BOARD OF PHYSICAL THERAPY

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233
Board Room #4, Second Floor
Tuesday, May 10, 2016
9:30 a.m.

AGENDA

CALL TO ORDER

ORDERING OF AGENDA

ACCEPTANCE OF MINUTES – Tab 1

- Board Meeting – November 20, 2015
- Formal Hearing – January 27, 2016
- Legislative/Regulatory Meeting – January 29, 2016
- Summary Suspension Teleconference – March 3, 2016

INFORMAL CONFERENCES HELD (Informational Purposes Only)

- (3) – December 10, 2015
- (1) – February 9, 2016

PUBLIC COMMENT

AGENCY DIRECTORS REPORT – Dr. David Brown, DC

EXECUTIVE DIRECTOR'S REPORT – Lisa R. Hahn - Tab 2

- Licensure Report – **Missy Currier**
- Discipline Report – **Lynne Helmick**

NEW BUSINESS

- Legislative Report– **Elaine Yeatts**
- Legislative/Regulatory Committee Report – **Tracey Adler**
    - Consideration of 18VAC112-20-121 Performance of Dry Needling – **Tab 3**
- Consideration of Guidance Document 112-23 for Processing Licensure Applications – **Lisa Hahn, & Lynne Helmick - Tab 4**
    - Adoption of Guidance Document for Processing Licensure Applications
- Consideration of Revisions to Guidance Document 112-1 Bylaws – **Lisa R. Hahn – Tab 5**
    - Adoption of Revised Guidance Document 112-1
- Webinar – FSBPT Enhanced NPTE Registration Processing – **Lisa R. Hahn & Missy Currier**

ADJOURNMENT

Tab 1

UNAPPROVED
BOARD OF PHYSICAL THERAPY
MEETING MINUTES

The Virginia Board of Physical Therapy convened for a board meeting on Friday, November 20, 2015 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT:
Sarah Schmidt, PTA, President
Allen R. Jones, Jr., PT, DPT
Dixie Bowman, PT, DPT, EdD
Tracey Adler, PT, DPT
Arkena Dailey, PT, DPT
Steve Lam, Citizen Member

BOARD MEMBERS ABSENT:
Melissa Wolff-Burke, PT, EdD

DHP STAFF PRESENT FOR THE MEETING:
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Missy Currier, Deputy Executive Director
David Brown, D.C., Agency Director
Elaine Yeatts, Senior Policy Analyst

QUORUM:
With 6 members present, a quorum was established.

GUEST PRESENT
Richard Grossman, VPTA
Floyd Herdrich, Acupuncture Society of Virginia
Rebecca Berkson, Acupuncture Society of Virginia
Tom Bohanon, VPTA
M. Satterlund, McGuire Woods
Nakia Howard
Bunny May, VPTA, Ethics Chair
Quena Dailey
Peggy Belmont
George Maihafer
Mark Lane, FSBPT

CALLED TO ORDER
Sarah Schmidt, President, called the meeting to order at 9:06 a.m.

ORDERING OF THE AGENDA

The agenda was accepted as presented.

ACCEPTANCE OF MINUTES

Upon a motion by Allen R. Jones and properly seconded by Tracey Adler, the Board voted to accept the following minutes:

- Board Meeting – August 11, 2015
- Formal Hearing – August 28, 2015
- Ad Hoc Committee – Telehealth – September 24, 2015
- Telephone Conference – October 6, 2015

The motion passed unanimously.

PUBLIC COMMENT

There was no public comment.

AGENCY DIRECTORS REPORT – Dr. David Brown

Dr. Brown provided the following Agency news:

- Lisa Hahn had been appointed by the Governor to serve as the new Chief Deputy Director of the Agency. Ms. Hahn would continue in her role as the Executive Director for the boards of Physical Therapy, Long Term Care Administrators, and Funeral Directors & Embalmers until sometime following the 2016 General Assembly Session.
- The two fall board member training sessions were both well attended and successful.
- The Healthcare Workforce Data Center provides wonderful and useful information to the boards and to the public. They received a 90% survey response rate from PT's and PTA's during the 2014 renewals which is phenomenal. Dr. Brown added that it is a goal to share these workforce data reports at the school level with guidance counselors.

This concluded the Agency Directors Report with Dr. Jones leading the board into a round of applause and congratulations for Lisa Hahn and her new role as Chief Deputy for the agency.

EXECUTIVE DIRECTOR'S REPORT - Lisa R. Hahn

Ms. Hahn welcomed Mark Lane from FSBPT and thanked him for traveling from Northern Virginia bright and early to discuss the Licensure compact to the board. She also mentioned that George Maihafer and Peggy Belmont would be joining later in the meeting as special guests so the board and staff could formally thank them for their hard work and dedication while on the board. Ms. Hahn also mentioned that previous board member; Michael Styron was also scheduled to attend but had to cancel last minute due to unforeseen circumstances.

Expenditure and Revenue Summary

Cash Balance as of June 30, 2015	$1,003,308
YTD FY16 Revenue	32,785
Direct and allocated expenditures	< 145,382>
Cash Balance as of 09/30/15	**$ 890,711**

Licensee Statistics (as of November 4, 2015)

PT	7,462
PTA	3,028
Total	10,490
DAccess	506

Discipline Statistics (as of November 6, 2015)

Investigations	11
Probable Cause	14
APD	0
Informal Stage	3
Formal Hearing Stage	2
Total Cases	30
Cases being monitored for compliance	12

Detailed Case Offenses

Ms. Hahn reported that detailed offenses during FY15 were provided during the August 2015 meeting and that she would provide the FY16 details next August. She also indicated that following the suggestion by Ms. Wolff-Burke, the information was posted on the board's website.

Virginia Performs (Q1 2016)

- Clearance Rate was 38 %
- Age of Pending Caseload (0%) percent of patient care cases over 250 days (target is no more than 20%)
- Time to Disposition – 67% closed within 250 days (target >90%)
- Licensing Standard less than 30 days – 100%
- Customer Satisfaction – 96.6%

- Q4 Caseloads: Received =8, Closed =3
- Pending cases over 250 days =0; Closed cases within 250 days=2

Ms. Hahn noted that the actual number of cases closed during the quarter was 4 however, the correction had not been made to the report prior to the board meeting.

October 2015 PT Exam Results:

	# who took exam	# Passed	1st time test takers	Repeat test takers	# Failed	1st time testers	Repeat Test Takers
US Applicants	**48**	**24**	**14**	**10**	**24**	**4**	**20**
Foreign Applicants	**11**	**2**	**0**	**2**	**9**	**2**	**7**
Total	**59**	**26**	**14**	**12**	**33**	**6**	**27**

2015 YTD PT Exam Stats:

- 85.4% pass rate/14.6% fail
- Total of 600 Virginia Applicants have taken exam–
- (493/passed –107/failed) = 82.17% pass rate

- Total of 33 Foreign Applicants have taken exam – (11/passed – 22/failed) = 33.33% pass rate

October 2015 PTA Exam Results:

	# who took exam	# Passed	1st time test takers	Repeat test takers	# Failed	1st time testers	Repeat Test Takers
US Applicants	**50**	**31**	**25**	**6**	**19**	**7**	**12**

Foreign Applicants	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Total	**50**	**31**	**25**	**6**	**19**	**7**	**12**

2015 YTD PTA Exam Stats:

- 77.62% pass rate/22.38% failure rate
- Total of 277 Virginia Applicants have taken exam
- (215/passed – 62/failed)

- No Foreign Applicants have taken the PTA exam

FSBPT UPDATES:

Exam Eligibility Changes effective January 1, 2016:

Ms. Hahn stated that the following exam eligibility changes are posted on our website and that FSBPT has already been notifying all applicants who have taken and had a failed attempt of the new eligibility requirements. Staff is receiving calls on the process to appeal and expect more calls before the January 2016 effective date.

- Life time of 6 attempts only
- 2 scores of 400 or below

Recent PEAT Copyright Violations:

- We reported during August meeting that Candidates were caught sharing copyrighted Practice Examination and Assessment Tool items through social networks.
- This impacted score reporting for 6 of our Virginia candidates whose scores have since been released.

aPTitude:

- 565 total have signed up
  - 427 elected to share tracking with Virginia
  - 138 elected not to share tracking

Physical Therapy Licensure Compact:

In preparation for this meeting, we invited the VPTA, APTA along with other special guests to the meeting today and we let them know that Mark Lane from FSBPT would be providing us with a presentation on the Licensure Compact.

FSBPT Annual Meeting & Delegate Assembly

Sarah Schmidt, Board President and Missy Currier, Deputy Executive Director attended the October meeting for which they will provide a report later in the meeting.

Tele-Health in Physical Therapy:

- During the last meeting we established an Ad Hoc Committee to develop a Telehealth policy for PT for which Dr. Jones, Chair will provide a report later in the meeting.

Board Business:

Ms. Hahn stated that Officer Elections would be held as the last order of business for the day and that nomination forms had been provided for each member to review.

2016 Calendar

- February 9th
- May 10th
- August 16th
- November 15th

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

PRESENTATION – Mark Lane, Vice-President, FSBPT

Mark Lane provided the board with a thorough presentation on the Physical Therapy Licensure Compact including details of how it will be organized as well as a brief history of how the concept was first initiated. He explained how the Compact will help facilitate interstate practice of physical therapy by improving public access to physical therapy services.

He concluded that the next steps the board should take would be to talk amongst themselves, collaborate with state chapters; educate legislators; obtain sponsors and political support, and consider introducing the compact during the 2017 General Assembly.

BREAK

The Board took a recess at 10:55 a.m. and reconvened at 11:05 a.m.

NEW BUSINESS

Regulatory Report – Elaine Yeatts, Senior Policy Analyst

Ms. Yeatts was pleased to report that the Notice of Intent of the Regulatory Action (NOIRA) to incorporate into regulation the guidance on dry needling currently found in Guidance Document 112-9 was approved by the Governor. She stated the comment period will end on December 30th and that the Regulatory/Legislative Committee should meet prior to their next full board meeting to work on proposed language.

Ms. Yeatts reported that the new regulatory changes for direct access certification became effective on November 5, 2015.

Adhoc Committee Report – Telehealth – Allen R. Jones, Jr., PT, DPT

Dr. Jones reported that the Adhoc Committee convened a meeting on September 24, 2015 and with the staff assistance of Lisa Hahn, Missy Currier, Lynne Helmick and Elaine Yeatts, they were able to draft a very thorough guidance document on Telehealth. With no questions asked by fellow board members, Dr. Jones asked for a motion to accept Guidance Document 112-21 on Telehealth as presented.

A motion was made by Arkena Daily and properly seconded by Dixie Bowman to accept Guidance Document 112-21. The motion passed unanimously.

FSBPT Annual Meeting & Delegate Assembly – Sarah Schmidt, President

Sarah Schmidt began by thanking staff for all of their hard work keeping the Virginia Board of Physical Therapy so well run and organized. She reminded the members how important it is to understand FOIA and the repercussions of not following staff guidance when dealing with the public as a representative of the board or not understanding what constitutes a meeting. She shared that she attended a couple of sessions on Telehealth in national and international settings. Ms. Schmidt also mentioned that Duke University was close to completion on training modules designed primarily for non-US trained PT students as an alternative solution to completing some of their educational requirements.

Missy Currier mentioned that FSBPT would be rolling out a new Jurisdiction Interface in December which would include better features, access to additional information, exam history, enhanced security, and a new FSBPT ID. Ms. Currier was also pleased to announce that Virginia had received a 5 Star rating with FSBPT.

Election of Officers

A motion was made by Allen R. Jones, Jr. and properly seconded by Arkena Daily to close the nominations for President and Vice-President. The motion passed unanimously.

A motion was made by Steve Lam and properly seconded by Arkena Daily to elect Allen R. Jones, Jr. as Vice-President. The motion passed unanimously.
A motion was made by Allen R. Jones, Jr. and properly seconded by Steve Lam to elect Sarah Schmidt as President. The motion passed unanimously.

BOARD MEMBER APPRECIATION

Sarah Schmidt presented Peggy Belmont and George Maihafer each with a wall plaque of appreciation for all of their hard work and dedication for many years on the board.

BOARD MEMBER SUGGESTION

Arkena Dailey requested that the board review the terms of office during the next board meeting.

ADJOURNMENT

With all business concluded, the meeting adjourned at 11:30 a.m.

Sarah Schmidt, PTA, President	Lisa R. Hahn, MPA, Executive Director
Date	Date

DRAFT UNAPPROVED

VIRGINIA BOARD OF PHYSICAL THERAPY
FORMAL ADMINISTRATIVE HEARING
MINUTES

Wednesday, January 27, 2016
9:30 A.M.

Department of Health Professions
9960 Mayland Drive, Suite #300
Henrico, Virginia 23233

CALL TO ORDER:	The Formal Administrative Hearing of the Board of Physical Therapy was called to order at 9:43 a.m.
MEMBERS PRESENT:	Sarah Schmidt, P.T.A., Chair Melissa Wolff-Burke, P.T., EdD Dixie Bowman, P.T., DPT, EdD Allen Jones, Jr., P.T., PhD. Tracey Adler, P.T., DPT Steve Lam, Citizen Member
MEMBERS ABSENT:	Arkena L. Dailey, PT, DPT
BOARD COUNSEL:	Erin L. Barrett, Assistant Attorney General
DHP STAFF PRESENT:	Lisa R. Hahn, Executive Director Missy Currier, Deputy Executive Director Lynne Helmick, Deputy Executive Director Kathy Petersen, Discipline Operations Manager
COURT REPORTER:	Andrea Pegram, Certified Court Reporter
PARTIES ON BEHALF OF THE COMMONWEALTH:	James Schliessmann, Assistant Attorney General Mykl Egan, Adjudication Specialist
COMMONWEALTH WITNESS:	Robin Carroll, DHP Senior Investigator
RESPONDENT'S COUNSEL:	Wayne Austin, Esq. Scyphers & Austin, P.C.
RESPONDENT'S WITNESSES:	Andrea Dick, P.T.A.

MATTER SCHEDULED:	**James B. Dick, P.T.** **License No.: 2305-003239** **Case No.: 168637**
ESTABLISHMENT OF A QUORUM:	With six (6) members of the Board present, a quorum was established.
DISCUSSION:	Mr. Dick appeared before the Board in accordance with the Amended Notice of Formal Hearing dated December 18, 2015, and was represented by Wayne Austin, Esq. The Board received evidence and sworn testimony from witnesses called by both parties, regarding the matters as set forth in the Statement of Particulars.
CLOSED SESSION:	Upon a motion by Allen Jones, Jr., and duly seconded by Dixie Bowman, the Board voted unanimously to convene a closed meeting at 11:06 a.m., pursuant to §2.2-3711 (A)(27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of James B. Dick, P.T. Additionally, he moved that Ms. Hahn, Ms. Barrett, Ms. Helmick, Ms. Petersen and Ms. Currier attend the closed meeting as their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.
RECONVENE:	Upon a motion by Dixie Bowman, and duly seconded by Melissa Wolff-Burke, the Board unanimously voted to reconvene at 12:38 p.m.
CERTIFICATION:	Allen Jones, Jr. certified that the matters discussed in the closed session met the requirements of §2.2-3712 of the Code of Virginia. The Board reconvened in open session.

DECISION: Upon a motion by Melissa Wolff-Burke and duly seconded by Allen Jones, Jr., the Board moved to continue the suspension for three additional months the license of James B. Dick, PT, to practice as a physical therapist in the Commonwealth of Virginia. After that point, Mr. Dick will remain on probation for twenty-four months under certain terms and conditions.

VOTE: The vote was unanimous.

ADJOURNMENT: The Board adjourned at 12:45 p.m.

_____
Sarah Schmidt, PTA, Chair

_____
Date

_____
Lisa R. Hahn, Executive Director

_____
Date

VIRGINIA BOARD OF PHYSICAL THERAPY
MINUTES
Thursday, March 3, 2016
10:30 A.M.

Department of Health Professions
9960 Mayland Drive, Suite #300
Henrico, Virginia 23233

DATE, TIME & PLACE:	On March 3, 2016, at 10:32 a.m., the Board of Physical Therapy convened by telephone conference call with a quorum of the Board present. The Board President presided as Chair, in order to consider whether a practitioner's ability to practice physical therapy constituted a substantial danger to public health and safety pursuant to Va. Code §54.1-2408.1.
MEMBERS PRESENT:	Sarah Schmidt, P.T.A., Chair Melissa Wolff-Burke, PT, EdD Allen Jones, Jr., PT, PhD. Steve Lam, Citizen Member Arkena Dailey, PT, DPT
MEMBERS ABSENT:	Dixie Bowman, PT, EdD Tracey Adler, PT, DPT
BOARD COUNSEL:	Erin Barrett, Assistant Attorney General
DHP STAFF PRESENT:	Lisa Hahn, Executive Director Lynne Helmick, Deputy Executive Director Kathy Petersen, Discipline Operations Manager
PARTIES ON BEHALF OF COMMONWEALTH:	Wayne Halbleib, Senior Assistant Attorney General Mykl Egan, Adjudication Specialist
MATTER CONSIDERED:	**MICHAEL A. CLEVINGER, P.T.A.** **License No.: 2306-601271** **Case No.: 169423** The Board received information from Sr. AAG Wayne Halbleib in order to determine whether Mr. Clevinger's ability to practice as a physical therapist assistant constituted a substantial danger to public health and safety. Mr. Halbleib provided details of the case to the Board for its consideration.

CLOSED SESSION:	Upon a motion by Allen Jones, and duly seconded by Arkena Dailey, the Board voted to convene a closed meeting at 10:51 a.m., pursuant to §2.2-3711.A(27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Michael A. Clevinger, PTA. Additionally, he moved that Ms. Hahn, Ms. Helmick, Ms. Petersen and Ms. Barrett attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.
RECONVENE:	Upon a motion by Dr. Jones, and duly seconded by Dr. Dailey, the Board voted to re-convene at 11:01 a.m.
CERTIFICATION:	Dr. Jones certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code of Virginia, the Board reconvened in open session.
DECISION:	Upon a motion by Dr. Jones, and duly seconded by Dr. Dailey, the Board determined that Mr. Clevinger's ability to practice constituted a substantial danger to the public health and safety and voted to summarily suspend his license simultaneous with the institution of proceedings for a formal administrative hearing pursuant to §54.1-2408.1 of the Code of Virginia.
VOTE:	The vote was unanimous.
DECISION:	Upon a motion by Dr. Dailey, and duly seconded by Dr. Jones, the Board voted to offer Mr. Clevinger a Consent Order for Indefinite Suspension for no less than two years.
VOTE:	The vote was unanimous.
ADJOURNMENT:	The Board adjourned at 11:10 a.m.

Sarah Schmidt, PTA, Chair	Lisa R. Hahn, Executive Director
Date	Date

UNAPPROVED

BOARD OF PHYSICAL THERAPY
LEGISLATIVE/REGULATORY COMMITTEE MEETING
MEETING MINUTES

The Virginia Board of Physical Therapy Committee met on Friday, January 29, 2016 at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room #3, Henrico, Virginia.

COMMITTEE MEMBERS PRESENT:

Melissa Wolff-Burke, PT, EdD, Chair
Tracey Adler, PT, DPT
Steve Lam, Citizen Member

DHP STAFF PRESENT:

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Missy Currier, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst

QUORUM:

With 3 members present, a quorum was established.

GUESTS PRESENT

Janet L. Borges, L.Ac.
Rebecca Reynolds, L.Ac.
Tom Bohanon, PT, DPT, OCS, In Motion Physical Therapy, VPTA
Arthur Fan, CMD, PhD, L.Ac.
Floyd Herdrich, L.Ac.
Pamela Howard, L.Ac.
Christina Rients, Acupuncturist Student

CALLED TO ORDER

The committee meeting was called to order at 10:04 a.m.

REGULATORY REVIEW

The Committee discussed in detail the comments received on the Notice of intent of regulatory action (NOIRA) regarding the practice of dry needling in physical therapy.

Following discussion, the Committee decided that further research was needed to be conducted before they could develop recommendations for consideration by the full board at its next board meeting.

The following list of research assignments were agreed upon:

Board Staff – Query verbiage from other jurisdictions, draft standard survey form.

Missy Wolff-Burke – Query educational programs using a standardized survey form.

Tracey Adler – find out more detailed information from Maryland about how they developed their proposed regulations regarding dry needling. Also, query what is being done overseas (Canada, Europe, Australia, and New Zealand).

ADJOURNMENT

With no further business, the meeting was adjourned at 11:26 a.m.

Melissa Wolff-Burke, PT, EdD, Chair	Lisa R. Hahn, Executive Director
Date	Date

Tab 2

Virginia Department of Health Professions
Cash Balance
As of February, 29, 2016

	116- Physical Therapy
Board Cash Balance as of June 30, 2015	$ 1,003,308
YTD FY16 Revenue	103,525
Less: YTD FY16 Direct and In-Direct Expenditures	351,843
Board Cash Balance as February 29, 2016	754,990

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11600 - Physical Therapy
For the Period Beginning July 1, 2015 and Ending February 29, 2016

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	89,030.00	182,430.00	93,400.00	48.80%
4002406	License & Renewal Fee	6,265.00	10,710.00	4,445.00	58.50%
4002407	Dup. License Certificate Fee	560.00	810.00	250.00	69.14%
4002409	Board Endorsement - Out	6,730.00	11,040.00	4,310.00	60.96%
4002421	Monetary Penalty & Late Fees	895.00	1,065.00	170.00	84.04%
4002432	Misc. Fee (Bad Check Fee)	35.00	-	(35.00)	0.00%
	Total Fee Revenue	103,515.00	206,055.00	102,540.00	50.24%
4003000	Sales of Prop. & Commodities				
4003020	Misc. Sales-Dishonored Payments	10.00	-	(10.00)	0.00%
	Total Sales of Prop. & Commodities	10.00	-	(10.00)	0.00%
	Total Revenue	103,525.00	206,055.00	102,530.00	50.24%
5011110	Employer Retirement Contrib.	8,149.22	13,214.00	5,064.78	61.67%
5011120	Fed Old-Age Ins- Sal St Emp	4,153.12	7,109.00	2,955.88	58.42%
5011140	Group Insurance	703.26	1,106.00	402.74	63.59%
5011150	Medical/Hospitalization Ins.	15,744.14	25,686.00	9,941.86	61.29%
5011160	Retiree Medical/Hospitalizatn	620.50	976.00	355.50	63.58%
5011170	Long term Disability Ins	390.23	614.00	223.77	63.56%
	Total Employee Benefits	29,760.47	48,705.00	18,944.53	61.10%
5011200	Salaries				
5011230	Salaries, Classified	59,246.60	92,924.00	33,677.40	63.76%
5011250	Salaries, Overtime	222.24	-	(222.24)	0.00%
	Total Salaries	59,468.84	92,924.00	33,455.16	64.00%
5011300	Special Payments				
5011380	Deferred Compnstn Match Pmts	204.00	864.00	660.00	23.61%
	Total Special Payments	204.00	864.00	660.00	23.61%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	89,433.31	142,493.00	53,059.69	62.76%
5012000	Contractual Svs				
5012100	Communication Services				
5012110	Express Services	90.10	5.00	(85.10)	1802.00%
5012140	Postal Services	3,015.11	10,000.00	6,984.89	30.15%
5012150	Printing Services	72.60	600.00	527.40	12.10%
5012160	Telecommunications Svcs (VITA)	640.03	1,000.00	359.97	64.00%
5012170	Telecomm. Svcs (Non-State)	229.16	-	(229.16)	0.00%
5012190	Inbound Freight Services	24.34	-	(24.34)	0.00%
	Total Communication Services	4,071.34	11,605.00	7,533.66	35.08%
5012200	Employee Development Services				
5012210	Organization Memberships	2,500.00	2,500.00	-	100.00%
5012240	Employee Trainng/Workshop/Conf	24.00	1,000.00	976.00	2.40%
	Total Employee Development Services	2,524.00	3,500.00	976.00	72.11%
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	300.00	300.00	0.00%
	Total Health Services	-	300.00	300.00	0.00%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11600 - Physical Therapy
For the Period Beginning July 1, 2015 and Ending February 29, 2016

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012400	Mgmnt and Informational Svcs	-			
5012420	Fiscal Services	61.15	500.00	438.85	12.23%
5012440	Management Services	46.01	4,000.00	3,953.99	1.15%
5012470	Legal Services	485.00	300.00	(185.00)	161.67%
	Total Mgmnt and Informational Svcs	592.16	4,800.00	4,207.84	12.34%
5012500	Repair and Maintenance Svcs				
5012510	Custodial Services	9.72	-	(9.72)	0.00%
5012520	Electrical Repair & Maint Srvc	-	25.00	25.00	0.00%
	Total Repair and Maintenance Svcs	9.72	25.00	15.28	38.88%
5012600	Support Services				
5012630	Clerical Services	-	4,919.00	4,919.00	0.00%
5012640	Food & Dietary Services	651.70	750.00	98.30	86.89%
5012650	Laundry and Linen Services	10.27	-	(10.27)	0.00%
5012660	Manual Labor Services	156.45	700.00	543.55	22.35%
5012670	Production Services	1,040.88	2,245.00	1,204.12	46.36%
5012680	Skilled Services	6,883.52	16,000.00	9,116.48	43.02%
	Total Support Services	8,742.82	24,614.00	15,871.18	35.52%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	1,825.93	3,000.00	1,174.07	60.86%
5012840	Travel, State Vehicles	-	1,500.00	1,500.00	0.00%
5012850	Travel, Subsistence & Lodging	102.34	1,500.00	1,397.66	6.82%
5012880	Trvl, Meal Reimb- Not Rprtble	59.25	300.00	240.75	19.75%
	Total Transportation Services	1,987.52	6,300.00	4,312.48	31.55%
	Total Contractual Svs	17,927.56	51,144.00	33,216.44	35.05%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	482.52	1,000.00	517.48	48.25%
	Total Administrative Supplies	482.52	1,000.00	517.48	48.25%
5013200	Energy Supplies				
5013230	Gasoline	17.51	-	(17.51)	0.00%
	Total Energy Supplies	17.51	-	(17.51)	0.00%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	50.00	50.00	0.00%
	Total Manufctrng and Merch Supplies	-	50.00	50.00	0.00%
5013500	Repair and Maint. Supplies				
5013530	Electrcal Repair & Maint Matrl	-	15.00	15.00	0.00%
	Total Repair and Maint. Supplies	-	15.00	15.00	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	18.99	200.00	181.01	9.50%
	Total Residential Supplies	18.99	200.00	181.01	9.50%
5013700	Specific Use Supplies				
5013730	Computer Operating Supplies	4.14	10.00	5.86	41.40%
	Total Specific Use Supplies	4.14	10.00	5.86	41.40%
	Total Supplies And Materials	523.16	1,275.00	751.84	41.03%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11600 - Physical Therapy
For the Period Beginning July 1, 2015 and Ending February 29, 2016

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5014000	Transfer Payments				
5014100	Awards, Contrib., and Claims				
5014130	Premiums	120.00	-	(120.00)	0.00%
	Total Awards, Contrib., and Claims	120.00	-	(120.00)	0.00%
	Total Transfer Payments	120.00	-	(120.00)	0.00%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015160	Property Insurance	-	29.00	29.00	0.00%
	Total Insurance-Fixed Assets	-	29.00	29.00	0.00%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	1.37	-	(1.37)	0.00%
5015350	Building Rentals	2.43	-	(2.43)	0.00%
5015390	Building Rentals - Non State	4,929.58	7,198.00	2,268.42	68.49%
	Total Operating Lease Payments	4,933.38	7,198.00	2,264.62	68.54%
5015500	Insurance-Operations				
5015510	General Liability Insurance	-	107.00	107.00	0.00%
5015540	Surety Bonds	-	7.00	7.00	0.00%
	Total Insurance-Operations	-	114.00	114.00	0.00%
	Total Continuous Charges	4,933.38	7,341.00	2,407.62	67.20%
5022000	Equipment				
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	90.84	60.00	(30.84)	151.40%
	Total Educational & Cultural Equip	90.84	60.00	(30.84)	151.40%
5022600	Office Equipment				
5022610	Office Appurtenances	-	35.00	35.00	0.00%
	Total Office Equipment	-	35.00	35.00	0.00%
	Total Equipment	90.84	95.00	4.16	95.62%
	Total Expenditures	113,028.25	202,348.00	89,319.75	55.86%
	Allocated Expenditures				
20600	Funeral\LTCA\PT	54,246.95	102,198.95	47,952.00	53.08%
30100	Data Center	49,806.48	81,295.02	31,488.54	61.27%
30200	Human Resources	6,449.09	5,591.24	(857.86)	115.34%
30300	Finance	29,693.87	35,794.22	6,100.35	82.96%
30400	Director's Office	15,118.00	20,776.38	5,658.39	72.77%
30500	Enforcement	45,577.20	59,770.50	14,193.30	76.25%
30600	Administrative Proceedings	17,831.58	18,611.02	779.44	95.81%
30700	Impaired Practitioners	595.46	1,218.86	623.40	48.85%
30800	Attorney General	3,592.73	5,155.02	1,562.29	69.69%
30900	Board of Health Professions	8,697.98	11,505.87	2,807.89	75.60%
31100	Maintenance and Repairs	90.69	434.88	344.19	20.85%
31300	Emp. Recognition Program	131.34	225.39	94.05	58.27%
31400	Conference Center	95.01	228.66	133.64	41.55%
31500	Pgm Devlpmnt & Implmentn	6,888.61	12,155.36	5,266.75	56.67%
	Total Allocated Expenditures	238,814.99	354,961.39	116,146.39	67.28%
	Net Revenue in Excess (Shortfall) of Expenditures	$ (248,318.24)	$ (351,254.39)	$ (102,936.14)	70.69%

Virginia Department of Health Professions

Patient Care Disciplinary Case Processing Times: Quarterly Performance Measurement, Q2 2012 - Q2 2016

David E. Brown, D.C.
Director

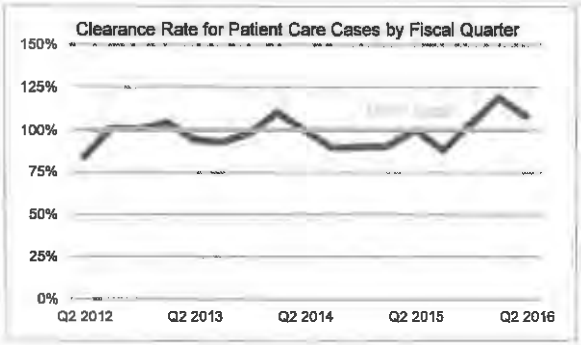
"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."
DHP Mission Statement

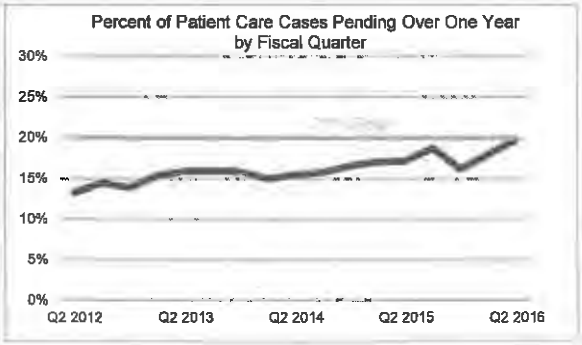
In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website, in biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs). KPMs offer a concise, balanced, and data-based way to measure disciplinary case processing. These three measures, taken together, enable staff to identify and focus on areas of greatest importance in managing the disciplinary caseload; Clearance Rate, Age of Pending Caseload and Time to Disposition uphold the objectives of the DHP mission statement. The following pages show the KPMs by board, listed in order by caseload volume; volume is defined as the number of cases received during the previous 4 quarters. In addition, readers should be aware that vertical scales on the line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

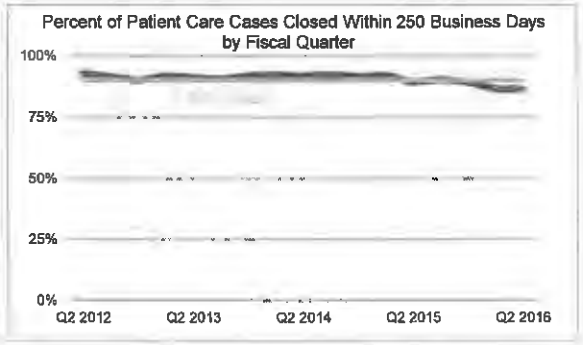
Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2016. The current quarter's clearance rate is 108%, with 924 patient care cases received and 999 closed.

Age of Pending Caseload - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 20% through the end of FY 2016. The current quarter shows 20% patient care cases pending over 250 business days with 2,331 patient care cases pending and 462 pending over 250 business days.

Time to Disposition - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2016. The current quarter shows 86% percent of patient care cases being resolved within 250 business days with 968 cases closed and 836 closed within 250 business days.







Submitted: 1/11/2016

Prepared by: VisualResearch, Inc.

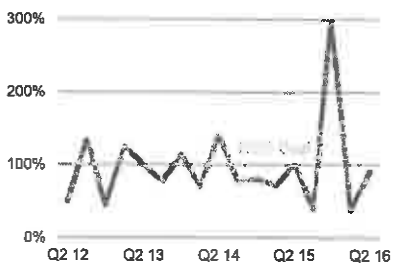
Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

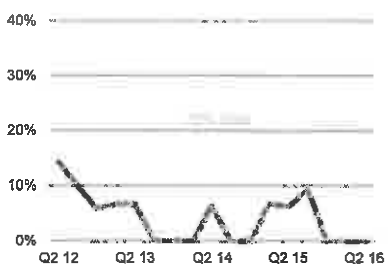
Clearance Rate

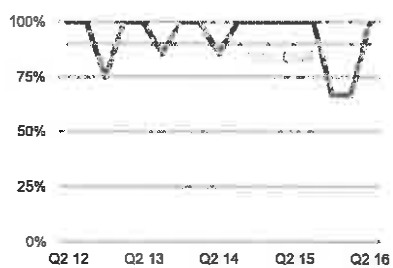
Age of Pending Caseload
(percent of cases pending over one year)

Percent Closed in 250 Business Days

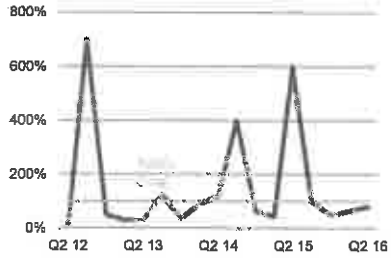
Physical Therapy - In Q2 2016, the clearance rate was 91%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 100%.
Q2 2016 Caseloads:
Received=11, Closed=10
Pending over 250 days=0
Closed within 250 days=10

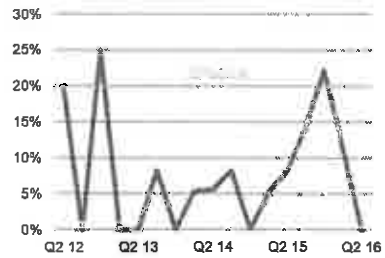


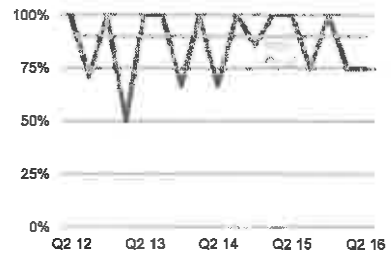




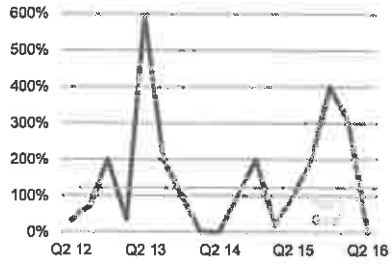
Funeral - In Q2 2016, the clearance rate was 80%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 75%.
Q2 2016 Caseloads:
Received=10, Closed=8
Pending over 250 days=0
Closed within 250 days=6

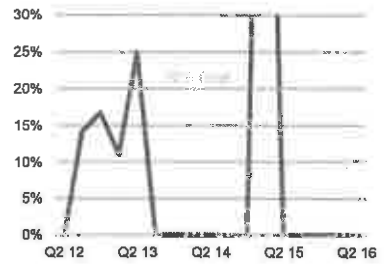


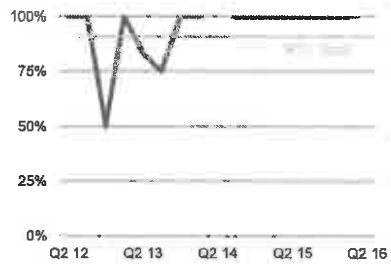




Audiology - In Q2 2016, the clearance rate was 0% the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 0%.
Q2 2016 Caseloads:
Received=0, Closed=0
Pending over 250 days=0
Closed within 250 days=0







Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

Submitted: 1/11/2016

Prepared by: VisualResearch, Inc.

Informational Purposes

Currier, Missy (DHP)

From: Allen Jones <allenrjones1@gmail.com>
Sent: Monday, February 15, 2016 11:52 AM
To: Currier, Missy (DHP)
Subject: Va Board of Health Professions report

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

The Va Board of Health Professions had a full board meeting on 2/11/16 @ 10 am.

The meeting went according to the agenda.

Ms Yeatts provided the legislative update and highlighted several house bills which had a common thread of increased autonomy for Nurse practitioners, Prescription Monitoring Program regarding abuse of opioids and allowed unsolicited reporting to law enforcement for unusual patterns for prescriptions, Dental hygienist has expanded care responsibility in rural areas and the use of medical marijuana.

Dr. Carter reported on agency performance, Physical Therapy had a clearance rate of 91%, Pending caseload > than 250 days was and the percent closed within 250 days was 100%. Dr Carter reported the agency is on track with budgeting at 51%

A review of Healthcare Workforce Data was provided which revealed we have an aging physician population in VA. The website Vahwdc.tumblr.com provided regional detail.

A comprehensive review of Telehealth was provided by Dr. Sobo and a copy will be provided to the various boards for approval prior to posting on the website. I was pleased to see PT was on the same track as nursing and medicine, the other department's i.e. optometry, slp and others lagged behind.

A board retreat is planned for 5/5/2016 to review bylaws.

I reported to the board PT adopted a guidance document on Telehealth, awaiting legislation on Compact licensure and held a public hearing on Dry needling on 1/29/2016 which is still under review and in draft format.

Elections were held Mr. Robert Catron remained Chair and Dr. Helene Clayton – Jeter was elected Vice – Chairman.

The meeting concluded at 1:10 pm.

Dr. Allen R. Jones Jr.

Tab 3

DRAFT

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

A. Dry needling is an invasive procedure which requires referral and direction in accordance with § 54.1-3482 (D) 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 and cannot be delegated. Dry needling is an advanced procedure that requires additional training including face to face laboratory instruction. The training shall be specific to dry needling and shall include detailed anatomy, emergency preparedness and responses, contraindications and precautions, secondary effects or complications, palpation and needle techniques, and physiological responses. The licensed physical therapist bears the burden of proof of sufficient post-entry-level education and training.

C. Prior to the performance of dry needling, the physical therapist shall obtain an informed consent form from the patient or his representative. The informed consent shall include the risks and benefits of the technique and shall clearly state that the patient is not receiving an acupuncture treatment. The informed consent form shall be maintained in the patient record.

Form: TH-01
11/14

townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Board of Physical Therapy
Virginia Administrative Code (VAC) citation(s)	18VAC112-20
Regulation title(s)	Regulations Governing the Practice of Physical Therapy
Action title	Practice of dry needling
Date this document prepared	5/27/15

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

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The intent of the regulatory action is to incorporate into regulation the guidance on dry needling currently found in Guidance Document 112-9, including the additional hours of training, the requirement for a medical referral, and the disclosure to patients on the difference between acupuncture and dry needling.

Legal basis

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

18VAC112-20-10 et seq. Regulations Governing the Practice of Physical Therapy are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Physical Therapy the authority to promulgate regulations to administer the regulatory system:

> ***§ 54.1-2400 -General powers and duties of health regulatory boards***
> *The general powers and duties of health regulatory boards shall be:*
> ...
> *6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 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. ...*

In the statutory definition of physical therapy, the practice of dry needling is not addressed, but treatment may be interpreted to include such practice:

> **§ 54.1-3473. Definitions.**
> *As used in this chapter, unless the context requires a different meaning:...*
> *"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.*

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of the action is to specify the qualifications for and limitations of the practice of dry needling as performed by physical therapists so as to differentiate such it from the practice of acupuncture which is reserved for licensed acupuncturists or doctors with additional training. For physical therapists, dry needling is not an entry level skill for which competency has been assured through an accredited educational program and national examination. It is an advanced procedure that requires additional training. Without a regulatory standard, the Board cannot hold a physical therapist accountable for obtaining the training required. Therefore, the Board has determined that regulations are necessary to protect the health and safety of patients who may receive dry needling in the course of a physical therapy treatment.

Substance

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

Dry needling is the use of either solid filiform needles (also referred to by some as acupuncture needles) or hollow-core hypodermic needles for therapy of muscle pain, including pain related to myofascial pain syndrome. Dry needling is sometimes also known as ***intramuscular stimulation*** *(IMS).[1] acupuncture and dry needling techniques are similar but not the same.* (From Wikipedia)

Currently, Guidance Document 112-9 specifies the following:

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

- A physical therapist using dry needling must complete at least 54 hours of post professional training including providing evidence of meeting expected competencies that include demonstration of cognitive and psychomotor knowledge and skills.

- The licensed physical therapist bears the burden of proof of sufficient education and training to ensure competence with the treatment or intervention.

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

- If dry needling is performed, a separate procedure note for each treatment is required, and notes must indicate how the patient tolerated the technique as well as the outcome after the procedure.

- A patient consent form should be utilized and should clearly state that the patient is not receiving acupuncture. The consent form should include the risks and benefits of the technique, and the patient should receive a copy of the consent form. The consent form should contain the following explanation:

  Dry needling is a technique used in physical therapy practice to treat trigger points in muscles. You should understand that this dry needling technique should not be confused with a complete acupuncture treatment performed by a licensed acupuncturist. A complete acupuncture treatment might yield a holistic benefit not available through a limited dry needling treatment.

Qualifications for the performance of dry needling, the requirement for referral, and specification of a patient consent form are included in the guidance document. Such provisions are more appropriately stated in regulations adopted through the Administrative Process Act, so the Board is initiating rulemaking. The substance of the rules will likely follow the substance of the guidance

document, but may differ depending on the comments received after publication of the Notice of Intended Regulatory Action.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The issue of whether dry needling is within the scope of the practice of physical therapy has been debated for a number of years. In 2007-2008, a Task Force of physical therapists and acupuncturists reviewed the issue in Virginia and recommended that the Board adopt guidance on the qualifications necessary to perform the technique and the disclosure to patient to distinguish dry needling from acupuncture.

Recently, the American Academy of Medical Acupuncture raised the issue again in a letter to Governor McAuliffe in opposition to the practice by physical therapists. The Board reviewed the letter and reiterated its position and that of the Federation of State Boards of Physical Therapy that "acupuncture is an entire discipline and profession where as dry needling is merely one technique which should be available to any professional with the appropriate background and training."

Since it is acknowledged that dry needling in physical therapy is an advanced skill, the Board does find it necessary to set out the additional training one should have to safely perform it on patients. Currently, a Guidance Document specifies such training, but it is not enforceable and is more appropriately regulatory in nature. Counsel for the Board has advised that the language in Guidance Document 112-9 is prescriptive and therefore should be included in 18VAC112-20-10 et seq.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting,

recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

The Board will use its Regulation Committee to develop proposed regulations; a regulatory advisory panel will not be appointed to assist in the development of the proposed regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (http://www.townhall.virginia.gov), or by mail, email, or fax to Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Henrico, VA 23233; elaine.yeatts@dhp.virginia.gov; 804-527-4434. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (http://www.townhall.virginia.gov) and on the Commonwealth Calendar website (http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi). Both oral and written comments may be submitted at that time.

Guidance document: 112-9 Revised: August 26, 2010

Board of Physical Therapy

Guidance on Dry Needling in the Practice of Physical Therapy

Upon recommendation from the Task Force on Dry Needling, the Board voted that dry needling is within the scope of practice of physical therapy but should only be practiced under the following conditions:

- Dry needling is not an entry level skill but an advanced procedure that requires additional training.
- A physical therapist using dry needling must complete at least 54 hours of post professional training including providing evidence of meeting expected competencies that include demonstration of cognitive and psychomotor knowledge and skills.
- The licensed physical therapist bears the burden of proof of sufficient education and training to ensure competence with the treatment or intervention.
- Dry needling is an invasive procedure and requires referral and direction, in accordance with § 54.1-3482 of the Code of Virginia. Referral should be in writing and specific for dry needling; if the initial referral is received orally, it must be followed up with a written referral.
- If dry needling is performed, a separate procedure note for each treatment is required, and notes must indicate how the patient tolerated the technique as well as the outcome after the procedure.
- A patient consent form should be utilized and should clearly state that the patient is not receiving acupuncture. The consent form should include the risks and benefits of the technique, and the patient should receive a copy of the consent form. The consent form should contain the following explanation:

  Dry needling is a technique used in physical therapy practice to treat trigger points in muscles. You should understand that this dry needling technique should not be confused with a complete acupuncture treatment performed by a licensed acupuncturist. A complete acupuncture treatment might yield a holistic benefit not available through a limited dry needling treatment.

Tab 4

Guidance document: 112-23

Virginia Board of Physical Therapy

Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement

Applicants for licensure or registration by examination, endorsement and reinstatement who meet the qualifications as set forth in the law and regulations shall be issued a license, registration, or certificate pursuant to authority delegated to the Executive Director of the Board of Physical Therapy as specified in the Bylaws of the Board. (*See* Article V, Bylaws.)

An applicant whose license, registration, or certificate has been revoked or suspended for any reason other than nonrenewal by another jurisdiction is not eligible for licensure or certification in Virginia unless the credential has been reinstated by the jurisdiction which revoked or suspended it. (Va. Code § 54.1-2408.) A suspension or revocation by another jurisdiction that has been stayed on terms is not considered to be reinstated for purposes of Va. Code § 54.1-2408.

Affirmative responses to any questions on applications for licensure, registration, or certification that might constitute grounds for the Board to refuse to admit a candidate to an examination, refuse to issue a license, registration, or certificate, or impose sanction shall be referred to the Board President for guidance on how to proceed.

A criminal conviction for any felony may cause an applicant to be denied licensure or registration. (Va. Code § 54.1-3480.) Each applicant, however, is considered on an individual basis, and there are no criminal convictions or impairments that are an absolute bar to licensure or registration by the Board of Physical Therapy.

Applications for licensure, registration, and certification include questions about the applicant's history, including:

1. Any and all criminal convictions;
2. Any past action taken against the applicant in another state or jurisdiction, including denial of licensure, certification, or registration in another state or jurisdiction; and
3. Any mental or physical illness or chemical dependency condition that could interfere with the applicant's ability to practice.

Replying "yes" to any questions about convictions, past actions, or possible impairment does not mean the application will be denied. It simply means more information must be gathered and considered before a decision can be made. Sometimes an administrative proceeding is required before a decision regarding the application can be made. The Board of Physical Therapy has the ultimate authority to approve or deny an applicant for licensure, registration, or certification. (Va. Code § 54.1-3480.)

The following information will be requested from an applicant with criminal conviction:

- A certified copy of all conviction orders (obtained from the courthouse of record);
- Evidence that all court ordered requirements were met (i.e., letter from the probation officer if on supervised probation, evidence of paid fines and restitution, etc.); and
- A letter from the applicant explaining the factual circumstances leading to the criminal offense(s).

The following information will be requested from an applicant with past disciplinary action or licensure/certification/registration denial in another state (unrelated to criminal convictions):

- A certified copy of the Order for disciplinary action or denial from the other state licensing entity;

- A certified copy of any subsequent actions (i.e. reinstatement), if applicable; and
- A letter from the applicant explaining the factual circumstances leading to the action or denial.

The following information may be requested from applicants with a possible impairment:

- Evidence of any past treatment (i.e., discharge summary from outpatient treatment and inpatient hospitalizations);
- A letter from the applicant's current treating healthcare provider(s) describing diagnosis, treatment regimen, compliance with treatment, and an analysis of the applicant's ability to practice safely; and
- A letter from the applicant explaining the factual circumstances of the condition or impairment and addressing ongoing efforts to function safely (including efforts to remain compliant with treatment, maintain sobriety, attendance at AA/NA meetings, etc.).

The Executive Director may approve the application without referral to the Board President in the following cases:

1. The applicant's history of a criminal conviction does not constitute grounds for denial (any felony or any misdemeanor involving moral turpitude) or constitute grounds for Board action pursuant to §54.1-3480 of the Code of Virginia. (Article V, Bylaws; Va. Code § 54.1-3480.)
2. The applicant has a history of criminal conviction for felonies or misdemeanors involving moral turpitude, but the following criteria are met:
   - Conviction history includes only misdemeanors which are greater than 5 years old, as long as court requirements have been met;
   - If one misdemeanor conviction is less than 5 years old, the court requirements have been met, and the crime was unrelated to the license or registration sought; or
   - If the applicant was convicted of one felony more than 10 years ago, when that one felony was non-violent in nature and all court/probationary/parole requirements have been met.
3. Reported juvenile convictions.
4. Applicants with a conviction history previously reviewed and approved by the Board of Physical Therapy, provided no subsequent criminal convictions exist. (Article V, Bylaws.)

Tab 5

Guidance Document 112-1

Revised ~~January 27, 2006~~
May 10, 2016

VIRGINIA BOARD OF PHYSICAL THERAPY
BYLAWS

ARTICLE I: GENERAL

The organizational year for the Board of Physical Therapy shall be from July 1st through June 30th. ~~At the board meeting of the second quarter of the year, the Board shall elect from its members a President and Vice-President with an effective date of the next regularly scheduled Board meeting. The term of office shall be one year.~~ The officers of the Board of Physical Therapy shall be a President and a Vice-President. At the last regularly scheduled meeting of the organizational year, the board shall elect its officers. The term of office shall be two years, an officer may not be re-elected in that same position for a second term. Nominations for office shall be selected by open ballot, and election shall require a majority of the members present.

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

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

ARTICLE II: OFFICERS OF THE BOARD

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

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

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

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

ARTICLE III: ORDER OF THE BUSINESS MEETINGS

The order of the business shall be as follows:

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

2. Approval of minutes.

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

ARTICLE IV: COMMITTEES

There shall be the following committees:

A. Standing Committees:

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

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

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

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

B. Ad Hoc Committees

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

ARTICLE V.: GENERAL DELEGATION OF AUTHORITY

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

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

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

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

5. The Board delegates to the Executive Director, who may consult with a special conference committee member, the authority to provide guidance to the agency's Enforcement Division in situations wherein a complaint is of questionable jurisdiction and an investigation may not be necessary.

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

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

who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being convened.

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

ARTICLE VI. AMENDMENTS

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

Effective Date: ~~January 27, 2006~~ May 10, 2016

Board President
Board of Physical Therapy