

Category 4

Andorra	Gibraltar	Oman
Antigua & Barbuda	Greece	Poland
Aruba	Greenland	Portugal
Australia	Guam	Puerto Rico
Austria	Hong Kong SAR, China	Qatar
Bahamas, The	Hungary	San Marino
Bahrain	Iceland	Saudi Arabia
Barbados	Ireland	Seychelles
Belgium	Isle of Man	Singapore
Bermuda	Israel	Sint Maarten (Dutch part)
British Virgin Islands	Italy	Slovak Republic
Brunei Darussalam	Japan	Slovenia
Canada	Korea, Rep.	Spain
Cayman Islands	Kuwait	St. Kitts and Nevis
Channel Islands	Latvia	St. Martin (French part)
Chile	Liechtenstein	Sweden
Croatia	Lithuania	Switzerland
Curacao	Luxembourg	Taiwan, China
Cyprus	Macao SAR, China	Trinidad and Tobago
Czech Republic	Malta	Turks and Caicos Islands
Denmark	Monaco	United Arab Emirates
Estonia	Nauru	United Kingdom
Faeroe Islands	Netherlands	United States
Finland	New Caledonia	Uruguay
France	New Zealand	Virgin Islands (U.S.)
French Polynesian	Northern Mariana Islands	
Germany	Norway	

Category 3

Angola	Fiji	Namibia
Albania	Gabon	Palau
Algeria	Georgia	Panama
American Samoa	Grenada	Paraguay
Azerbaijan	Guyana	Peru
Belarus	Iran, Islamic Rep.	Romania
Belize	Iraq	Russian Federation
Bosnia & Herzegovina	Jamaica	Serbia
Botswana	Jordan	South Africa
Brazil	Kazakhstan	St. Lucia
Bulgaria	Lebanon	St. Vincent and the Grenadines

China	Libya	Suriname
Colombia	Macedonia, FYR	Thailand
Costa Rica	Malaysia	Turkey
Cuba	Maldives	Tukmenistan
Dominica	Marshall Islands	Tuvalu
Dominican Republic	Mauritius	Venezuela, RB
Equatorial Guinea	Mexico	
Ecuador	Montenegro	

Category 2

Armenia	Kiribati	Solomon Islands
Bangladesh	Kosovo	Sri Lanka
Bhutan	Kyrgyz Republic	Sudan
Bolivia	Lao PDR	Swaziland
Cameroon	Lesotho	Syrian Arab Republic
Cabo Verde	Mauritania	Tajikistan
Cambodia	Micronesia, Fed. Sts.	Timor-Leste
Congo, Rep.	Moldova	Tonga
Cote d'Ivoire	Mongolia	Tunisia
Djibouti	Morocco	Ukraine
Egypt, Arab Rep	Myanmar	Uzbekistan
El Salvador	NIcaragua	Vanuatu
Ghana	Nigeria	Vietnam
Guatemala	Pakistan	West Bank and Gaza
Honduras	Papau New Guinea	Yemen, Rep.
Indonesia	Phillippines	Zambia
India	Samao	
Kenya	Sao Tome & Principe	

Category 1

Afghanistan	Guinea	Rwanda
Benin	Guinea-Bissau	Senegal
Burkina Faso	Haiti	Sierra Leone
Burundi	Korea, Dem Rep.	South Sudan
Central African Republic	Liberia	Somalia
Chad	Madagascar	Tanzania
Comoros	Malawi	Togo
Congo, Dem. Rep	Mali	Uganda

Eritrea	Mozambique	Zimbabwe
Ethiopia	Nepal	
Gambia, The	Niger	

[7]*From https://datahelpdesk.worldbank.org/knowledgebase/articles/906519*

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