

**November 9, 2020**

The Virginia Board of Physical Therapy convened virtually via WebEx for a Legislative/Regulatory Committee meeting on Monday, November 9, 2020, with staff coordination on-site at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

**COMMITTEE MEMBERS PRESENT:**

Arkena L. Dailey, PT, DPT, Committee Chair (Virtual)\*  
Allen R. Jones, Jr., PT, DPT, Board President (Virtual)  
Susan Palmer (Virtual)

**DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:**

Erin Barrett, Assistant Attorney General, Board Counsel (Virtual)  
Sarah Georgen, Licensing and Operations Manager (On-Site)  
Kelley Palmatier, Deputy Executive Director (Virtual)  
Corie Tillman Wolf, Executive Director (On-Site)  
Laura Mueller, Board Program Manager (On-Site)  
Elaine Yeatts, Senior Policy Analyst (Virtual)

**OTHER GUESTS PRESENT (VIRTUAL)**

Richard Grossman – American Physical Therapy Association, Virginia

*\*participant indicates attendance to count toward continuing education requirements*

**CALL TO ORDER**

Dr. Dailey called the meeting to order at 11:30 a.m.

Due to the COVID-19 declared state of emergency and consistent with Amendment 28 to HB29 (Budget Bill for 2018-2020) and the applicable provisions of the Freedom of Information Act including Virginia Code § 2.2-3708.2, the Board convened a virtual meeting to consider such regulatory and business matters as was presented on the agenda necessary for the board to discharge its lawful purposes, duties, and responsibilities.

Dr. Dailey provided the Board members, staff, and the public with contact information should the electronic meeting be interrupted.

Dr. Dailey provided reminders to the Board and public regarding WebEx functions. She completed a roll call of the panel members and staff.

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

## **ORDERING OF THE AGENDA**

Dr. Dailey requested proposed changes to the ordering of the agenda. Hearing none, she proceeded with the meeting.

## **PUBLIC COMMENT**

Dr. Dailey stated that the Board did not receive any written public comment or request to provide verbal public comment.

## **DISCUSSION AND RECOMMENDATIONS**

### *Revisions to Guidance Document 112-21, Guidance on Telehealth*

Ms. Tillman Wolf provided an overview of the recommended revisions to the Guidance Document. The Committee fully discussed the document contents.

Upon a **MOTION** by Dr. Jones, and properly seconded by Ms. Palmer, the Committee voted to approve the recommended revisions to the Guidance Document, as discussed and as amended, and to provide the recommendations to the full Board at the next business meeting. The motion passed unanimously (3-0). (Attachment A)

### *Questions from Licensees – Scope of Practice*

#### *Plasma Skin Tightening Question*

Upon a **MOTION** by Dr. Jones, and properly seconded by Ms. Palmer, the Committee voted to make a recommendation to the full Board that plasma skin tightening be considered outside of the scope of the practice of physical therapy. The motion passed unanimously (3-0).

#### *Removal of Surgical Drain*

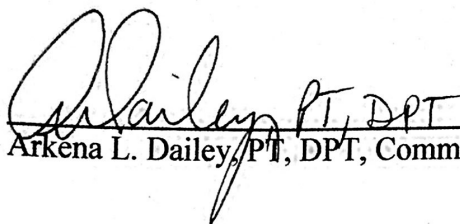
Upon a **MOTION** by Dr. Jones, and properly seconded by Ms. Palmer, the Committee voted to make a recommendation to the full Board that removal of a surgical drain be considered outside of the scope of practice of physical therapy. The motion passed unanimously (3-0).

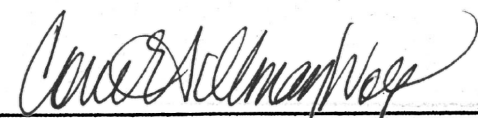
## **NEXT STEPS**

Dr. Dailey stated that the recommendations of the Committee would be presented to the full Board for consideration at the next full business meeting of the Board scheduled for November 17, 2020.

## **ADJOURNMENT**

With all business concluded, the meeting adjourned at 12:58 p.m.

  
Arkena L. Dailey, PT, DPT, Committee Chair

  
Corie Tillman Wolf, J.D., Executive Director

11/22/20  
Date

11-24-2020  
Date

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

## Virginia Board of Physical Therapy Guidance on Telehealth

### Section One: Preamble

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

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

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

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

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

- Place the welfare of the client first;

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

## Section Two: Definition

Telehealth is the use of electronic technology or media including interactive audio or video to engage in the practice of physical therapy. In this guidance document, “telehealth” does not include an audio-only telephone call, electronic mail message, facsimile transmission, or online questionnaire, where these communications are intended to be simple client communications rather than the practice or rendering of physical therapy services.

## Section Three: Responsibility for and Appropriate Use of Technology

A client's appropriateness for evaluation and treatment via telehealth should be determined by the Physical Therapist on a case-by-case basis, with selections based on physical therapist judgment, client preference, technology availability, risks and benefits, and professional standards of care. A PT is responsible for all aspects of physical therapy care provided to a client, and should determine and document the technology used in the provision of physical therapy. Additionally, the PT is responsible for assuring the technological proficiency of those involved in the client's care. A PT's evaluation and supervisory responsibilities do not change with the use of telehealth to deliver physical therapy services.

Pursuant to 18VAC112-20-90(C), the role of the PTA does not change with provision of services through telehealth:

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

## Section Four: Verification of Identity

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

### **Section Five: Informed Consent**

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

- Identification of the client, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telehealth services (e.g. such as photography, recording or videotaping the client.);
- Details on security measures taken with the use of telehealth services, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express client consent to forward client-identifiable information to a third party.

### **Section Six: Physical therapist/Client Relationship**

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

### **Section Seven: Licensure**

Unless otherwise provided for telehealth services delivered during declared public health emergencies to ensure continuity of care (Section Fourteen), ~~The~~ practice of physical therapy occurs where the client is located at the time telehealth services are provided. A practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the client is located. Practitioners who evaluate or treat through online service sites must possess appropriate licensure in all jurisdictions where clients receive care.

### **Section Eight: Standards of Care**

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

standards of an in-person encounter. Additionally, any aspects of the care unique to the telehealth encounter, such as the specific technology used, should be noted.

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

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

### **Section Ten: Client Records**

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

### **Section Eleven: Technical Guidelines**

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

### **Section Twelve: Client Emergencies and ~~Client~~ Safety Procedures**

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

medical or clinical complications or emergencies, services should be terminated and the client referred to an appropriate level of service.

### **Section Thirteen: Guidance Document Limitations**

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

### **Section Fourteen: Telehealth During Declared Public Health Emergencies**

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