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## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Physical Therapy, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC112-20
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Physical Therapy
<b>Action title</b>	Regulatory reduction
<b>Date this document prepared</b>	November 8 <sup>th</sup> , 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Board identified potential regulatory reductions which will reduce burdens on licensees and reduce unnecessary regulatory language.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

None

## Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The impetus for this action is [Executive Order 19](#)

## Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

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Regulations of the Board of Physical Therapy are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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## Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

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The rationale/justification for this change is the Governor’s Executive Order 19. The regulations themselves are necessary to protect the health, safety, and welfare of citizens; the changes are intended to reduce burdens on licensees without impacting the protection of the health, safety, and welfare of citizens. The goal of the regulatory changes is to reduce regulations and burdens on licensees. There are no problems the regulatory changes are intended to solve

**Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

In 18VAC112-20-27, the Board removed outdated fee reductions and an unnecessary payment statement. In 18VAC112-20-65, the Board removed a requirement that applicants for licensure by endorsement provide evidence of completion of 15 hours of continuing education per year for up to four years. In 18VAC112-20-131, the Board removed the specific lists of continuing education providers and will move the list of Board-approved providers to a guidance document. The Board made minor changes to two regulations which references 18VAC112-20-131. Finally, the Board amended the advertising requirements of 18VAC112-20-200 to make that regulation less burdensome.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

- 1) There are no primary advantages or disadvantages to the public.
- 2) There are no primary advantages or disadvantages to the agency or the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. Any restraint on competition as a result of promulgating these regulations is a foreseeable, inherent, and ordinary result of the statutory obligation of the Board to protect the safety and health of citizens of the Commonwealth. The Board is authorized under § 54.1-2400 "[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system . . . Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title." The promulgated regulations do not conflict with the purpose or intent of Chapters 1 or 25 of Title 54.1.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

There are no applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected – none

Localities Particularly Affected – none

Other Entities Particularly Affected – none

**Public Comment**

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No public comment was received

**Detail of Changes Made Since the Previous Stage**

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

No changes have been made since the previous stage

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

**Detail of All Changes Proposed in this Regulatory Action**

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

Current chapter-section number	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
20-27	Governs fees	<p>B 2 is deleted. There is no need to state in regulations where payment for an examination provided by an outside entity is given. The outside entity provides and holds the exam; the outside entity handles its own payment system.</p> <p>Language in D 1 and 2 related to fee reductions in 2020 is deleted as that language is no longer effective.</p>
20-65	Governs requirements for licensure by endorsement	<p>B 4 is deleted. This provision requires that an applicant for licensure by endorsement provide evidence of completion of 15 hours of continuing education for each year a license has been held in another jurisdiction or for 60 hours over the course of four years.</p> <p>This requirement is deleted because it is unnecessary and burdensome to applicants. An applicant for licensure by endorsement already holds an active license in another jurisdiction. To maintain that license in another jurisdiction, the applicant would have had to comply with requirements for renewal in the other jurisdiction. Most jurisdictions in the United States require a certain number of hours of continuing education for renewal of licensure as a physical therapist or physical therapist assistant. Requiring those applicants produce evidence to Virginia is redundant. For public health and safety, the Board needs to know if the applicant has been subject to any disciplinary action in another jurisdiction, if the applicant has been convicted of certain crimes in other jurisdictions, and whether the applicant has maintained a recent, active practice in another jurisdiction. The Board does not need to review and assess continuing education over the four years prior to application.</p> <p>The Board determined that this reduction should be included in this reduction action following complaints received from applicants for licensure by endorsement. Notably, when this provision was added in Action 2359 (spanning 2007 – 2009), the reason cited for the inclusion of this continuing education requirement was to make sure it was not easier to obtain a license to practice in Virginia for a practitioner who is already licensed in another jurisdiction. Given the modern move to increase portability, and the general recognition by licensing boards that a license held in another state should (in many cases) be taken at face value, there is no reason to maintain this requirement.</p>
20-81	Provides requirements for direct access certification	A 2 is amended to remove the reference to providers or sponsors of continuing education contained in 20-131.

		This change is necessary due to the amendment to 20-131, described below.
20-121	Provides requirements for the practice of dry needling	A 3 is amended to remove the reference to providers or sponsors of continuing education contained in 20-131. This change is necessary due to the amendment to 20-131, described below.
20-131	Provides continuing competency requirements for renewal of an active license	B is amended to remove the list of continuing education providers from regulatory language. The Board will move this list to a guidance document, which will allow the Board more flexibility to add to the approved sponsor list as needed. It is unnecessary to provide a list of approved sponsors in regulation.
20-200	Contains advertising requirements	<p>The Board added language to the beginning of C to state that no licensee or compact privilege holder shall advertise false, misleading, or deceptive information. The Board additionally deleted E and F.</p> <p>The Board determined that the language of E and F is too prescriptive and limiting. The language added to C appropriately captures requirements for advertising without dictating accountability for advertising based on the business model a licensee participates in. Additionally, the Board found no discernible reason to require licensees to maintain two years of documentation related to claims made in advertisements. If facing a disciplinary action by the Board for false, misleading, or deceptive advertising, the licensee would be responsible for providing evidence supporting the advertising claims, regardless of when the claims were made.</p> <p>The entirety of this section was copied from 18VAC85-20-30, which applies to physicians, chiropractors, and podiatrists. While portions of 18VAC85-20-30 may apply to physical therapists and physical therapist assistants, the reason behind the wholesale copy of the provision from 85-20 was not provided. The current Board of Physical Therapy did not agree that these provisions were necessary to protect the public.</p>