BOARD OF PHYSICAL THERAPY

Legislative/Regulatory Meeting

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233
Training Room #2, Second Floor
Friday, February 15, 2013
9:00 a.m.

AGENDA

CALL TO ORDER

Comments on Periodic Review

Issues for Discussion:

- **PT's Responsibility for Documented Discharge Status**
- **Initial Evaluations/Periodic Evaluations/Re-Evaluations**
- **Direct Access Renewal and Fee**
- **Active Practice Requirement for Renewal**

ADJOURNMENT

Notice of Periodic Review

Board of Physical Therapy

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Physical Therapy is conducting a periodic review of:

18VAC112-20	Regulations Governing the Practice of Physical Therapy

The review is part of the **Governor's Regulatory Reform Project with the goal of:**

a. Repealing regulations that are unnecessary or no longer in use;
b. Reducing unnecessary regulatory burdens on individuals, businesses, and other regulated groups; and
c. Identifying statutes that require unnecessary or overly burdensome regulations.

Further, the Board is seeking comment on whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins November 5, 2012 and ends on December 5, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at:
http://www.townhall.virginia.gov/L/Forums.cfm.
Comments may also be sent to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233 or faxed to (804) 527-4434 or emailed to elaine.yeatts@dhp.virginia.gov.

Following the close of the public comment period, a report of the periodic review will be posted on the Town Hall and published in the Virginia Register of Regulations.

My comments on the Proposed Regs:

Hi Missy,
I have put my suggestions in red. Please call me if you have any questions or if I did not do what was needed.

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 two 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. A new traineeship shall not be approved for more than one year following the receipt of the first examination results.

So what we are saying in B. is that if you fail, you can still practice for 2 days. Seems like practice should stop immediately upon notification of failure.

Page 7: 2. Review areas of deficiency with the applicant's physical therapy educational program and develop a plan, which may include additional clinical training or coursework, to address deficiency areas; and
Having gone through this with some of our students (unfortunately), it is not clear that this improves the graduates likelihood of success in passing the exam the 4th time. This seems burdensome.

Page 3:"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. This is a minimum of 80 hours/year. Active practice may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.
Page 8: For the purpose of this subsection, active, clinical practice shall mean at least 2,500 hours of patient care over a five-year period. This is minimum of 500 hours/year.
C. A physical therapist or 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 first successfully complete 480 hours in a traineeship in accordance with requirements of 18VAC112-20-140. This is a minimum of 80 hours/year.

I am not clear on why there is a difference in hours? 500 hours seems more burdensome than 80 to maintain active practice.

Page 10: 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.

Totally, insanely, burdensome and unnecessary.

Page 10: D. The physical therapist shall reevaluate the patient as needed, but not less than according to the following schedules: Based on the public comment from the last meeting, would it be helpful to define "reevaluate"?

Page 13: 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 of $70 for a physical therapist and $35 for a physical therapist assistant, be issued an inactive license. The fee for the renewal of an inactive license due December 31, 2010 shall be $60 for a physical therapist and $30 for a physical therapist assistant. Am I reading this correctly: You have to pay to make your license inactive, and then pay again to be active? That seems odd. Why pay to become inactive if once you get back you have to pay the fee and prove continuing education. I hold a license in MA and I pay the full rate each year because I do not want it to go inactive. It seems to me that folks should keep paying to stay active, or when resuming, do as described. Seems burdensome on the person and the Board to go through an 'Inactive" license process. At any rate, the date/cost (?) needs to be updated.

Page 14: The traineeship (i) shall be in a facility that serves as a clinical education facility for students enrolled in an accredited program educating physical therapists in Virginia, (ii) is approved by the board, and (iii) is under the direction and supervision of a licensed physical therapist. I think we talked about this. The traineeship does not need to be in a clinician education facility of an approved program.

Page 14: 2. If the traineeship is not successfully completed at the end of the required hours, as determined by the supervising physical therapist... Does this apply to people who have been through approved and non-approved? If so, what evaluation form is used? The one that we had or will it be the FSBPT one that is being developed?

Page 14-15: Fees need to be updated - but I am sure you already know that. :)

Melissa Wolff-Burke, EdD, PT, MS
Shenandoah University
Division of Physical Therapy

I hope that no one thinks our statute is unnecessary or that our regulations are not needed. That being said, I struggled as to exactly what we are supposed to be reviewing. Still, I have done the best I knew how to do. If I am totally off-base, please let me know and give me some corrective guidance.

a. **REPEALING REGULATIONS that are unnecessary or no longer in use.**

WE MUST HAVE THE REGS THAT ARE AWAITING GOVERNOR'S SIGNATURE TO UPDATE CRITICAL AREAS OF NEED FOR THE REGULATIONS.

I am uncertain that changes within the regulations count as "repealing" as was requested for this review. But thought I would let you know of confusion from many on evaluation and re-evaluation. In the below section, at A.2. we speak to periodic evaluations. Is this re-evaluation? We have a definition of evaluation, but not re-evaluation. School-based PTs are trying to get clarity into the statutes, guidance documents, and regulations in many states. We had that question from the Winchester therapist. I think we might need to remove all references to re-evaluation since it is common to all practice settings, reimbursers, and training. Or add a "setting-friendly" definition.

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; and

2. Periodic evaluations including documentation of the patient's response to therapeutic intervention.

3. The documented status of the patient at the time of discharge, including the response to therapeutic intervention.

"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.

In the section below under D, we do speak to reevaluate, but have no definition for it. So one place, it speaks to periodic evaluation and here it refers to reevaluation. I am certain this will be brought up at the FSBPT conference. Several states are writing new wording throughout their regulations for school-based therapy. I hope we do not have to do that, but it is a point of confusion.

18VAC112-20-120. Responsibilities to patients.

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.

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:

Therapists continue to struggle with the A.3. Clients in hospitals are discharge without therapists having the opportunity to document. As well some clients just do not return to therapy for treatment; which is their right. This requirement has many therapists out of compliance with PT regulations.

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; and

2. Periodic evaluations including documentation of the patient's response to therapeutic intervention.

3. The documented status of the patient at the time of discharge, including the response to therapeutic intervention.

b. REDUCING UNNECESSARY REGULATORY BURDEN on individuals, businesses, and other regulated groups

Additional cost to therapists for renewal of direct access certification is a burden to therapists, who are then choosing not to get the certificate. These therapists may or may not be working without referrals from physicians and hoping not to get caught. I personally have seen two of these on case reviews in the last year (working without referral, but not certified). Since the cost for the certification is not breaking our budget, this burden could be eased by removing the renewal fee and keeping the initial fee.

F. Direct access certification fees.

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

2. The fee for renewal on a direct access certification shall be $35 and shall be due by December 31 in each even-numbered year. The fee for direct access certification due December 31, 2010 shall be $30.

3. A fee of $15 for processing a late renewal of certification within one renewal cycle shall be paid in addition to the renewal fee.

c. **IDENTIFYING STATUTES THAT REQUIRE UNNECESSARY OR OVERLY BURDENSOM REGULATIONS.**SHOULD IT (the PT regulations and stututes) BE TERMINATED, AMMENDED, OR RETAINED IN PRESENT FORM. whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Monitoring other states who have legal rights to patients without needing referrals from other healthcare providers, there seems to be no harm to clients. I understand the difficulty with Virginia Orthopedists and their lobby and assume that this would be blocked at some point. Still, I want to register one small voice that says this requirement of the statutes is unnecessary and overly burdensome to clients, therapists, and healthcare.

LET ME KNOW IF I SHOULD REDO.

PEGGY

Minutes from the November 16, 2012 Board Meeting:

PTA's in Acute Care Facilities

Ms. Wolff-Burke opened discussion on PTA's documenting discharge summaries in acute care facilities. The board agreed that the regulations do not allow a PTA to write discharge summaries but they also agreed that the issue needs to be re-addressed to bring current to today's acute care settings. Ms. Hahn suggested that the topic be brought up at a Legislative/Regulatory Committee meeting and bring suggestions back to the board at the next meeting.

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 54.1of the ***Code of Virginia***

Effective: October 27, 2010

9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463
www.dhp.virginia.gov

(804) 367-4674 (TEL)
(804) 527-4413 (FAX)
ptboard@dhp.virginia.gov (email)

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

"CLEP" means the College Level Examination Program.

"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.

"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.

"Face-to-face" means learning activities or courses obtained in a group setting or through interactive, real-time technology.

"FCCPT" means the Foreign Credentialing Commission on 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.

"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 which 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 face-to-face 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 mailed 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.

Part II. Licensure 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.

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

1. Utilizes the Coursework Evaluation Tool for Foreign Educated Physical Therapists of the Federation of State Boards of Physical Therapy 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 which has been certified as a true copy of the original by a notary public, verifying his 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:

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 full-time 1,000-hour traineeship under the direct supervision of a licensed physical therapist.

1. The traineeship shall be in accordance with requirements of 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.

A. 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; and

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

B. If an applicant fails the national examination three times, he shall apply for approval to sit for any subsequent examination by submission of evidence satisfactory to the board of having successfully completed the following requirements:

1. Provide the board with a copy of the deficiency report from the examination;

2. Review areas of deficiency with the applicant's physical therapy educational program and develop a plan, which may include additional clinical training or coursework, to address deficiency areas; and

3. Take an examination review course and the practice examination.

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 during the five years immediately preceding application for licensure in Virginia with a current, unrestricted license issued by another U. S. jurisdiction;

2. The required application, fees, and credentials to the board;

3. A current report from the Healthcare Integrity and Protection Data Bank (HIPDB) and 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 U.S. jurisdiction, or 60 hours obtained within the past four years; and

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 at the time of initial licensure in that state and active, clinical practice with a current, unrestricted license for at least five years prior to applying for licensure in Virginia.

For the purpose of this subsection, active, clinical practice shall mean at least 2,500 hours of patient care over a five-year period.

C. A physical therapist or 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 first successfully complete 480 hours in a traineeship in accordance with requirements of 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 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 of 18VAC112-20-140, shall terminate two 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. A new traineeship shall not be approved for more than 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 doctor of physical therapy program approved by the American Physical Therapy Association;

2. Completion of a transitional program in physical therapy as recognized by the board; or
3. 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 18VAC112-20-150.

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; and

2. Periodic evaluations including documentation of the patient's response to therapeutic intervention.

3. The documented status of the patient at the time of discharge, including the response to therapeutic intervention.

B. The physical therapist shall communicate the overall plan of care to the patient or his 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 18 VAC 112-20-10.

D. A physical therapist assistant's visits to 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.

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 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 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.

18VAC112-20-110. (Repealed).

18VAC112-20-120. Responsibilities to patients.

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.

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 visits made to the patient during a 30-day period, or once every 30 days from the last evaluation, whichever occurs first.

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.

Part IV. Renewal or Relicensure Requirements.

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

A. A physical therapist and 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 18VAC112-20-150.

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 18VAC112-20-150.

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

1. Complete a minimum of 160 hours of active practice in the preceding two years; and

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

D. In order to renew a direct access certification, a licensee shall be required to:

1. Hold an active, unrestricted license as a physical therapist; and

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

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 15 of the contact hours required for physical therapists and 10 of the contact hours required for physical therapist assistants shall be in Type 1 face-to-face 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 the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

f. The American Medical Association--Category I Continuing Medical Education course; and

g. The National Athletic Trainers Association.

2. No more than 15 of the contact hours required for physical therapists and 20 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include but not be limited to consultation with colleagues, independent study, and research or writing on subjects related to practice.

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.

I. Physical therapists holding certification to provide direct access without a referral shall include four contact hours as part of the required 30 contact hours of continuing education in courses related to clinical practice in a direct access setting.

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 of $70 for a physical therapist and $35 for a physical therapist assistant, be issued an inactive license. The fee for the renewal of an inactive license due December 31, 2010 shall be $60 for a physical therapist and $30 for a physical therapist assistant.

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; and

2. Providing proof of:

a. Active practice hours in another jurisdiction equal to those required for renewal of an active license in Virginia for the period in which the license has been inactive. If the inactive licensee does not meet the requirement for active practice, the license may be reactivated by completing 480 hours in a traineeship that meets requirements prescribed in 18VAC112-20-140; and

b. Completion of 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 18VAC112-20-150 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. Practice physical therapy in another jurisdiction for at least 320 hours within the four years immediately preceding applying for reinstatement or successfully complete 480 hours as specified in 18VAC112-20-140; and

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

18VAC112-20-140. Traineeship required.

The traineeship (i) shall be in a facility that serves as a clinical education facility for students enrolled in an accredited program educating physical therapists in Virginia, (ii) is approved by the board, and (iii) is under the direction and supervision of a licensed physical therapist.

1. The physical therapist supervising the inactive practice 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.

18VAC112-20-150. 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 31st in each even-numbered year. The

fee for renewal of an active license due December 31, 2010 shall be $100 for a physical therapist and $60 for a physical therapist assistant.

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

3. 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 fee for a returned check shall be $35.

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

F. Direct access certification fees.

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

2. The fee for renewal on a direct access certification shall be $35 and shall be due by December 31 in each even-numbered year. The fee for direct access certification due December 31, 2010 shall be $30.

3. A fee of $15 for processing a late renewal of certification within one renewal cycle shall be paid in addition to the renewal fee.

18VAC112-20-151. (Repealed).

Part IV. 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 March 30, 2010, 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 Title 42, § 1320a-7b(b) of the United States Code, as amended, 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 which, 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 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 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 or practitioners 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.