Virginia Department of Health Professions
Board of Physical Therapy

Agenda
Legislative/Regulatory Committee

August 23, 2022
Board Room 1
10:00 a.m.

Call to Order – Arkena L. Dailey, PT, DPT, Committee Chair

- Welcome and Introductions
- Emergency Egress Procedures - Corie E. Tillman Wolf

Approval of Agenda

Public Comment

Discussion and Committee Recommendations

- **Public Petition for Rulemaking (Prohibition of Requirements for Mask Wearing, Receipt of Vaccines, and Disclosure of Vaccine Status to Receive Physical Therapy) and Review of Public Comments Received**
- **Review of Board Regulations Governing the Practice of Physical Therapy (18VAC112-20-10 et seq.)**
- **Revisions to, Reorganization of, or Readoption of Guidance Documents**
  - **Guidance Document 112-4**, Requirement for licensure for instructors in physical therapy program, readopted May 1, 2018
  - **Guidance Document 112-11**, Functional capacity evaluations by Physical Therapist Assistants (PTAs), revised May 1, 2018
  - **Guidance Document 112-12**, Physical therapy services in home health, revised May 1, 2018
  - **Guidance Document 112-14**, Guidance on Electromyography (EMG) and Sharp Debridement in Practice of Physical Therapy, revised May 1, 2018
  - **Guidance Document 112-15**, Supervision of unlicensed support personnel in any setting, readopted May 1, 2018
  - **Guidance Document 112-16**, Guidance on the Use of Your Professional Degree in Conjunction with Your Licensure Designation, readopted May 1, 2018
  - **Guidance Document 112-18**, Disposition of Disciplinary Cases for Practicing on Expired Licenses, revised May 1, 2018
  - **Guidance Document 112-19**, Physical Therapists performance of the prothrombin time and international normalized ratio (INR) tests in home health settings, revised May 1, 2018
  - **Guidance Document 112-22**, Procedures for Auditing Continued Competency Requirements, revised November 13, 2018

- **Questions from Licensees and Revisions to Board Guidance**
  - **Additional Guidance – Removal of Staples, Sutures, and Surgical Drains by PTs or PTAs**
  - **Guidance Document 112-7**, Physical Therapists in Public Schools and Direct Access, revised February 15, 2022
  - **Guidance Document 112-21**, Guidance on Telehealth, revised November 17, 2020, effective January 21, 2021

Next Steps

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 the Virginia Code.

Agenda Item: Consideration of petition for rulemaking

Included in your agenda package are:

- Copy of petition for rulemaking, including attachment submitted by petitioner;
- Public comment on petition received by the agency
- Public comment on petition posted on Town Hall

Board Action:

- Recommend action for the full board. Options:
    - Initiate a rulemaking; or
    - Take no action. Must specify reasons.

COMMONWEALTH OF VIRGINIA
Board of Physical Therapy

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Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition. If the board has not met within that 90-day period, the decision will be issued no later than 14 days after it next meets.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle initial, Suffix,) SCHULTZ, MICHAEL J.		
Street Address 8019 OAK BRIDGE LANE	**Area Code and Telephone Number** 617-817-3224	
City FAIRFAX STATION	**State** VA	**Zip Code** 22039
Email Address (optional) mj_schultz@hotmail.com	**Fax (optional)**	

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

   Virginia Board of Physical Therapy REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY, Part V. Standards of Practice, "Section 18VAC112-20-180. Practitioner responsibility, Paragraph A., A practitioner shall not"

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

   See attached summary of the proposed amendments to the existing regulation and associated rationale as Attachment 1.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is <u>other</u> legal authority for promulgation of a regulation, please provide that Code reference.

   Section 54.1-2400 of the Code of Virginia.

Signature: Mike Schultz **Date:** 4/2/22

ATTACHMENT 1

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule

I propose to amend the existing regulation under Virginia Board of Physical Therapy REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY, Part V. Standards of Practice, "Section 18VAC112-20-180. Practitioner responsibility, Paragraph A., A practitioner shall not" by adding 5 new clauses under paragraph A. to read as follows:

"5. Require a patient, prospective patient, or family member to wear a mask as a condition of providing physical therapy services. A practitioner shall not refuse to provide physical therapy services to a patient or prospective patient should a patient, prospective patient, family member or authorized patient representative (including Parental Guardian) choose to not wear a mask. A mask shall be considered any covering across the face that is intended solely as a means of potential infection control.

6. Enact, implement, enforce, or execute any practitioner-authored, insurer-required, corporate, or organizational policy, instruction, or guidance (including, but not limited to, guidance issued by the Centers for Disease Control, local County or municipality Board of Health, or Virginia Department of Health) that prohibits patients or prospective patients from receiving physical therapy services based upon an individual's choice to not wear a mask.

7. Refuse to provide physical therapy services to a patient or prospective patient at any location in the Commonwealth, including hospitals, based upon that patient's, prospective patient's, family member's, or authorized patient representative's vaccination status for the virus that causes COVID-19 (SARS-CoV-2) disease, or any other vaccine, where such vaccine is under either Emergency Use Authorization or full approval status as determined by the United States Food and Drug Administration (FDA), and/or the Virginia Department of Health, or Virginia Board of Medicine.

8. Deny physical therapy services for any patient or prospective patient, based upon that patient's, prospective patient's, family member's, or authorized patient representative's refusal to provide an answer (if so questioned) on their vaccination status for the virus that causes COVID-19 disease, or for any other vaccine.

9. The prohibited conduct outlined in A.5. through A.8. applies to a practitioner, any employee or subordinate of the practitioner, any employer or employee providing physical therapy services (including administrative staff), any contract worker of the practitioner or said employer, or any physical therapy Trainee, at any facility licensed to practice physical therapy in the Commonwealth of Virginia."

I also propose to amend the existing regulation under Virginia Board of Physical Therapy REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY, Part V. Standards of Practice, "Section 18VAC112-20-180. Practitioner responsibility." by adding the following:

Paragraph E.: "Any patient, prospective patient, family member, or authorized patient representative who believes they have been a target of any of the prohibited conduct outlined in paragraphs A.5. through A.8. shall have the right to petition the Board of Physical Therapy to request an investigation into the claim of prohibited behavior. Claimant shall have the right to submit evidence supporting their petition.

1. Within 15 calendar days of receiving a petition, the Board shall notify the petitioner in writing that the petition has been received. The Board shall initiate and complete the investigation into the validity of such claim(s) no later than 30 calendar days after receiving the petition.

2. If the claim is deemed credible by the Board, the Board must set a disciplinary hearing date for the practitioner, practitioner's employer, or Trainee in question no later than 45 calendar days after completion of the investigation. Both

the claimant and party in question shall have the right to attend the disciplinary hearing in person and provide evidence and testimony in opposition to or support of the claim, including providing witnesses.

3. Within 15 calendar days of completion of a disciplinary hearing, the Board shall notify the Petitioner of the results of the hearing by writing. The results shall describe any action taken by the Board against the party in question.

4. If the practitioner, practitioner's employer, or Trainee in question is found to have committed any of the prohibited conduct in paragraphs A.5 through A.8., the Board shall initiate disciplinary action within 15 calendar days of the hearing. Appropriate disciplinary action includes, but is not limited to, official reprimand, counseling, and/or temporary suspension of the license to practice physical therapy of the party in question.

RATIONALE

These regulations are necessary due to the thousands upon thousands of examples in Virginia where patients and prospective patients were denied their right to necessary physical therapy services or were informed by a practitioner that they would not provide necessary physical therapy services solely because of the patient's individual choice to not take the COVID-19 vaccine, or the individual's choice to not wear a mask. Both mask wearing and the vaccine have now been shown (based on years of peer-reviewed scientific studies and empirical data) to be ineffective in preventing contracting the virus that causes COVID-19 disease, or in preventing transmission to others. Numerous studies provide the factual basis behind these statements:

https://www.lifesitenews.com/news/47-studies-confirm-inefectiveness-of-masks-for-covid-and-32-more-confirm-their-negative-health-effects
https://aapsonline.org/mask-facts/
https://www.cidrap.umn.edu/news-perspective/2020/04/commentary-masks-all-covid-19-not-based-sound-data
https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6936a-H.pdf
https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3949410
https://brownstone.org/articles/more-than-150-comparative-studies-and-articles-on-mask-ineffectiveness-and-harms/
https://lcaction.org/vaccine#cases

Prior to February 2020, no citizen in the Commonwealth of Virginia was required to wear a mask as a condition to receive necessary physical therapy services. Yet, unfortunately these instances surrounding COVID-19 occurred thousands of times across the Commonwealth within the past 2 years by practitioners, and still continue to this day, even when all mask restrictions in the Commonwealth have been lifted by the Virginia Board of Health. I myself am still required to wear a mask to receive physical therapy services post-surgery after receiving ankle surgery in February 2022 here in Fairfax County, despite the Centers for Disease Control, Virginia Board of Health, Virginia Board of Education, Virginia Department of Labor and Industry, and Virginia Safety and Health Codes Board lifting all mask requirements, and states such as New York, Massachusetts, Florida, and Texas now having no mask mandates. **Why does Virginia still allow this?** Corporations and practitioners that practice physical therapy in the Commonwealth do not have the authority to act as agents of the Board of Health to enforce mask or vaccination restrictions by claiming it is "company policy." Company policy has no force of law or regulation. I am a survivor of COVID-19 disease from August of 2021, and have recovered fully, with documented natural immunity through antibody testing. My practitioner still will not accept any of that information as relevant, and assumes all patients as possibly infected (an unethical and unscientific practice, by the way), and therefore requires me to wear a mask in the office when receiving physical therapy. Practitioners and their employers have even threatened patients (through administrative staff) with cancelling a necessary appointment, or conditioning receipt of care with such outrageous, exclusionary, and discriminatory pre-conditions as only allowing therapy on a patient in a *separate room* if the patient does not wear a mask (a practice which does not prevent infection and is not based on any science whatsoever) and *only* if the practitioner agrees to treat the

individual in this separate, exclusionary, and discriminatory room. This practice is also extremely racist. All of this I have witnessed first-hand, despite overwhelming evidence that masking does nothing to stop the spread of the COVID-19 virus or prevent transmission of the virus. It is unconscionable that licensed practitioners, their subordinates, and administrative or office employees can still refuse to treat patients if the patient chooses to not wear a mask. This discriminatory practice must end immediately.

Licensed Practitioners, their Employers, and the Board of Physical Therapy Have No Legal Authority Under Existing Virginia State Law or Regulation to Force Patients to Wear a Mask

On February 16, 2022, the Virginia Department of Labor and Industry announced a 30-Day Comment Period on Proposed Revocation of the Virginia Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220. On February 17, 2022 the Virginia Safety and Health Codes Board adopted a proposed finding that there is no longer a continued need for the Virginia Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220, based on emerging scientific and medical evidence that the current widespread variants of the virus no longer constitute a grave danger to employees in the workplace under Va. Code §40.1-22(6a), and as discussed in the U. S. Supreme Court's decision in National Federation of Independent Businesses, et al., Applicants v. Department of Labor, Occupational Safety and Health Administration, et al. The Safety and Health Codes Board adopted the action repealing the Virginia Standard for Infectious Disease Prevention of the SARSCoV-2 Virus That Causes COVID-19 (16VAC25-220) on March 21, 2022 (http://register.dls.virginia.gov/details.aspx?id=10202). This Standard was officially revoked in the Virginia code 16VAC25-220-10 through 16VAC25-220-90. The revocation of the Virginia Standard revokes the requirement for employees in the Commonwealth to be required to wear masks, so how can the Board (e.g., By allowing practitioners or physical therapy employers) allow this same mask-wearing requirement upon patients (or prospective patients) by practitioners, when the Board of Physical Therapy has no such legal authority to do so? As the Board with direct oversight over the conduct of licensed physical therapists, this Board has a legal duty to take action to stop this practice immediately.

Overwhelming Evidence Shows Masks Do Not Stop the Spread of COVID-19

In addition to the numerous internet citations provided above that document overwhelming evidence that neither masking, nor the COVID-19 vaccine prevent the contracting of the virus, nor stop transmission of the virus, of particular relevance is a comment submitted by Mr. Mark Fraser, PhD, Aerosol Scientist and OSHA Safety Officer in support of revoking the Virginia Standard for Infectious Disease Prevention of the SARSCoV-2 Virus That Causes COVID-19 (16VAC25-220). Mr. Fraser's comment shows that masking is completely ineffective as a means of infection control against the SARS-CoV-2 Virus, summarized below:
(https://townhall.virginia.gov/L/viewcomments.cfm?commentid=120823)

"The Standard, subsection 40(G), specifies the mandated Personal Protective Equipment (PPE): "employees shall wear a face covering or surgical mask that covers the nose and mouth to contain the wearer's respiratory droplets and help protect others and potentially themselves." This selection of PPE was unfortunate because these types of masks bear no certification of effectiveness against germs and viruses and, in fact, were known to be ineffective against these pathogens at the beginning of the COVID outbreak[1]. . . Sufficient data have been acquired to allow the performance of Mask Mandates to be assessed. **The unmistakable conclusion is that COVID infections were driven largely by seasonal and endemic factors, whereas Mask Mandates had no discernable impact on infections here in the U.S**.[4] . . . . (*emphasis added*).

The Standard also failed to address the possibility of short and long-term health issues raised by prolonged use of PPE. These issues include: difficulty in breathing, skin rashes, and CO2 intoxication.[4]

Conclusions: Considering the PPE specified under the Standard provided little or no protection against the SARS-CoV-2 virus and long-term use presents health risks to employees, the Standard should be revoked."

The overwhelming body of evidence demonstrates that employees are not protected against COVID-19 using masks, and the same rationale applies to patients or prospective patients. Practitioners and practitioner's employers cannot be allowed to continue this practice of forced masking. Forced masking violates patient autonomy by requiring a patient to wear ineffective facial masks that actually can be shown to make individuals sick, as is clearly outlined in multiple studies cited in the above internet links (for example, University of New South Wales. (2015, April 22). Cloth masks: Dangerous to your health?. ScienceDaily. Retrieved March 19, 2022 from www.sciencedaily.com/releases/2015/04/150422121724.htm) and https://www.lifesitenews.com/news/47-studies-confirm-inefectiveness-of-masks-for-covid-and-32-more-confirm-their-negative-health-effects. Retrieved March 31, 2022.

Requiring a patient or prospective patient to wear a mask as a condition to receive necessary rehabilitation treatment, or conditioning necessary treatment unless a patient wears a mask, is ***coercive***, ***inhumane, and unethical***. No patient should have to choose between the possibility of getting sick by wearing a mask that is a breeding ground for bacteria, fungus, and other infectious agents (by coming into contact with a wet, soiled mask, causing reentrainment of one's own exhaled spittle and aerosols for hours at a time), or being able to recuperate from a recent injury by receiving necessary, compassionate physical therapy services.

In addition, the possibility of short and long-term health issues raised by prolonged use of masks/PPE by patients must also be considered. These issues include: difficulty in breathing, skin rashes, reduced oxygen intake, and CO_2 intoxication. Physical therapy almost always involves physical exertion through increased respiratory activity. Requiring a patient or prospective patient to wear a mask restricts their oxygen intake one needs in order to properly perform the correct rehabilitation exercises prescribed by their doctor, and negatively impacts proper pulmonary function necessary for therapy exercises to be effective. Mask wearing also restricts oxygen intake required to respire normally when resting, or awaiting treatment. Restricting oxygen intake through forced mask wearing is dangerous, especially for repetitive and strenuous physical therapy exercises. By continuing to allow practitioners and practitioners' employers to require this dangerous activity, the Board of Physical Therapy is literally putting patients' lives at risk for reduced cardio or pulmonary function. With many elderly or frail patients with impaired health as frequent physical therapy patients, it is inhumane and unethical to continue to place such vulnerable patients at further risk of injury or possible death such as a stroke or cardiac arrest by forcing them to wear a mask and reducing their oxygen intake. This practice must be terminated immediately.

One of the main principles of the Hippocratic oath is to First, Do No Harm. Demanding that a patient wear a mask (when multiple, peer-reviewed studies documenting the adverse effects of mask wearing is well established), is harmful to a patient and violates patient autonomy. It must be their choice to wear a mask, not mandated by an individual practitioner or business, when local and State Boards have lifted masking restrictions for all business establishments. Patient autonomy and patient rights must be respected.

Even *Children* Don't Have to Wear a Mask at School

It is also ridiculous and an outrage to patient rights that licensed practitioners can still demand that patients, prospective patients, or family members accompanying them wear a mask as a precondition to receiving treatment, (and as a consequence, can refuse or deny treatment for a patient when they exercise their right to not wear one), when it is now state law in Virginia that no child who attends a school is required to wear a mask (Senate Bill 739). If a child has the legal right to not have to wear a mask while in a school environment, of which that child is potentially indoors for periods of up to 6-8 hours a day, five days a week, in close proximity to potentially *hundreds* of other children each day, how can the Virginia Board of Physical Therapy still allow practitioners, their employers, employees of practitioners, or Trainees to continue these blatantly discriminatory and coercive practices of mandatory mask wearing, or demand proof of a COVID-19 vaccination in order for a patient to obtain physical therapy services? ***How do children now have this right, but somehow physical therapy patients now do not?***

Requiring a patient to wear a mask indoors for physical therapy services for any duration of time, was never required on a widespread, Commonwealth basis prior to 2020 and no practitioner required it. Even during periods of high flu transmission (which consequently, has similar infection fatality rates as the virus that causes COVID-19), mask wearing and vaccination for the flu *was never required*. At this point continuance of these policies is nonsensical and unsupported by any scientific basis. The facts are clear: masks and the COVID-19 vaccine do not stop one from contracting the COVID-19 virus, nor do they prevent transmission of the virus that causes COVID-19 disease. The Virginia Board of Physical Therapy has a legal and moral obligation to put an end to unethical, coercive, and discriminatory practices by practitioners requiring mask wearing and demanding proof of vaccination as a precondition to receiving necessary physical therapy services.

Commonwealth of Virginia

Barrett, Erin <erin.barrett@dhp.virginia.gov>

Comment for Petition of rule making

1 message

Josh Bailey <Josh.Bailey@racva.com> Thu, Apr 7, 2022 at 8:24 AM
To: "erin.barrett@dhp.virginia.gov" <erin.barrett@dhp.virginia.gov>

Good morning. Thank you for accepting my comments.

I am adamantly opposed to any rule that would absolve clinical judgement in a practice. There are times that providers must be able to make determinations with the information at hand (such as masks) that are for the greater good of all patients involved. This petition is counter current to this and therefore I oppose it as well.

Thank you .

All the best,

Dr. Josh Bailey

Joshua A. Bailey, PT, DPT

President and CEO, Rehab Associates

Past President, APTA-Virginia

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PT_PetitionforRuleMaking_04062022.pdf
1467K

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Agency **Department of Health Professions**

Board **Board of Physical Therapy**

Chapter **Regulations Governing the Practice of Physical Therapy [18 VAC 112 - 20]**

61 comments

All good comments for this forum Show Only Flagged

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Commenter: Elaine Komarow 4/25/22 2:55 pm

Opposed to this petition

It is critical that health care providers be able to set safety protocols for their offices that protect their most vulnerable patients. Requiring patients to wear a mask to help protect everyone in the space from infectious disease may be appropriate in certain situations. In particular, physical therapy is often provided in open spaces, with multiple people receiving treatment at any given time. It would be unsafe for providers to be forced to allow patients to set the safety protocols in their offices. Furthermore, gathering a complete health history can be critical in understanding certain symptoms and conditions. The proposed rules would make it impossible for providers to protect the health of all of their patients and I am opposed to the petition.

CommentID: **121863**

Commenter: Michael Moates, MA, QBA, LBA, LMHP 5/5/22 7:41 pm

Oppose

Oppose petition. Duplicate of another petition.

CommentID: **121914**

Commenter: Christian Wheeler 5/10/22 12:10 pm

OPPOSE

This is a decision that each facility must make for its staff and clients.

CommentID: **121956**

Commenter: Sheryl Finucane 5/10/22 12:14 pm

Oppose

Health care providers must be allowed to set protocols to protect patients, clients and staff members from infectious diseases. Physical therapists are often in very close contact with clients

and clients are often in shared gym space with other vulnerable patients/clients. The proposed rule makes such protections impossible. Physical therapists should be encouraged to follow CDC guidelines and make decisions based on risk levels in their communities.

CommentID: **121957**

Commenter: Joshua Bailey 5/10/22 12:17 pm

Oppose

It is imperative that facilities be allowed to make appropriately and timely decisions on behalf of their patients and staff. These decisions should made with adequate data and not driven by political agendas or unfounded rhetoric.

CommentID: **121958**

Commenter: Jill Thompson 5/10/22 12:27 pm

Opposed

This petition seems politically-motivated and not in the best interest of keeping all patients safe. Allowing physical therapists (and the organizations they work for) to enact safety precautions based on the needs of their practice is the only way to allow PTs to "First, do no harm."

CommentID: **121959**

Commenter: Anonymous 5/10/22 12:32 pm

Support

Physical therapist, physical therapy assistants, and all medical professionals should be courteous and offer to wear a mask upon patient request but mask should not ever be mandated for any party. If you’re sick, stay home. Everyone can choose where to receive services, if it bothers them and the professional refuses to mask, they can go elsewhere. It will naturally work itself out.

CommentID: **121960**

Commenter: Albert Pannone 5/10/22 12:46 pm

Strongly Oppose

This seems to be a non evidence based and politically motivated petition. Not being able to enforce health and safety regulations related to disease would hinder our ability to provide safe and effective care to patients as well as reduce the ability to protect ourselves and our loved ones. I do not believe that we would say we don’t need to wear gloves if we suspect our patient may have C.dif or shingles. Why then would it be inappropriate to ask patients to mask when we have a Covid or Flu surge? What if there was an epidemic of Ebola or tuberculosis? Where is the logic in not being able to enforce regulations related to safety around an infectious disease?

I strongly oppose any measure that reduces therapists ability to keep themselves and their patients safe. I also oppose this as it would limit the ability for a business to make decisions that would protect itself and keep its customers safe. If you could show me some evidence for why this is a good idea, then I would maybe consider with compelling evidence. Otherwise this seems like an inappropriate petition based on politics

CommentID: **121961**

Commenter: Anonymous 5/10/22 1:06 pm

OPPOSE

Strongly oppose!

CommentID: **121963**

Commenter: Lisa Lickers 5/10/22 1:22 pm

Oppose

I oppose any requirment that interferes with a therapist's ability to keep their patients, themselves, and their families safe.

CommentID: **121964**

Commenter: Anonymous 5/10/22 1:23 pm

Oppose

I oppose this petition

CommentID: **121965**

Commenter: Anonymous 5/10/22 1:25 pm

SUPPORT

I support this petition. If wearing a mask makes someone feel safe, then they should wear one. It is however not fair to require those who feel comfortable without one to wear one. They are only putting their life at risk. If people are following the guidelines provided by the CDC and staying home if they are sick then there shouldn't be an issue.

CommentID: **121966**

Commenter: Cheryl Guarna 5/10/22 1:26 pm

Strongly oppose

Practices must remain in control of their own policies regarding safety measures in their clinics. No one has the right to impose any restrictions on practices that choose to protect their patients.

CommentID: **121967**

Commenter: Arash Zirakzadeh, INOVA 5/10/22 1:30 pm

disagree

As physical therapists, we work in healthcare system and deal with many patients daily. I understand that wearing mask might be difficult for some people, however, we need to feel safe working. This safety is needed for us and our families. This has to be mandatory for all the patients to wear masks to help their provider team feel more comfortable treating them.

CommentID: **121968**

Commenter: Anand R

5/10/22 1:31 pm

Strongly Oppose

I strongly oppose this petition in best interest of other patients, care providers and their loved ones.

CommentID: **121969**

Commenter: Anonymous

5/10/22 1:33 pm

Oppose

Oppose

CommentID: **121970**

Commenter: Anonmyous

5/10/22 1:59 pm

Strongly Oppose

In our physical therapy clinic, we have seen an uptick in the amount of patients who are cancelling due to COVID concerns. Not having the ability to require patients to wear masks in the clinic puts the clinicians at risk if a patient comes in with COVID and they are not aware or have mild symptoms.

CommentID: **121971**

Commenter: Anonymous

5/10/22 2:05 pm

Support

I strongly support this motion as mentioned by support statement, CDC has amended its mask mandates long back and all the other institutions which accept people mask less, we as healthcare practitioner should respect and accept patients. If patients do ask for us to don a mask when treating them also should be respected and wear a mask. At this time we should be flexible and be more welcoming than entertain any one side.

CommentID: **121972**

Commenter: Emily Palmer

5/10/22 2:13 pm

Strongly Oppose

I strongly oppose the removal of the mask mandate for patients. We are currently experiencing an increase in number of cases and the mask wearing has prevented spread through clinics and

patients. Without everyone wearing a mask we are putting both the patients and the clinicians at increased risk for contracting COVID and further spreading it.

CommentID: **121973**

Commenter: Anonymous 5/10/22 2:16 pm

Support

Don’t force us to do anything. Let each individual practice set its own rules!

CommentID: **121975**

Commenter: Anonymous 5/10/22 2:16 pm

Support

Don’t force us to do anything. Let each individual practice set its own rules!

CommentID: **121974**

Commenter: Caitlin Beland 5/10/22 2:20 pm

Oppose

I have been exposed multiple times at work when patients are not showing signs and symptoms until the day after treatment when they contact the clinic to tell us they tested positive. I have yet to catch COVID likely because both myself and the patient are masked. Unfortunately given the nature of our work we are unable to social distance effectively and for the safety of ourselves and others it is critical we continue to mask.

CommentID: **121976**

Commenter: Anonymous 5/10/22 2:23 pm

Oppose stopping mask mandate in PT clinics

I see many people who are immunocompromised including very young children and some are too young to be vaccinated. These children should not have to be exposed to COVID-19 because another person does not like to mask.

CommentID: **121977**

Commenter: Crystal Nemiroff, PT 5/10/22 2:51 pm

Strongly Oppose

I respectfully oppose this petition secondary to the increased health risk to our community.

My opposition to this petition is based on CDC recommendations for healthcare settings and the health risk to myself and my family, our patients and our guests.

The sources used to attempt to prove that masks do more harm than good are laughable. The sources are either not credible, based on opinion and commentary rather than scientific studies, or in the case of scientific studies do not support the petitions. For example, in Petition #362 (Virginia

Regulatory Town Hall View Petition) this source is used to cite why wearing a mask is more harmful for the patient: Effects of Prolonged Use of Facemask on Healthcare Workers in Tertiary Care Hospital During COVID-19 Pandemic - PMC (nih.gov). I read this study and it is based on the use of masks for healthcare workers, not patients. The adverse effects ranged from nasal discomfort to nasal congestion. Hardly life-threatening risks. The article itself states "Since facemasks are essential to protect us from COVID-19, certain strategies can be followed to reduce the heat burden due to its prolonged usage such as encouraging nasal breathing, pre-use refrigeration of the respirator " Also, healthcare workers wear masks for 8-12 hours during the day. Patients are only asked to wear masks while they are in treatment - approximately 15-90 minutes.

This petition disregards access to health care for immunocompromised individuals and high-risk patients including children too young for a vaccine.

This petition disregards our need for a full and accurate health history when making decisions for patient care.

This petition dismisses the need for precautions against public health diseases.

CommentID: **121978**

Commenter: William Riddick

5/10/22 3:02 pm

Oppose

The proposed petition does not support the independent clinical judgements that are crucial to the physical therapy practice. Policies and procedures to the extent that are proposed here are the responsibility of the practitioner or the organization in which the clinician is employed. This additionally restricts the physical therapy practice in a manner that has not previously been performed by the state board.

CommentID: **121979**

Commenter: Anonymous

5/10/22 3:15 pm

Strongly Oppose

The profession of physical therapy should support public health and guidance. Not all patients can be vaccinated, however preventative measures can and should be taken such that others may be asked to wear masks to prevent public spread of COVID. This petition is prescriptive and not supported by evidence. Each practice setting should set forth appropriate rules to protect vulnerable patient populations and health providers as informed by evidence based decisions and the CDC.

CommentID: **121980**

Commenter: Tom Bohanon

5/10/22 3:28 pm

Oppose

Each Clinic/Business should be allowed to make the appropriate decisions for the health and safety of their patients and staff based on the current scientific evidence and in accordance with current state law.

CommentID: **121981**

Commenter: Laura B., Inova

5/10/22 3:38 pm

Strongly oppose

I strongly oppose this. Before the mask mandate more than 2 years ago, I would get sick a couple of times a year from working with patients. I even got sick with COVID in March 2020 from a patient before the mask mandate went into place. My husband then got COVID from me. I have not been sick since the mask mandate went into place, and I would prefer to continue to not bring sicknesses home to my family especially now that I have a baby at home that cannot be masked or vaccinated.

CommentID: **121982**

Commenter: Andrea Crunkhorn

5/10/22 3:59 pm

Strongly oppose

There are multiple problems with this petition. It seeks to impose blanket, punitively enforced sanctions on all physical therapy practices in Virginia; force the abandonment of all masks for any reason, "...including when following policies of insurers or organizations or when following guidance issued by the Centers for Disease Control, local health departments, or the Virginia Department of Health..."; and preemptively deny these practitioners the ability to check vaccination status, presumably in perpetuity.

1. Physical therapists, their practices or facilities, and their insurers will face reimbursement, coverage and or malpractice issues by not following insurance company and public health guidelines.
2. These facilities and clinics put their business practices at risk by
    a. exposing their staff to known and predictable occupational hazards (an OSHA complaint),
    b. likely increased staff absenteeism from illness, with associated lost revenue,
    c. exposing their practice to lawsuits from anyone who can presumptively trace their disabling infection or disease to the practice's lack of protections for staff, patients and others.

Other aspects of this petition suppose a problem that does not exist. Physical therapy services do not routinely query vaccination status for patients. However, in the event of a different pandemic, this should not be explicitly disallowed for all the reasons stated above. Denying physical therapy clinics a future ability to protect their staff, other patients, and the business is unwarranted.

The final issue with this petition is that it is punitive. It is known that not all patients can wear a mask. Most clinics recognize and work with patients to enable their access to care while not exposing all others to unneeded risk.

This petition is a missed opportunity. Rather than creating solutions such as asking practices to post their policies publicly, designating a therapist or space for those unable or unwilling to wear a mask, or creating a task force to determine the need for an expanded solution set, this petition is asking physical therapy clinics to expose their staffs, patients and businesses to a known health risk with punitive enforcement that will ultimately cost all Virginians in terms of access to effective and efficient healthcare.

CommentID: **121984**

Commenter: Anonymous

5/10/22 4:23 pm

Support

I support this petition to allow patients to make their own decisions on mask use. There are already places in the country that allow you to access health care without a mask including physician offices. If you can be seen by a physician where people are going when they are actively sick, you should be able to be seen in a physical therapy clinic where you are asked to physically exert yourself without a mask. Masks are not required in gyms and studies have shown that the spread of COVID-19 is very low in these settings. I don't see why a PT clinic would be classified any differently. Also, if the PT feels uncomfortable for any reason, there is nothing that is keeping them from putting on a mask themselves.

CommentID: **121986**

Commenter: Laura Baldwin, PT, DPT

5/10/22 5:08 pm

Agree with concept of access nondiscrimination, not with this problematic proposed solution

I support the concept of access to Physical Therapy Services without discrimination based on Covid-19 disease, Covid-19 vaccination, or "masking" status in general. However, I oppose elements of this petition for regulation change as a means to achieve access ends they fail to accomplish therapy access ends while creating other service provision problems. While I assume and appreciate the intention of this petition to ensure access to physical therapy services for all Virginians without discrimination based on personal healthcare decisions and status, I oppose this petition as worded because it creates the following (assumed unintended) negative consequences which may result in as much or more public harm than safety:

1. Creates conflict of interest ethical dilemmas for therapist providers.

Physical therapists are already bound by their Code of Ethics to treat patients without discrimination as to the "*patient's* health condition." as stated in section 3D. However this petition fails to consider that therapists can and have a duty to remove themselves from patient care (making appropriate transfer or referral of care) when the *therapist's* status results in a conflict of interest that poses an ethical dilemma (in which one deeply held set of values is in conflict with another, namely the best interest of the patient) as stated in section 3D of the Code of Ethics, "Physical therapists shall not engage in conflicts of interest that interfere with professional judgment." Therapists have resolved these conflicts ethically as a matter of course throughout the pandemic to accommodate their need to provide patients with access to treatment with their need to minimize infecting others. For example, at one place where I work, one vaccinated, healthy, male therapist with no vulnerable household members volunteered to treat a patient who was COVID positive, who could not tolerate a mask, and was otherwise scheduled with a pregnant therapist close to her due date. The pregnant therapist (to whom the patient was originally scheduled) instead treated one a COVID-negative patient originally scheduled with the male therapist. They might have done the same kind of therapist swap for non-mask or Covid issues (if the pregnancy prevented safely lifting the patient's weight, or if the assigned therapist was not fit-tested, or was allergic to the vaccine, or had a history of Guillian-Barre). In this case it was the *therapist's* status, as opposed to the *patient's* status that was the cause for care reassignment. This type of everyday, common, prudent, ethical problem-solving based on clinical expertise would be undermined, disrupted, and perhaps even precluded should this petition go into effect as worded.

2. Fails to assure non-discrimination in that it conflates patient *access* with patient *status* and tries to solve a hypothetical access problem with a status solution. It falsely assumes that only one behavior on the part of the therapist is the best and only option for access, and erroneously labels patient's *status* as opposed to *inaccess* as the discriminatory element of concern. This point is nuanced, but significant in that the petition

as worded creates a logical fallacy of syntax. In other words, the wording makes it a violation of regulation to refuse service to a patient for *any* reason (e.g. abusive behavior, non-payment, no-shows, etc.) if they just incidentally happen to also refuse to wear a mask.

Perhaps the intended concept could be more accurately worded as "to patients or prospective patients *for* those individuals or their accompanying representatives *refusal* to wear masks" or "to patients or prospective patients based on the individuals or their accompanying representatives *refusing* to wear masks" or "refusing mask-wearing" more accurately conveyed syntax than "to patients or prospective patients if those individuals or their accompanying representatives refuse to wear masks" as stated in the policy proposal. Also, I recommend reconsidering the negative, judgmental connotation with the word choice "refuse" and consider the appropriateness of replacing "Physical *Therapy* Assistant" with "Physical Therapist Assistant."

3. Creates unnecessary and less robust duplication of effort as therapists are trained in implementing clinically expert infection control procedures and ethics at the individual, precision, patient level of care (some might say precision medicine), which far exceeds the standards of patient-centered of a general public policy and is far more precise in meeting individual patient needs than the petitioned regulation would. Access, as a standard of care issue, is already addressed in infection control guidelines, regulation, education, and practice act standards elsewhere. As an ethical issue, access is already addressed in the APTA Code of Ethics, which is industry standard. (Emphasis added below.)

"Principle #1: Physical therapists shall respect the inherent dignity and rights of all individuals.
(Core Values: Compassion and Caring, Integrity)
1A. Physical therapists shall act in a respectful manner toward each person regardless of age, gender, race,nationality, religion, ethnicity, social or economic status, sexual orientation, *health condition,* or disability."
"1B. Physical therapists *shall recognize their personal biases and shall not discriminate against others in physical therapist practice,* consultation, education, research, and administration."
"Principle #2: Physical therapists shall be trustworthy and compassionate in *addressing the rights and needs of patients and clients."*
"2A. Physical therapists shall adhere to the core values of the profession and shall *act in the best interests of patients and clients over the interests of the physical therapist."*
"2B. Physical therapists shall provide physical therapist services with compassionate and caring behaviors that *incorporate the individual and cultural differences of patients and clients."*

3. Item 2 creates a regulation with potential legal and ethical conflict with other oversight regulatory agencies or standards of care in a dynamic environment sowing confusion about regulatory oversight. Any mention of other authoritative institutions should clearly state the difference between those which provide laws and regulations to which therapists are bound versus those which are merely informational in consideration of the Code of Ethics "Principle #5: Physical therapists shall fulfill their legal and professional obligations. (Core Values: Accountability, Duty, Social Responsibility) 5A. Physical therapists shall comply with applicable local, state, and federal laws and regulations."

4. Item 4 is at conflict with a physical therapist's ethical and standard of care requirement to take a history and Review of Systems, and to refer when necessary. For example, if a therapist suspects an adverse vaccine event, referral to a neurologist or PCP before treating the patient could be construed as refusing treatment under this petitioned regulation proposal.

5. Creates a specific disease category of discrimination not enumerated elsewhere. We already have oversight devoted to non-discrimination based on behavior and health status in general. There is no more need to enumerate Covid-19 and masks than there is any other disease, vaccination, or behavior, or health choice.

6. As worded, this petition seems to have a Covid-19 disease bias that fails to consider other infectious disease transmission and regulatory considerations as well as the OSHA hierarchy of hazard controls and NIOSH PPE distinctions that set standards for infection control including and beyond Covid-19. I object to the term “mask” in professional regulation without operational definition. Therapists are educated about specific PPE that fall into categories of N95 respirators, surgical masks, face coverings, face shields, PARPs and other NIOSH definitions. Use of wastebasket, non-specific terms such as “mask” reflect a standard of care that is non-expert, sows confusion about infection control principles, and undermines public education and confidence.

7. What evidence exists that such a regulation is needed and not covered elsewhere?

If not already ruled out, it begs the question as to whether is petition is a poor solution in search of a problem. I routinely treat patients who choose not to wear a mask, cannot tolerate a mask, with the best of intentions wear a mask incorrectly or inconsistently, and/or who are Covid positive, and who are or are not vaccinated. All my colleagues do the same. In 28 years of practice in 5 states in outpatient, acute care, SNF, home health, schools, and IPR working as a clinician, regulatory investigator, instructor (including infection control), and having lived through the AIDS epidemic, I have never known a therapist or physical therapist assistant to discriminate against a patient based on their vaccination, PPE, or disease status. Any such allegation is already addressed under current laws and regulations including those listed below and the industry standard of care.

§ 54.1-3483. Unprofessional conduct.

Any physical therapist or physical therapist assistant licensed by the Board or practicing pursuant to a compact privilege, as defined in § 54.1-3486, approved by the Board shall be considered guilty of unprofessional conduct if he:

2. Knowingly and willfully commits any act which is a felony under the laws of this Commonwealth or the United States, or any act which is a misdemeanor under such laws and involves moral turpitude;

4. Conducts his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;

18VAC112-20-180. Practitioner responsibility.

A. A practitioner shall not:

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

4. Exploit the practitioner/patient relationship for personal gain.

CommentID: **121988**

Commenter: Anonymous 5/10/22 5:22 pm

Strongly support

Physical therapy offices (particularly OP) should follow local ordinances for mask wearing and should make exemptions for patients with health issues that make mask wearing challenging. If the locality or state does not require it, the PT clinic should not either.

CommentID: **121989**

Commenter: Anonymous 5/10/22 5:39 pm

Strongly Oppose

If this petition passes, it will put the most vulnerable people at risk. Facemasks are a minor inconvenience as we hope to minimize the potential for infection of our neighbors, friends, and family. Physical therapists take an oath to do no harm, and this petition will likely cause harm to those we seek to care for. I do not believe patients should be denied care if they have not been vaccinated, however. The petition is too broad.

CommentID: **121990**

Commenter: Debra perry 5/10/22 6:12 pm

Oppose

I have 2 family members that have health risks at home It is not safe for me to bring Covid home to them

CommentID: **121991**

Commenter: Michele Wiley PT DPT DHSc PCS 5/10/22 7:59 pm

Strongly oppose

Physical therapy practices follow evidence based guidance from the CDC and other public health experts to determine the appropriate steps to keep their patients and health care professionals safe during the current pandemic. Individual PTs and practices should be able to enact precautions as they deem necessary.

CommentID: **121993**

Commenter: Anonymous Arlington PT 5/10/22 8:09 pm

Petition

Strongly Oppose all aspects of this petition.

CommentID: **121994**

Commenter: Anonymous 5/10/22 8:14 pm

Oppose!!

We need to keep our healthcare professionals safe!

CommentID: **121995**

Commenter: Loved one of Fairfax Co PT 5/10/22 8:20 pm

Strongly oppose!

If we want our healthcare professionals to continue being able to provide care, it is our duty to keep them safe!

CommentID: **121996**

Commenter: Thomas Johnson

5/10/22 8:23 pm

Strongly oppose

PTs should be able to refuse service if the patient refuses to wear a mask.

CommentID: **121997**

Commenter: Mary Beth Osborne

5/10/22 8:27 pm

Totally unnecessary & strongly oppose

The practice of physical therapy is grounded in science & so is the practice of weating masks to prevent the spread of disease. This should be dismissed immediately.

CommentID: **121998**

Commenter: Jacqueline Armour, PT, DPT

5/10/22 8:51 pm

Oppose

If we want our healthcare professionals to continue being able to provide critical care to our community, it is our duty to keep them safe and those around them, as well, seeking healthcare services in a safe environment, following evidenced based practices as the field of PT does.

CommentID: **121999**

Commenter: Anonymous

5/10/22 9:49 pm

Strongly oppose-- Regulations/Law are not the place to codify changing standards

This pandemic is constantly evolving. Standards and expectations continue to change as our knowledge of a new virus, the virus itself, and our science of prevention change. We have no way to know what the state of the pandemic will be like in 6 months, a year, or 2 years, or how the next pandemic will play out. Codifying prohibitions such as these in the regulations is not appropriate, as they may be clearly outdated in a month, or a year. Further, therapists should always be allowed the option to implement higher than standard infection control practices in their workplaces, for the protection of themselves and other patients. The Board should not prevent therapists from acting safely, in an evidence-based manner.

CommentID: **122002**

Commenter: Sandra Conran, PT

5/10/22 10:35 pm

OPPOSE

I have read through the 28 comments posted to date and think the most eloquent are those expressed by Laura Baldwin, PT, DPT and agree wholeheartedly with her comments. A few in support of the petition speak to symptom status. It is well proven that someone can be asymptomatic and a carrier and hence the argument of symptoms is mute.

CommentID: **122003**

Commenter: George Maihafer

5/11/22 5:33 pm

Mask and Vaccine - restriction from enforcement in clinical setting.

I strongly opposed this proposed rule. If enacted it would not be in the best interest of the health and well being of the citizens of Virginia, according to the present information provided by the CDC and WHO.

CommentID: **122011**

Commenter: Tzvia Schweitzer LMT, APTA, Inova

5/11/22 10:42 pm

Strongly Oppose

I strongly oppose this petition, which would decrease the safety of Virginia physical therapy clinics and practice for patients, providers, and staff.

1. Wearing a well-fitting face mask helps prevent the spread of covid-19, a life-threatening illness which has caused over 20,000 deaths in our commonwealth (as counted by our own Virginia Department of Health).

2. Every person in a physical therapy clinic has the right to expect their providers to provide a safe environment in which to work and in which to give and receive physical therapy care.

3. Health care providers licensed by the state of Virginia need to be able to follow policies of insurers or organizations they are affiliated with, and must be able to follow guidance issued by the Centers for Disease Control, local health departments, and the Virginia Department of Health. This is necessary to maintain relationships based on trust and safety, without which we can not provide effective care.

4. A complete and thorough medical history is relevant and necessary to provide comprehensive care. Physical therapy is typically not emergency medicine and it does not take priority over potentially lifesaving measures such as covid vaccination. Also, health care providers have the right to preserve their own health and safety by not exposing themselves to unmasked, unvaccinated individuals. There is also a responsibility to protect other people present in the clinic.

5. The Board of Physical Therapy has a responsibility to keep everyone safe while providing, receiving, or being near physical therapy. This petition would make that impossible during this ongoing covid crisis.

Thank you for your time.

CommentID: **122016**

Commenter: Anonymous

5/12/22 6:46 am

Strongly Oppose

This petition disregards the health and safety of our patients and colleagues. It is very short sighted and clearly dismisses the protection and support for those who are vulnerable. I do not believe this petition aligns with our core values as a physical therapist.

CommentID: **122017**

Commenter: Sandra F. , DPT

5/12/22 4:25 pm

Strongly Oppose

I oppose this petition for many of the same reasons already listed by much more eloquent commenters.

CommentID: **122020**

Commenter: Annoymous 5/13/22 8:49 am

Support

In a time when personal rights are being questioned, this petition comes in a timely manner. For those who are concerned for their own health, masking (or double or triple masking as I have seen many people do) themselves is a wonderful option. Turning those away who are in need of help simply feels wrong.

CommentID: **122024**

Commenter: anonymous 5/13/22 11:22 pm

petition

strongly oppose-unnecessary

CommentID: **122027**

Commenter: Connie Johnson 5/15/22 6:04 pm

Strongly oppose

Practitioners and patients should continue to follow CDC masking requirements and have the choice to protect the health and safety of all who enter spaces that promote health. Masking should continue as a hygiene measure to prevent disease transmission

CommentID: **122040**

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY

Title of Regulations: 18 VAC 112-20-10 et seq.

Statutory Authority: Chapter 34.1 of Title 54.1 of the ***Code of Virginia***

Revised: May 12, 2021

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CHAPTER 20

REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY

Part I. General Provisions.

18VAC112-20-10. Definitions.

In addition to the words and terms defined in §§ 54.1-3473 and 54.1-3486 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active practice" means 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.

"Approved program" means an educational program accredited by CAPTE.

"CAPTE" means the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

"Compact" means the Physical Therapy Licensure Compact (§ 54.1-3485 of the Code of Virginia).

"Contact hour" means 60 minutes of time spent in continuing learning activity exclusive of breaks, meals, or vendor exhibits.

"Direct supervision" means a physical therapist or a physical therapist assistant is physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed.

"Discharge" means the discontinuation of interventions in an episode of care that have been provided in an unbroken sequence in a single practice setting and related to the physical therapy interventions for a given condition or problem.

"Encounter" means an interaction between a patient and a physical therapist or physical therapist assistant for the purpose of providing health care services or assessing the health and therapeutic status of a patient.

"Evaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to plan and implement a treatment intervention, provide preventive care, reduce risks of injury and impairment, or provide for consultation.

"FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

"FSBPT" means the Federation of State Boards of Physical Therapy.

"General supervision" means a physical therapist shall be available for consultation.

"National examination" means the examinations developed and administered by the Federation of State Boards of Physical Therapy and approved by the board for licensure as a physical therapist or physical therapist assistant.

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

"Reevaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to determine a patient's response to the treatment plan and care provided.

"Support personnel" means a person who is performing designated routine tasks related to physical therapy under the direction and supervision of a physical therapist or physical therapist assistant within the scope of this chapter.

"TOEFL" means the Test of English as a Foreign Language.

"Trainee" means a person seeking licensure as a physical therapist or physical therapist assistant who is undergoing a traineeship.

"Traineeship" means a period of active clinical practice during that an applicant for licensure as a physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

"TSE" means the Test of Spoken English.

"Type 1" means continuing learning activities offered by an approved organization as specified in 18VAC112-20-131.

"Type 2" means continuing learning activities which may or may not be offered by an approved organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning.

18VAC112-20-20. (Repealed.)

18VAC112-20-25. Current name and address.

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any licensee shall be validly given when sent to the latest address of record provided or when served to the licensee. Any change of name or change in the address of record or the public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

18VAC112-20-26. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

B. Criteria for delegation. Cases that may not be delegated to an agency subordinate include, but are not limited to, those that involve:

1. Intentional or negligent conduct that causes or is likely to cause injury to a patient;

2. Mandatory suspension resulting from action by another jurisdiction or a felony conviction;

3. Impairment with an inability to practice with skill and safety;

4. Sexual misconduct;

5. Unauthorized practice.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. 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 heard.

18VAC112-20-27. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Licensure by examination.

1. The application fee shall be $140 for a physical therapist and $100 for a physical therapist assistant.

2. The fees for taking all required examinations shall be paid directly to the examination services.

C. Licensure by endorsement. The fee for licensure by endorsement shall be $140 for a physical therapist and $100 for a physical therapist assistant.

D. Licensure renewal and reinstatement.

1. The fee for active license renewal for a physical therapist shall be $135 and for a physical therapist assistant shall be $70 and shall be due by December 31 in each even-numbered year. For renewal in 2020, the active license renewal fee for a physical therapist shall be $70 and for a physical therapist assistant shall be $35.

2. The fee for an inactive license renewal for a physical therapist shall be $70 and for a physical therapist assistant shall be $35 and shall be due by December 31 in each even-numbered year. For renewal in 2020, the inactive license renewal fee for a physical therapist shall be $35 and for a physical therapist assistant shall be $18.

3. A fee of $50 for a physical therapist and $25 for a physical therapist assistant for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.

4. The fee for reinstatement of a license that has expired for two or more years shall be $180 for a physical therapist and $120 for a physical therapist assistant and shall be submitted with an application for licensure reinstatement.

E. Other fees.

1. The fee for an application for reinstatement of a license that has been revoked shall be $1,000; the fee for an application for reinstatement of a license that has been suspended shall be $500.

2. The fee for a duplicate license shall be $5, and the fee for a duplicate wall certificate shall be $15.

3. The handling fee for a returned check or a dishonored credit card or debit card shall be $50.

4. The fee for a letter of good standing or verification to another jurisdiction shall be $10.

5. The application fee for direct access certification shall be $75 for a physical therapist to obtain certification to provide services without a referral.

6. The state fee for obtaining or renewing a compact privilege to practice in Virginia shall be $50.

Part II. Licensure: General Requirements.

18VAC112-20-30. General requirements.

Licensure as a physical therapist or physical therapist assistant shall be by examination or by endorsement.

18VAC112-20-40. Education requirements: graduates of approved programs.

A. An applicant for licensure who is a graduate of an approved program shall submit documented evidence of his graduation from such a program with the required application and fee.

B. If an applicant is a graduate of an approved program located outside of the United States or Canada, he shall provide proof of proficiency in the English language by passing TOEFL and TSE or the TOEFL iBT, the Internet-based tests of listening, reading, speaking and writing by a score determined by the board or an equivalent examination approved by the board. TOEFL iBT or TOEFL and TSE may be waived upon evidence that the applicant's physical therapy program was taught in English or that the native tongue of the applicant's nationality is English.

18VAC112-20-50. Education requirements: graduates of schools not approved by an accrediting agency approved by the board.

A. An applicant for initial licensure as a physical therapist who is a graduate of a school not approved by an accrediting agency approved by the board shall submit the required application and fee and provide documentation of the physical therapist's certification by a report from the FCCPT or of the physical therapist eligibility for licensure as verified by a report from any other credentialing agency approved by the board that substantiates that the physical therapist has been evaluated in accordance with requirements of subsection B of this section.

B. The board shall only approve a credentialing agency that:

1. Utilizes the FSBPT Coursework Evaluation Tool for Foreign Educated Physical Therapists, as required to sit for FSBPT examination, and utilizes original source documents to establish substantial equivalency to an approved physical therapy program;

2. Conducts a review of any license or registration held by the physical therapist in any country or jurisdiction to ensure that the license or registration is current and unrestricted or was unrestricted at the time it expired or was lapsed; and

3. Verifies English language proficiency by passage of the TOEFL and TSE examination or the TOEFL iBT, the Internet-based tests of listening, reading, speaking, and writing or by review of evidence that the applicant's physical therapy program was taught in English or that the native tongue of the applicant's nationality is English.

C. An applicant for licensure as a physical therapist assistant who is a graduate of a school not approved by the board shall submit with the required application and fee the following:

1. Proof of proficiency in the English language by passing TOEFL and TSE or the TOEFL iBT, the Internet-based tests of listening, reading, speaking, and writing by a score determined by the board or an equivalent examination approved by the board. TOEFL iBT or TOEFL and TSE may be waived upon evidence that the applicant's physical therapist assistant program was taught in English or that the native tongue of the applicant's nationality is English.

2. A copy of the original certificate or diploma that has been certified as a true copy of the original by a notary public, verifying the applicant's graduation from a physical therapy curriculum. If the certificate or diploma is not in the English language, submit either:

a. An English translation of such certificate or diploma by a qualified translator other than the applicant; or

b. An official certification in English from the school attesting to the applicant's attendance and graduation date.

3. Verification of the equivalency of the applicant's education to the educational requirements of an approved program for physical therapist assistants from a scholastic credentials service approved by the board and based upon the FSBPT coursework tool for physical therapist assistants.

D. An applicant for initial licensure as a physical therapist or a physical therapist assistant who is not a graduate of an approved program shall also submit verification of having successfully completed a 1,000-hour traineeship within a two-year period under the direct supervision of a licensed physical therapist. The board may grant an extension beyond two years for circumstances beyond the control of the applicant, such as temporary disability, officially declared disasters, or mandatory military service.

1. The traineeship shall be in accordance with requirements in 18VAC112-20-140.

2. The traineeship requirements of this part may be waived if the applicant for a license can verify, in writing, the successful completion of one year of clinical physical therapy practice as a licensed physical therapist or physical therapist assistant in the United States, its territories, the District of Columbia, or Canada, equivalent to the requirements of this chapter.

18VAC112-20-60. Requirements for licensure by examination.

Every applicant for initial licensure by examination shall submit:

1. Documentation of having met the educational requirements specified in 18VAC112-20-40 or 18VAC112-20-50;

2. The required application, fees, and credentials to the board, including a criminal history background check as required by § 54.1-3484 of the Code of Virginia; and

3. Documentation of passage of the national examination as prescribed by the board.

18VAC112-20-65. Requirements for licensure by endorsement.

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in the United States, its territories, the District of Columbia, or Canada may be licensed in Virginia by endorsement.

B. An applicant for licensure by endorsement shall submit:

1. Documentation of having met the educational requirements prescribed in 18VAC112-20-40 or 18VAC112-20-50. In lieu of meeting such requirements, an applicant may provide evidence of clinical practice consisting of at least 2,500 hours of patient care during the five years immediately preceding application for licensure in Virginia with a current, unrestricted license issued by another United States jurisdiction or Canadian province;

2. The required application, fees, and credentials to the board, including a criminal history background check as required by § 54.1-3484 of the Code of Virginia;

3. A current report from the National Practitioner Data Bank (NPDB);

4. Evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another United States jurisdiction, or 60 hours obtained within the past four years;

5. Documentation of passage of an examination equivalent to the Virginia examination at the time of initial licensure or documentation of passage of an examination required by another state or Canadian province at the time of initial licensure in that state or province; and

6. Documentation of active practice in physical therapy in another United States jurisdiction or Canada for at least 320 hours within the four years immediately preceding his application for licensure. A physical therapist who does not meet the active practice requirement shall successfully complete 320 hours in a traineeship in accordance with requirements in 18VAC112-20-140.

C. A physical therapist assistant seeking licensure by endorsement who has not actively practiced physical therapy for at least 320 hours within the four years immediately preceding his application for licensure shall successfully complete 320 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.

18VAC112-20-70. Traineeship for unlicensed graduate scheduled to sit for the national examination.

A. Upon approval of the president of the board or his designee, an unlicensed graduate who is registered with the Federation of State Boards of Physical Therapy to sit for the national examination may be employed as a trainee under the direct supervision of a licensed physical therapist until the results of the national examination are received.

B. The traineeship, which shall be in accordance with requirements in 18VAC112-20-140, shall terminate five working days following receipt by the candidate of the licensure examination results.

C. The unlicensed graduate may reapply for a new traineeship while awaiting to take the next examination, provided he has registered to retake the examination. A new traineeship shall not be approved if more than one year has passed following the receipt of the first examination results. An

unlicensed graduate who has passed the examination may be granted a new traineeship for the period between passage of the examination and granting of a license. An unlicensed graduate shall not be granted more than three traineeships within the one year following the receipt of the first examination results.

18VAC112-20-80. (Repealed.)

18VAC112-20-81. Requirements for direct access certification.

A. An applicant for certification to provide services to patients without a referral as specified in § 54.1-3482.1 of the Code of Virginia shall hold an active, unrestricted license as a physical therapist in Virginia and shall submit evidence satisfactory to the board that he has one of the following qualifications:

1. Completion of a transitional program in physical therapy as recognized by the board; or

2. At least three years of postlicensure, active practice with evidence of 15 contact hours of continuing education in medical screening or differential diagnosis, including passage of a postcourse examination. The required continuing education shall be offered by a provider or sponsor listed as approved by the board in 18VAC112-20-131 and may be face-to-face or online education courses.

B. In addition to the evidence of qualification for certification required in subsection A of this section, an applicant seeking direct access certification shall submit to the board:

1. A completed application as provided by the board;

2. Any additional documentation as may be required by the board to determine eligibility of the applicant; and

3. The application fee as specified in 18VAC112-20-27.

18VAC112-20-82. Requirements for a compact privilege.

To obtain a compact privilege to practice physical therapy in Virginia, a physical therapist or physical therapist assistant licensed in a remote state shall comply with the rules adopted by the Physical Therapy Compact Commission in effect at the time of application to the commission.

Part III. Practice Requirements.

18VAC112-20-90. General responsibilities.

A. The physical therapist shall be responsible for managing all aspects of the physical therapy care of each patient and shall provide:

1. The initial evaluation for each patient and its documentation in the patient record;

2. Periodic reevaluation, including documentation of the patient's response to therapeutic intervention; and

3. The documented status of the patient at the time of discharge, including the response to therapeutic intervention. If a patient is discharged from a health care facility without the opportunity for the physical therapist to reevaluate the patient, the final note in the patient record may document patient status.

B. The physical therapist shall communicate the overall plan of care to the patient or the patient's legally authorized representative and shall also communicate with a referring doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery; nurse practitioner; or physician assistant to the extent required by § 54.1-3482 of the Code of Virginia.

C. A physical therapist assistant may assist the physical therapist in performing selected components of physical therapy intervention to include treatment, measurement, and data collection but not to include the performance of an evaluation as defined in 18VAC112-20-10.

D. A physical therapist assistant's encounters with a patient may be made under general supervision.

E. A physical therapist providing services with a direct access certification as specified in § 54.1-3482 of the Code of Virginia shall utilize the Direct Access Patient Attestation and Medical Release Form prescribed by the board or otherwise include in the patient record the information, attestation and written consent required by subsection B of § 54.1-3482 of the Code of Virginia.

F. A physical therapist or physical therapist assistant practicing in Virginia on a compact privilege shall comply with all applicable laws and regulations pertaining to physical therapy practice in Virginia.

18VAC112-20-100. Supervisory responsibilities.

A. A physical therapist shall be fully responsible for any action of persons performing physical therapy functions under the physical therapist's supervision or direction.

B. Support personnel shall only perform routine assigned physical therapy tasks under the direct supervision of a licensed physical therapist or a licensed physical therapist assistant, who shall only assign those tasks or activities that are nondiscretionary and do not require the exercise of professional judgment.

C. A physical therapist shall provide direct supervision to no more than three individual trainees or students at any one time.

D. A physical therapist shall provide direct supervision to a student in an approved program who is satisfying clinical educational requirements in physical therapy. A physical therapist or a physical therapist assistant shall provide direct supervision to a student in an approved program for physical therapist assistants.

E. A physical therapist shall provide direct supervision to a student who is satisfying clinical educational requirements in physical therapy in a nonapproved physical therapist program that has been granted the Candidate for Accreditation status from CAPTE. Either a physical therapist or physical therapist assistant shall provide direct supervision to a student who is satisfying clinical education requirements in a nonapproved physical therapist assistant program that has been granted the Candidate for Accreditation status from CAPTE.

18VAC112-20-110. (Repealed.)

18VAC112-20-120. Responsibilities to patients.

A. The initial patient encounter shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care.

B. The physical therapist assistant's first encounter with the patient shall only be made after verbal or written communication with the physical therapist regarding patient status and plan of care. Documentation of such communication shall be made in the patient's record.

C. Documentation of physical therapy interventions shall be recorded on a patient's record by the physical therapist or physical therapist assistant providing the care.

D. The physical therapist shall reevaluate the patient as needed, but not less than according to the following schedules:

1. For inpatients in hospitals as defined in § 32.1-123 of the Code of Virginia, it shall be not less than once every seven consecutive days.

2. For patients in other settings, it shall be not less than one of 12 encounters made to the patient during a 30-day period, or once every 30 days from the last reevaluation, whichever occurs first.

3. For patients who have been receiving physical therapy care for the same condition or injury for six months or longer, it shall be at least every 90 days from the last reevaluation.

Failure to abide by this subsection due to the absence of the physical therapist in case of illness, vacation, or professional meeting for a period not to exceed five consecutive days will not constitute a violation of these provisions.

E. The physical therapist shall be responsible for ongoing involvement in the care of the patient to include regular communication with a physical therapist assistant regarding the patient's plan of treatment.

18VAC112-20-121. Practice of dry needling.

A. Dry needling is an invasive procedure that requires referral and direction in accordance with § 54.1-3482 of the Code of Virginia. Referral should be in writing; if the initial referral is received orally, it shall be followed up with a written referral.

B. Dry needling is not an entry level skill but an advanced procedure that requires additional post-graduate training.

1. The training shall be specific to dry needling and shall include emergency preparedness and response, contraindications and precautions, secondary effects or complications, palpation and needle techniques, and physiological responses.

2. The training shall consist of didactic and hands-on laboratory education and shall include passage of a theoretical and practical examination. The hands-on laboratory education shall be face-to-face.

3. The training shall be in a course approved or provided by a sponsor listed in subsection B of 18VAC112-20-131.

4. The practitioner shall not perform dry needling beyond the scope of the highest level of the practitioner's training.

C. Prior to the performance of dry needling, the physical therapist shall obtain informed consent from the patient or the patient's representative. The informed consent shall include the risks and benefits of the technique. The informed consent form shall be maintained in the patient record.

D. Dry needling shall only be performed by a physical therapist trained pursuant to subsection B of this section and shall not be delegated to a physical therapist assistant or other support personnel.

Part IV. Renewal or Relicensure Requirements.

18VAC112-20-130. Biennial renewal of license.

A. A physical therapist or physical therapist assistant who intends to continue practice shall renew his license biennially by December 31 in each even-numbered year and pay to the board the renewal fee prescribed in 18VAC112-20-27.

B. A licensee whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC112-20-27.

C. In order to renew an active license, a licensee shall be required to:

1. Complete a minimum of 320 hours of active practice in the preceding four years; and

2. Comply with continuing competency requirements set forth in 18VAC112-20-131.

D. The board may grant an extension of the deadline for completing active practice requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

E. The board may grant an exemption to the active practice requirement for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disaster, upon a written request from the licensee prior to the renewal date.

F. In order to renew a compact privilege to practice in Virginia, the holder shall comply with the rules adopted by the Physical Therapy Compact Commission in effect at the time of the renewal.

18VAC112-20-131. Continued competency requirements for renewal of an active license.

A. In order to renew an active license biennially, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. 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;

h. The Federation of State Boards of Physical Therapy;

i. The National Strength and Conditioning Association; or

j. Providers approved by other state licensing boards for physical therapy.

One credit hour of a college course shall be considered the equivalent of 15 contact hours of Type 1 continuing education.

2. 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. For the purposes of this subdivision, Type 2 activities may include:

a. Consultation with colleagues, independent study, and research or writing on subjects related to practice.

b. 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 for up to two of the Type 2 hours.

c. Attendance at a meeting of the board or disciplinary proceeding conducted by the board for up to two of the Type 2 hours.

d. Classroom instruction of workshops or courses.

e. Clinical supervision of students and research and preparation for the clinical supervision experience.

Forty hours of clinical supervision or instruction shall be considered the equivalent of one contact hour of Type 2 activity.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.

4. Documentation of graduation from a transitional doctor of physical therapy program may be provided as evidence of completion of continuing competency requirements for the biennium in which the physical therapist was awarded the degree.

C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure by examination in Virginia.

D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.

E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. 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.

H. 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, upon a written request from the licensee prior to the renewal date.

18VAC112-20-135. Inactive license.

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to meet active practice requirements.

2. An inactive licensee shall not be entitled to perform any act requiring a license to practice physical therapy in Virginia.

B. A physical therapist or physical therapist assistant who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the biennium in which the license is being reactivated;

2. Providing proof of 320 active practice hours in any jurisdiction in which the physical therapist or physical therapist assistant was licensed for active practice within the four years immediately preceding application for reactivation.

If the inactive licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 ; and

3. Completing the number of continuing competency hours required for the period in which the license has been inactive, not to exceed four years.

18VAC112-20-136. Reinstatement requirements.

A. A physical therapist or physical therapist assistant whose Virginia license is lapsed for two years or less may reinstate his license by payment of the renewal and late fees as set forth in 18VAC112-20-27 and completion of continued competency requirements as set forth in 18VAC112-20-131.

B. A physical therapist or physical therapist assistant whose Virginia license is lapsed for more than two years and who is seeking reinstatement shall:

1. Apply for reinstatement and pay the fee specified in 18VAC112-20-27;

2. Complete the number of continuing competency hours required for the period in which the license has been lapsed, not to exceed four years; and

3. Have actively practiced physical therapy in any jurisdiction in which the physical therapist or physical therapist assistant was licensed for active practice for at least 320 hours within the four years immediately preceding applying for reinstatement.

If a licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 .

18VAC112-20-140. Traineeship requirements.

A. The traineeship shall be approved by the board and served under the direction and supervision of a licensed physical therapist.

B. Supervision and identification of trainees:

1. There shall be a limit of two physical therapists assigned to provide supervision for each trainee.

2. The supervising physical therapist shall countersign patient documentation (i.e., notes, records, charts) for services provided by a trainee.

3. The trainee shall wear identification designating them as a "physical therapist trainee" or a "physical therapist assistant trainee."

C. Completion of traineeship.

1. The physical therapist supervising the trainee shall submit a report to the board at the end of the required number of hours on forms supplied by the board.

2. If the traineeship is not successfully completed at the end of the required hours, as determined by the supervising physical therapist, the president of the board or his designee shall determine if a new traineeship shall commence. If the president of the board determines that a new traineeship shall not commence, then the application for licensure shall be denied.

3. The second traineeship may be served under a different supervising physical therapist and may be served in a different organization than the initial traineeship. If the second traineeship is not successfully completed, as determined by the supervising physical therapist, then the application for licensure shall be denied.

D. A traineeship shall not be approved for an applicant who has not completed a criminal background check for initial licensure pursuant to § 54.1-3484 of the Code of Virginia.

18VAC112-20-150. (Repealed.)

18VAC112-20-151. (Repealed.)

Part V. Standards of Practice.

18VAC112-20-160. Requirements for patient records.

A. Practitioners shall comply with provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records.

B. Practitioners shall provide patient records to another practitioner or to the patient or his personal representative in a timely manner in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage and keep timely, accurate, legible and complete patient records.

D. Practitioners who are employed by a health care institution, school system or other entity, in which the individual practitioner does not own or maintain his own records, shall maintain patient records in accordance with the policies and procedures of the employing entity.

E. Practitioners who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records shall:

1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

a. Records of a minor child shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

2. From (six months from the effective date of the regulation), post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.

F. When a practitioner is closing, selling or relocating his practice, he shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the patient's choice or provided to the patient.

18VAC112-20-170. Confidentiality and practitioner-patient communication.

A. A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

B. Communication with patients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or his legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

2. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a treatment or procedure provided or directed by the practitioner in the treatment of any disease or condition.

3. Before any invasive procedure is performed, informed consent shall be obtained from the patient and documented in accordance with the policies of the health care entity. Practitioners shall inform patients of the risks, benefits, and alternatives of the recommended invasive procedure that a reasonably prudent practitioner in similar practice in Virginia would tell a patient. In the instance of a minor or a patient who is incapable of making an informed decision on his own behalf or is incapable of communicating such a decision due to a physical or mental disorder, the legally authorized person available to give consent shall be informed and the consent documented.

4. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

C. Termination of the practitioner/patient relationship.

1. The practitioner or the patient may terminate the relationship. In either case, the practitioner shall make the patient record available, except in situations where denial of access is allowed by law.

2. A practitioner shall not terminate the relationship or make his services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

18VAC112-20-180. Practitioner responsibility.

A. A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;

2. Knowingly allow persons under his supervision to jeopardize patient safety or provide patient care outside of such person's scope of practice or area of responsibility. Practitioners shall delegate patient care only to persons who are properly trained and supervised;

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

4. Exploit the practitioner/patient relationship for personal gain.

B. A practitioner shall not knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in § 37.2-100 of the Code of Virginia, or hospital as defined in § 32.1-123 of the Code of Virginia.

Remuneration shall be defined as compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices allowed by 42 USC § 1320a-7b(b)] or any regulations promulgated thereto.

C. A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

D. A practitioner shall report any disciplinary action taken by a physical therapy regulatory board in another jurisdiction within 30 days of final action.

18VAC112-20-190. Sexual contact.

A. For purposes of § 54.1-3483 (10) of the Code of Virginia and this section, sexual contact includes, but is not limited to, sexual behavior or verbal or physical behavior that:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or

2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-3483 (10) of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former patient. Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care. For purposes of this section, key third party of a patient shall mean spouse or partner, parent or child, guardian, or legal representative of the patient.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

18VAC112-20-200. Advertising ethics.

A. Any statement specifying a fee, whether standard, discounted, or free, for professional services that does not include the cost of all related procedures, services, and products that, to a substantial likelihood, will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading, or both. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described services shall not be deemed to be deceptive or misleading.

B. Advertising a discounted or free service, examination, or treatment and charging for any additional service, examination, or treatment that is performed as a result of and within 72 hours of the initial office visit in response to such advertisement is unprofessional conduct unless such professional services rendered are as a result of a bona fide emergency. This provision may not be waived by agreement of the patient and the practitioner.

C. Advertisements of discounts shall disclose the full fee that has been discounted. The practitioner shall maintain documented evidence to substantiate the discounted fees and shall make such information available to a consumer upon request.

D. A licensee or holder of a compact privilege shall not use the term "board certified" or any similar words or phrase calculated to convey the same meaning in any advertising for his practice unless he holds certification in a clinical specialty issued by the American Board of Physical Therapy Specialties.

E. A licensee or holder of a compact privilege of the board shall not advertise information that is false, misleading, or deceptive. For an advertisement for a single practitioner, it shall be presumed that the practitioner is responsible and accountable for the validity and truthfulness of its content. For an advertisement for a practice in which there is more than one practitioner, the name of the practitioner responsible and accountable for the content of the advertisement shall be documented and maintained by the practice for at least two years.

F. Documentation, scientific and otherwise, supporting claims made in an advertisement shall be maintained and available for the board's review for at least two years.

Agenda Item: Consideration of Guidance Document 112-4

Included in your agenda package are:

- Guidance Document 112-4 with suggested amendments;
- Redline of suggested amendments.

Staff Note: Consider combination of existing 112-4 and 112-16 (which would be repealed).

Board Action:

- Recommend action for the full board. Options:
    - Reaffirm Guidance Document 112-4; or
    - Amend Guidance Document 112-4.

Board of Physical Therapy

Requirement for License for Instructors in Physical Therapy Program; Guidance on Use of Professional Degree in Conjunction with Licensure Designation

Requirement for License for Instructors in a Physical Therapy Program.

The Board advises that an academic institution may use an instructor who does not hold a license as a physical therapist provided that the nature of the course instruction does not involve the practice of physical therapy as defined in Virginia Code § 54.1-3473.

Use of Professional Degree in Conjunction with Licensure Designation.

If initials designating an educational degree are used in connection with a licensee's name, they should be written in addition to and following the licensure designation of PT or PTA.

Professional designations are set forth in Virginia Code § 54.1-3481.

Unlicensed support personnel should not, under any circumstances, use titles or designations that infer or misrepresent licensure or other certification status, including the use of any designations listed in Virginia Code § 54.1-3481.

Board of Physical Therapy

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Agenda Item: Consideration of Guidance Document 112-11

Included in your agenda package are:

- Guidance Document 112-11
- 18VAC112-20-10

Staff Note: Consider repeal. The interpretation behind this can be adopted by the Board in a motion at the November full Board meeting. Staff can still share the Board's interpretation of the definition of "evaluation" with the public.

Board Action:

- Recommend action for the full board. Options:
    - Reaffirm Guidance Document 112-11; or
    - Amend Guidance Document 112-11; or
    - Repeal Guidance Document 112-11.

Guidance document: 112-11

~~Revised~~Reaffirmed: ~~May 1, 2018~~ November 1, 2022
Effective: December 22, 2022

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Board of Physical Therapy

Functional capacity evaluations by Physical Therapist Assistant's (PTA's):

Evaluation is defined in 18VAC112-20-10, which states:

> "Evaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to plan and implement a treatment intervention, provide preventive care, reduce risks of injury and impairment, or provide for consultation.

Pursuant to this definition, evaluations, including functional capacity evaluations, are performed only by physical therapists.

Virginia Administrative Code
Title 18. Professional And Occupational Licensing
Agency 112. Board of Physical Therapy
Chapter 20. Regulations Governing the Practice of Physical Therapy

Part I. General Provisions

18VAC112-20-10. Definitions.

In addition to the words and terms defined in §§ 54.1-3473 and 54.1-3486 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active practice" means a minimum of 320 hours of professional practice as a physical therapist or physical therapist assistant within the 48-month period immediately preceding renewal. Active practice may include supervisory, administrative, educational, or consultative activities or responsibilities for the delivery of such services.

"Approved program" means an educational program accredited by CAPTE.

"CAPTE" means the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

"Compact" means the Physical Therapy Licensure Compact (§ 54.1-3485 of the Code of Virginia).

"Contact hour" means 60 minutes of time spent in continuing learning activity exclusive of breaks, meals, or vendor exhibits.

"Direct supervision" means a physical therapist or a physical therapist assistant is physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed.

"Discharge" means the discontinuation of interventions in an episode of care that have been provided in an unbroken sequence in a single practice setting and related to the physical therapy interventions for a given condition or problem.

"Encounter" means an interaction between a patient and a physical therapist or physical therapist assistant for the purpose of providing health care services or assessing the health and therapeutic status of a patient.

"Evaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to plan and implement a treatment intervention, provide preventive care, reduce risks of injury and impairment, or provide for consultation.

"FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

"FSBPT" means the Federation of State Boards of Physical Therapy.

"General supervision" means a physical therapist shall be available for consultation.

"National examination" means the examinations developed and administered by the Federation of State Boards of Physical Therapy and approved by the board for licensure as a physical therapist or physical therapist assistant.

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

"Reevaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to determine a patient's response to the treatment plan and care provided.

"Support personnel" means a person who is performing designated routine tasks related to physical therapy under the direction and supervision of a physical therapist or physical therapist assistant within the scope of this chapter.

"TOEFL" means the Test of English as a Foreign Language.

"Trainee" means a person seeking licensure as a physical therapist or physical therapist assistant who is undergoing a traineeship.

"Traineeship" means a period of active clinical practice during that an applicant for licensure as a physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

"TSE" means the Test of Spoken English.

"Type 1" means continuing learning activities offered by an approved organization as specified in 18VAC112-20-131.

"Type 2" means continuing learning activities that may or may not be offered by an approved organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning.

Statutory Authority

§54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 16, Issue 25, eff. September 27, 2000; amended, Virginia Register Volume 17, Issue 25, eff. September 12, 2001; Volume 19, Issue 1, eff. October 23, 2002; Volume 20, Issue 24, eff. September 8, 2004; Volume 25, Issue 26, eff. September 30, 2009; Volume 29, Issue 21, eff. July 17, 2013; Volume 30, Issue 10, eff. February 27, 2014; Volume 34, Issue 10, eff. February 7, 2018; Volume 37, Issue 14, eff. April 30, 2021; Volume 37, Issue 17, eff. May 12, 2021.

Agenda Item: Consideration of Guidance Document 112-12

Included in your agenda package are:

- Guidance Document 112-12 with suggested amendments
- Redline of amendments to Guidance Document 112-12

Staff Note: Suggested amendments combine Guidance Document 112-12 with Guidance Document 112-19, which is recommended to be repealed.

Board Action:

- Recommend action for the full board. Recommend amending Guidance Document 112-12.

BOARD OF PHYSICAL THERAPY

Physical Therapy Services in Home Health

The Board provides the following guidance regarding the provision of physical therapy services in the home health setting.

Unlicensed Aides in a Home Health Setting

Regarding use of unlicensed aides to provide therapy services in a home health setting, 18VAC112-20-100(A) and (B) describes supervisory responsibilities of physical therapists ("PTs"). The Board interprets that regulation to require a PT or physical therapy assistant ("PTA") to be responsible for providing direct supervision to unlicensed support personnel who may perform routing assigned tasks that do not require discretion or the exercise of professional judgment, regardless of the setting.

18VAC112-20-10 defines "direct supervision" and states that a licensee is "physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed."

18VAC112-20-120(A), (B), and(C) govern responsibilities to patients, including a requirement for the initial patient visit to be made by the PT and requirements related to performing that visit, evaluating the patient, and the establishment of a plan of care.

Scope of Practice

Virginia Code § 54.1-3473, which defines the "practice of physical therapy," applies to all practice settings and does not change or alter with different practice settings.

Invasive Procedures

Virginia Code § 54.1-3482(D) requires invasive procedures to be performed under the referral or direction of a physician, chiropractor, podiatrist, dental surgery, licensed nurse practitioner, or physician assistant.

A PT cannot perform procedures outside of that licensee's scope of practice or for which the PT is trained or individually competent. A PT is also responsible for knowingly allowing anyone under that PT's supervision to practice outside that person's scope of practice, training, or responsibility. 18VAC112-20-180(A).

Physical performance of the prothrombin time and international normalized ratio ("INR") tests in home health settings

The Board of Physical Therapy offers the following guidance in response to questions PTs or physical therapy assistants ("PTAs") performing INRs in home health settings:

The performance of finger stick blood specimens is a medical act that may be delegated by a practitioner licensed by the Board of Medicine to "technical personnel" who have been "properly trained." *See* Va. Code § 54.1-2901(A)(4). If a PT or PTA performs a finger stick INR, he or she is acting as "technical personnel" and not as a PT because the act is not within the scope of practice of physical therapy. The INR must be performed with a physician's order and the PT or PTA must be properly trained and competent and must make it clear to the patient that the procedure is not physical therapy. When the PT or PTA performs a finger stick, he or she should communicate the results to a nurse so that the nurse can interpret and communicate the results to the physician to make medication modifications. Since the physical therapist is acting in the role of "technical personnel," he or she cannot bill for his or her time as physical therapy.

The following are key guidance points:

- Performing an INR is not considered within the scope of physical therapy;
- A PT or PTA must be properly trained in the administration of INRs;
- INRs must be performed in accordance with a physician's order; and
- A PT or PTA cannot bill as a physical therapist for performing INRs.

~~VIRGINIA~~ BOARD OF PHYSICAL THERAPY

Physical Therapy Services in Home Health

~~In response to requests for interpretation related to the provision of physical therapy services in the home health setting, t~~The Board ~~has adopted~~ provides the following guidance~~:~~ regarding the provision of physical therapy services in the home health setting.

Unlicensed Aides in a Home Health Setting

Regarding use of unlicensed aides to provide therapy services in a home health setting~~.~~, ~~the Board cited~~ 18-VAC-112-20-100~~-~~(A) and (B) describes supervisory responsibilities of physical therapists ("PTs"). The Board interprets that regulation to require a PT or physical therapy assistant ("PTA") to be responsible for providing direct supervision to unlicensed support personnel who may perform routing assigned tasks that do not require discretion or the exercise of professional judgment, regardless of the setting. ~~and emphasized the physical therapist's and physical therapist assistant's responsibilities in providing supervision:~~

~~*A. A physical therapist shall be fully responsible for any action of persons performing physical therapy functions under the physical therapist's supervision or direction.*~~

~~*B. Support personnel shall only perform routine assigned tasks under the direct supervision of a licensed physical therapist or a licensed physical therapist assistant, who shall only assign those tasks or activities that are nondiscretionary and do not require the exercise of professional judgment.*~~

~~The Board further referred to the definition of direct supervision in~~ 18-VAC-112-20-10~~:~~ defines "direct supervision" and states that a licensee is "physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed."

> ~~*"Direct supervision" means a physical therapist or a physical therapist assistant is physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed.*~~

~~and to the responsibilities to patients in~~ 18-VAC-112-20-120~~-~~(A), (B), and ~~-~~(C) govern responsibilities to patients, including a requirement for the initial patient visit to be made by the PT and requirements related to performing that visit, evaluating the patient, and the establishment of a plan of care.~~, which states:~~

~~*A. The initial patient visit shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care.*~~

~~*B. The physical therapist assistant's first visit with the patient shall only be made after verbal or written communication with the physical therapist regarding patient status and plan of care. Documentation of such communication shall be made in the patient's record.*~~

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~~*C. Documentation of physical therapy interventions shall be recorded on a patient's record by the physical therapist or physical therapist assistant providing the care.*~~

Scope of Practice

~~Regarding whether the scope of practice of physical therapy changes in a home health setting environment, the Board cited~~ Virginia Code § 54.1-3473, which defines the "practice of physical therapy," applies to all practice settings and ~~defining the "practice of physical therapy" which~~ does not change or alter with different practice settings.~~:~~

> ~~*"Practice of physical therapy" means that branch of the healing arts that is concerned with, upon medical referral and direction, the evaluation, testing, treatment, reeducation and rehabilitation by physical, mechanical or electronic measures and procedures of individuals who, because of trauma, disease or birth defect, present physical and emotional disorders. The practice of physical therapy also includes the administration, interpretation, documentation, and evaluation of tests and measurements of bodily functions and structures within the scope of practice of the physical therapist. However, the practice of physical therapy does not include the medical diagnosis of disease or injury, the use of Roentgen rays and radium for diagnostic or therapeutic purposes or the use of electricity for shock therapy and surgical purposes including cauterization.*~~

Invasive Procedures

~~Regarding the performance of invasive procedures in the home health setting, the Board referred to~~ Virginia Code § 54.1-3482(D)~~, which states:~~ requires invasive procedures to be performed under the referral or direction of a physician, chiropractor, podiatrist, dental surgery, licensed nurse practitioner, or physician assistant.

A PT cannot perform procedures outside of that licensee's scope of practice or for which the PT is trained or individually competent. A PT is also responsible for knowingly allowing anyone under that PT's supervision to practice outside that person's scope of practice, training, or responsibility. 18VAC112-20-180(A).

> ~~*D. Invasive procedures within the scope of practice of physical therapy shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician.*~~

~~The Board further referred to the responsibility of a practitioner as outlined in 18VAC112-20-180(A)(1-2):~~

> ~~*A. A practitioner shall not:*~~

~~*1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;*~~

~~*2. Knowingly allow persons under his supervision to jeopardize patient safety or provide patient care outside of such person's scope of practice or area of responsibility. Practitioners shall delegate patient care only to persons who are properly trained and supervised.*~~

Physical performance of the prothrombin time and international normalized ratio ("INR") tests in home health settings

The Board of Physical Therapy offers the following guidance in response to questions PTs or physical therapy assistants ("PTAs") performing INRs in home health settings:

The performance of finger stick blood specimens is a medical act that may be delegated by a practitioner licensed by the Board of Medicine to "technical personnel" who have been "properly trained." *See* Va. Code § 54.1-2901(A)(4). If a PT or PTA performs a finger stick INR, he or she is acting as "technical personnel" and not as a PT because the act is not within the scope of practice of physical therapy. The INR must be performed with a physician's order and the PT or PTA must be properly trained and competent and must make it clear to the patient that the procedure is not physical therapy. When the PT or PTA performs a finger stick, he or she should communicate the results to a nurse so that the nurse can interpret and communicate the results to the physician to make medication modifications. Since the physical therapist is acting in the role of "technical personnel," he or she cannot bill for his or her time as physical therapy.

The following are key guidance points:

- Performing an INR is not considered within the scope of physical therapy;
- A PT or PTA must be properly trained in the administration of INRs;
- INRs must be performed in accordance with a physician's order; and
- A PT or PTA cannot bill as a physical therapist for performing INRs.

Agenda Item: Consideration of Guidance Document 112-14

Included in your agenda package are:

- Guidance Document 112-14 with suggested amendments
- Redline of amendments to Guidance Document 112-14

Board Action:

- Recommend action for the full board. Recommend amending Guidance Document 112-14.

Board of Physical Therapy

Guidance on Electromyography ("EMG"), Sharp Debridement, and Removal of Sutures, Staples, or Surgical Drains and the Practice of Physical Therapy

Electromyography ("EMG")

EMG is an invasive procedure and requires referral and direction from a licensed practitioner, in accordance with Virginia Code § 54.1-3482. A practitioner's order for EMG should be in writing; if the initial referral is received orally, it must be followed up with a written referral. The procedure is an advanced skill and only within the scope of practice for those physical therapists who have had specialized, post-professional preparation and training.

Sharp Debridement

Sharp debridement is an invasive procedure and requires referral and direction from a licensed practitioner, in accordance with Virginia Code § 54.1-3482. Sharp debridement requires specific skills and training in wound care and on-going evaluation by the physical therapist. If, in the professional judgment of the physical therapist responsible for the patient, the physical therapist assistant has the competency, advanced skills, and post entry-level training to perform sharp debridement, it may be delegated to the assistant.

Sutures, Staples, or Surgical Drains

The removal of sutures or staples is an invasive procedure and requires referral and direction from a licensed practitioner, in accordance with Virginia Code § 54.1-3482. The removal of sutures or staples requires specific skills and training in wound care and on-going evaluation by the physical therapist. If, in the professional judgment of the physical therapist responsible for the patient, the physical therapist assistant has the competency, advanced skills, and post entry-level training to perform the removal of sutures or staples, it may be delegated to the assistant.

The removal of surgical drains by a physical therapist is outside of the scope of practice of physical therapy.

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Board of Physical Therapy

Guidance on Electromyography ("EMG"), ~~and~~ Sharp Debridement, and Removal of Sutures, Staples, or Surgical Drains and ~~in~~ the Practice of Physical Therapy

Electromyography ("EMG")

~~Electromyography (~~EMG~~)~~ is an invasive procedure and requires referral and direction from a licensed practitioner, in accordance with Virginia Code § 54.1-3482 ~~of the Code of Virginia~~. ~~-~~A practitioner's order for EMG should be in writing; if the initial referral is received orally, it must be followed up with a written referral. ~~-~~The procedure is an advanced skill and only within the scope of practice for those physical therapists who have had specialized, post-professional preparation and training.

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Sharp Debridement

Sharp debridement is an invasive procedure and requires referral and direction from a licensed practitioner, in accordance with Virginia Code § 54.1-3482 ~~of the Code of Virginia~~. Sharp debridement requires specific skills and training in wound care and on-going evaluation by the physical therapist. ~~-~~If, in the professional judgment of the physical therapist responsible for the patient, the physical therapist assistant has the competency, advanced skills, and post entry-level training to perform sharp debridement, it may be delegated to the assistant.

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Sutures, Staples, or Surgical Drains

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The removal of surgical drains by a physical therapist is outside of the scope of practice of physical therapy.

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Agenda Item: Consideration of Guidance Document 112-15

Included in your agenda package are:

- Guidance Document 112-15

Board Action:

- Recommend action for the full board to amend Guidance Document 112-15.

Guidance document: 112-15 ~~Readopted: May 1, 2018~~Revised: November 1, 2022
Effective: December 22, 2022

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Board of Physical Therapy
Supervision of unlicensed support personnel in any setting

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If a Physical Therapist ("PT") is asked to provide a plan of care and sign off on care provided to patients by unlicensed support personnel (regardless of the title of such personnel) in any setting, then the PT is fully responsible for the actions of the unlicensed support personnel performing PT tasks. The tasks assigned to unlicensed support personnel must be performed under the direct supervision of the PT~~/~~ or Physical Therapy Assistant ("PTA"), meaning he or she is physically present and immediately available. The tasks assigned must be non-discretionary and can not require the exercise of professional judgment. ~~If the tasks assigned in the plan of care are to be carried out in such a manner or at a location in which direct supervision from the PT/PTA is not possible, then the PT who developed the plan of care and signed off on the plan of care may be in violation of the regulations governing the practice of physical therapy, specifically 18VAC112-20-10 and 18VAC112-20-100.~~ A PT who develops a plan of care and signs off on a plan of care which must be carried out in such a manner or at a location at which direct supervision by the PT or PTA is not possible may be in violation of the regulations governing the practice of physical therapy, specifically 18VAC112-20-10 and 18VAC112-20-100.

Agenda Item: Consideration of Guidance Document 112-16

Included in your agenda package are:

- Guidance Document 112-16

Staff Note: Consider repeal and combining information in Guidance Document 112-4

Board Action:

- Recommend action for the full board. Options:
    - Reaffirm Guidance Document 112-16; or
    - Amend Guidance Document 112-16; or
    - Repeal Guidance Document 112-16 (information would be combined with 112-4).

Guidance document: 112-16 Re-adopted: May 1, 2018

Board of Physical Therapy

Guidance on the Use of Your Professional Degree in Conjunction with Your Licensure Designation

If initials designating an educational degree are used in connection with your name, they should be written in addition to and following your licensure designation of PT or PTA.

Professional designations are set forth in § 54.1-3481 of the Code of Virginia, as follows:

A. It shall be unlawful for any person who is not licensed under this chapter, or whose license has been suspended or revoked or who licensure has lapsed and has not been renewed, to use in conjunction with his name the letters or words "R.P.T.," "Registered Physical Therapist," "L.P.T.," "Licensed Physical Therapist," "P.T.," "Physical Therapist," "Physio-therapist," "P.T.T.," "Physical Therapy Technician," "P.T.A.," "Physical Therapist Assistant," "Licensed Physical Therapist Assistant," or to otherwise by letters, words, representations or insignias assert or imply that he is a licensed physical therapist. The title to designate a licensed physical therapist shall be "P.T." The title to designate a physical therapist assistant shall show such fact plainly on its face.

Agenda Item: Consideration of Guidance Document 112-18

Included in your agenda package are:

- Guidance Document 112-18
- Guidance Document 112-8 with stylistic edits

Board Action:

- Recommend action for the full board to amend Guidance Document 112-18.

VIRGINIA BOARD OF PHYSICAL THERAPY

DISPOSITION OF DISCIPLINARY CASES FOR PRACTICING ON EXPIRED LICENSES

The Board of Physical Therapy delegates to the Executive Director for the Board the authority to offer a prehearing consent order to resolve disciplinary cases in which a Physical Therapist or Physical Therapist Assistant has been found to be practicing with an expired license.

Disciplinary Action for Practicing with an Expired License
The Board adopts the following guidelines for resolution of cases of practicing with an expired license:

Cause	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	Informal conference

BOARD OF PHYSICAL THERAPY

DISPOSITION OF DISCIPLINARY CASES FOR PRACTICING ON EXPIRED LICENSES

The Board of Physical Therapy delegates to the Executive Director for the Board the authority to offer a prehearing consent order to resolve disciplinary cases in which a Physical Therapist or Physical Therapist Assistant has been found to be practicing with an expired license.

The Board adopts the following guidelines for resolution of cases of practicing with an expired license:

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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	Informal conference

Agenda Item: Consideration of Guidance Document 112-19

Included in your agenda package are:

- Guidance Document 112-19

Staff Note: Consider repeal.

Board Action:

- Recommend action for the full board. Options:
    - Repeal Guidance Document 112-19; or
    - Amend Guidance Document 112-19.

Guidance document: 112-19 **Revised: May 1, 2018**

VIRGINIA BOARD OF PHYSICAL THERAPY

Physical Therapists performance of the prothrombin time and international normalized ratio (INR) tests in home health settings

The Board of Physical Therapy offers the following guidance in response to PT's or PTA's performing INR's in home health settings:

The performance of finger stick blood specimens is a medical act that may be delegated by a practitioner licensed by the Board of Medicine to "technician personnel" who have been "properly trained" (§ 54.1-2901 of the Code of Virginia). If a PT or PTA performs a finger stick INR, he or she is acting as "technician personnel" and not as a physical therapist because the act is not within the scope of practice of physical therapy. The INR must be performed with a physician's order and the PT or PTA must be properly trained and competent and must make it clear to the patient that the procedure is not physical therapy. When the PT or PTA performs a finger stick, he or she should communicate the results to a nurse so that the nurse can interpret and communicate the results to the physician to make medication modifications. Since the physical therapist is acting in the role of "technical personnel," he or she cannot bill for his or her time as physical therapy.

The following are key guidance points:

- Performing INR's is not considered within the scope of physical therapy
- A PT or PTA must be properly trained in the administration of INR's which must be performed in accordance with a physician's order
- A PT or PTA cannot charge as a physical therapist for performing INR's

Agenda Item: Consideration of Guidance Document 112-22

Included in your agenda package are:

- Guidance Document 112-22 with suggested amendments
- Redline of suggested amendments to Guidance Document 112-22

Board Action:

- Recommend action for the full board. Options:
    - Amend Guidance Document 112-22 with suggested amendment; or
    - Amend Guidance Document 112-22 with alternate amendments.

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 do one of the following:

    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 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 requirement, the CCA may require them to submit proof that they meet the active practice requirement within 90 days of entry of the CCA or that they have placed their license on inactive status.

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

        (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.

(iv) For those licensees who fail to meet the active practice requirement, submission of proof that they meet the active practice requirement within 90 days of Order entry, or that they have placed their license on inactive status.

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 CE requirements.

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.

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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 do one of the following:

    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 cont~~r~~act 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 requirement, the CCA may require them to submit proof that they meet ~~at least Level 2 on the current assessment tool developed and administered by the Federation of State Boards of Physical Therapy (FSBPT)~~ the active practice requirement within 90 days of entry of the CCA ~~entry~~or that they have placed their license on inactive status.~~;~~ ~~or~~

    b. Issue a PHCO if the licensee was not truthful in responding ~~to~~ on the renewal attestation or the licensee has previously been found in violation of CE or active practice requirements. ~~–~~The ~~following~~ sanctions listed below may apply to any such 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~~attestation.~~;~~
        (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.~~;~~ ~~and~~

(iv) For those licensees who fail to meet the active practice requirement, submission of proof that they meet ~~at least Level 2 on the current assessment tool developed and administered by the FSBPT~~the active practice requirement within 90 days of Order entry, or that they have placed their license on inactive status.

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.

Agenda Item: Questions from Licensees and Revisions to Board Guidance

Included in your agenda package are:

- Guidance Document 112-7 with suggested amendments
- Redline of amendments to Guidance Document 112-7

Staff Note: Suggested amendments to address questions raised by licensees

Board Action:
• Discuss and recommend action for the full board. Recommend amending Guidance Document 112-7.

BOARD OF PHYSICAL THERAPY

Physical Therapists in Public Schools and Direct Access

The Board periodically receives questions regarding physical therapists in the school setting and the provisions related to direct access. Virginia Code § 54.1-3482 (B) and (C) address direct access and should be reviewed by all practitioners.

The direct access provisions apply regardless of the setting of the physical therapist, including the school setting. The direct access provisions are not limited by the nature of the services or the type of evaluation.

The direct access provisions do not change the application of Virginia Code § 54.1-3482(G), which relates to the provision of physical therapy services in certain enumerated circumstances without referral or supervision. The Board notes that the language in Virginia Code § 54.1-3482(G)(iii) refers only to students with IEP plans.

Applicable Virginia Code Provisions.

Va. Code § 54.1-3482

Guidance document: 112-7

Revised: ~~February 15, 2022~~
Effective: _____

BOARD OF PHYSICAL THERAPY

Physical Therapists in Public Schools and Direct Access

The Board periodically receives questions regarding physical therapists in the school setting and the provisions related to direct access. ~~The Board refers to the direct access provisions of~~ Virginia Code § 54.1-3482 (B) and (C) address direct access and should be reviewed by all practitioners.~~, which state as follows:~~

> ~~*B. A physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 60 consecutive days after an initial evaluation without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) the patient is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (c) the physical therapist notifies the practitioner identified by the patient no later than 14 days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Treatment for more than 60 consecutive days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 60-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. After discharging a patient, a physical therapist shall not perform an initial evaluation of a patient under this subsection without a referral if the physical therapist has performed an initial evaluation of the patient under this subsection for the same condition within the immediately preceding 60 days.*~~

> ~~*C. A physical therapist who has not completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has not obtained a certificate of authorization pursuant to § 54.1-3482.1 may conduct a one-time evaluation that does not include treatment of a patient without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.*~~

The direct access provisions apply regardless of the setting of the physical therapist, including the school setting. ~~-~~The direct access provisions are not limited by the nature of the services or the type of evaluation.~~, for example, whether the student is to be considered for or receive services pursuant to an Individualized Education Plan (IEP) or a 504 Plan.~~

The direct access provisions do not change the application of ~~The Board notes that~~ Virginia Code § 54.1-3482(G), which relates to the provision of physical therapy services in certain enumerated circumstances without referral or supervision. The Board notes that ~~T~~the language in ~~subsection~~ Virginia Code § 54.1-3482(G)(iii) refers only to students with IEP plans.~~:~~

> ~~*G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to … (iii) special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs…*~~

Applicable Virginia Code Provisions.

Va. Code § 54.1-3482

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Agenda Item: Questions from Licensees and Revisions to Board Guidance

Included in your agenda package are:

- Guidance Document 112-21 with suggested amendments
- Redline of amendments to Guidance Document 112-21

Staff Note: Suggested amendments to address questions raised by licensees and updates to language following end of COVID-related emergency orders

Board Action:
• Discuss and recommend action for the full board. Recommend amending Guidance Document 112-21.

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 by physical therapy practitioners. Therefore, physical therapy practitioners must apply existing laws and regulations to the provision of telehealth services.

To reiterate, telehealth is used as a means to deliver physical therapy services already authorized within the scope of practice of physical therapy and within the standards for care and supervision established by the Board's laws and regulations. The use of telehealth, even during the course of a declared public health emergency, does not constitute a waiver of a practitioner's duty to follow existing standards of practice.

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. In this guidance document, "telehealth" does not include an audio-only telephone call, electronic mail message, facsimile transmission, or online questionnaire, where these communications are intended to be simple client communications rather than the practice or rendering of physical therapy services.

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: Responsibility for and Appropriate Evaluation and Supervision

A PT's evaluation and supervisory responsibilities do not change with the use of telehealth to deliver physical therapy services.

Likewise, the role of the PTA does not change with provision of services through telehealth. A PTA may assist the PT in performing selected components of physical therapy intervention to include treatment, measurement and data collection, but not to include the performance of an evaluation as defined in the Board's regulations.

Section Five: Verification of Identity and Location

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 driver's license number does not have to be shared or revealed. The physical therapy practitioner should verify the location of and emergency contact information for the client prior to the start of the telehealth session, as this information may be necessary to summon assistance in the event of an emergency.

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 Six: 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 Seven: 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 Eight: Licensure

Unless otherwise provided for telehealth services delivered during declared public health emergencies to ensure continuity of care, 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. Practitioners who evaluate or treat through online service sites must possess appropriate licensure or compact privileges in all jurisdictions where clients receive care.

Section Nine: 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 Ten: 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 Eleven: 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 Twelve: 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 Thirteen: Client Emergencies and 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 Fourteen: 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 telehealth 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. The guidance in this document does not extend to billing for telehealth services.

~~Note: Guidance Document does not reflect recent federal guidance on HIPAA compliance during COVID-19 crisis. See Board website for more information.~~

Virginia Board of Physical Therapy
Guidance on Telehealth

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To reiterate, telehealth is used as a means to deliver physical therapy services already authorized within the scope of practice of physical therapy and within the standards for care and supervision established by the Board's laws and regulations. The use of telehealth, even during the course of a declared public health emergency, does not constitute a waiver of a practitioner's duty to follow existing standards of practice.

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.

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Section Four: Responsibility for and Appropriate Evaluation and Supervision

A PT's evaluation and supervisory responsibilities do not change with the use of telehealth to deliver physical therapy services.

Likewise ~~Pursuant to 18VAC112-20-90(C)~~, the role of the PTA does not change with provision of services through telehealth. A PTA may assist the PT in performing selected components of physical therapy intervention to include treatment, measurement and data collection, but not to include the performance of an evaluation as defined in the Board's regulations.

> ~~*C. A physical therapist assistant may assist the physical therapist in performing selected components of physical therapy intervention to include treatment, measurement and data collection, but not to include the performance of an evaluation as defined in 18VAC112-20-10.*~~

Section ~~Four~~ Five: Verification of Identity and Location

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 physical therapy practitioner should verify the location of and emergency contact information for the client prior to the start of the telehealth session, as this information may be necessary to summon assistance in the event of an emergency.

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~~ Six: 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:

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Section ~~Seven~~ Eight: Licensure

Unless otherwise provided for telehealth services delivered during declared public health emergencies to ensure continuity of care ~~(Section Fourteen)~~, 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. Practitioners who evaluate or treat through online service sites must possess appropriate licensure or compact privileges in all jurisdictions where clients receive care.

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Section ~~Nine~~ Ten: 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.

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Section ~~Eleven~~ Twelve: 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~~ Thirteen: Client Emergencies and 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.

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~~**Section Fourteen: Telehealth during Declared Public Health Emergencies**~~

~~Pursuant to Executive Order 57 (2020), as amended, health care practitioners with an active license issued by another state may provide continuity of care to their current patients who are Virginia residents through telehealth services for the duration of Amended Executive Order 51 (2020). Establishment of a relationship with a new patient requires a Virginia license unless pursuant to paragraphs 1 and 2 of Executive Order 57 (2020), as amended.~~