



Virginia
Regulatory
Town Hall

Emergency Regulation Agency Background Document

Agency Name:	Board of Physical Therapy, Department of Health Professions
VAC Chapter Number:	18 VAC 112-10-10 et seq.
Regulation Title:	Regulations for Public Participation Guidelines
Action Title:	New regulations
Date:	8/7/00

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

Emergency regulations are required for compliance with an enactment clause in Chapter 688 of the 2000 Acts of the Assembly requiring the Board to promulgate regulations within 280 days of enactment to implement provisions of the act establishing a new Board of Physical Therapy. In order for the Board to provide the mechanism for public participation in the regulatory process, it must adopt these regulations in accordance with the Administrative Process Act.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

The legal authority to promulgate the emergency regulation is in seventh enactment clause of Chapter 688 of the 2000 Acts of the Assembly, which states: "That the Board of Physical Therapy shall promulgate regulations to implement the provisions of this act within 280 days of enactment."

The Office of the Attorney General has certified that the "emergency situation" which exists is specified in § 9-6.14:4.1 (C)(5)(ii) of the Code of Virginia as one in which the agency is required by statutory law to have a regulation in effect within 280 days from the enactment of the law.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

Regulations for Public Participation Guidelines adopted by the Board of Physical Therapy provide requirements for sending notices to the public for any meeting at which a regulatory action is to be considered, for an intended regulatory action, for comment on a proposed regulation, and for adoption of a final regulation.

Regulations allow for individuals and organizations to petition the board for rulemaking on an issue of interest and have also provided for the appointment of advisory committees on issues such as continuing competency.

The board has determined that it is essential to adopt public participation guidelines and that the proposed emergency regulations are reasonable, clearly stated and adequate to protect the public interest in the development and promulgation of regulations.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

New regulations governing public participation in the regulatory process are identical to those adopted by all of boards and in effect since 1994. Since that time, there have been no comments or requests for amendments to the regulation. There have been, however, changes to the notification and submission process through electronic means. With the availability of e-mail and fax, comments may now be received electronically. In addition, the board intends to provide information on the Regulatory Townhall to all persons on the public participation guidelines mailing list with instruction on how to access regulatory submissions and request to join the mailing list.

Therefore, in the adoption of permanent regulations for public participation, the Board intends to modify the emergency regulation. Public participation guideline regulations for the Board of Physical Therapy should be amended in the same manner as other regulations within the Department to encourage greater public access to information and participation in the regulatory process through electronic means of communication. In the adoption of regulations, the board's intent will be to implement but not duplicate provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Board has determined that there is no impact on the family or family stability as a result of these regulations.