



Proposed Regulation Agency Background Document

Agency name	Board of Physical Therapy, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC112-20
Regulation title	Regulations Governing the Practice of Physical Therapy
Action title	Direct access certification
Date this document prepared	2/25/08

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The amended regulations will: 1) establish the qualifications and application requirements for certification in direct access; 2) set out the responsibility for the physical therapist to obtain the medical release and patient consent required by the statute; 3) establish a biennial renewal of certification with continuing education hours; and 4) establish the fees for direct access certification.

Proposed regulations will replace the “emergency” regulation adopted in compliance with the second enactment clause of HB2087 and SB1305 enacted by the 2007 General Assembly, which required: “*That the Board shall promulgate regulations to implement provisions of this act to be effective within 280 days of its enactment.*” Chapters 9 and 18 of the 2007 Acts of the Assembly were enacted on March 13, 2007; emergency regulations expire on October 31, 2008.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly

chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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. ...*

The mandate for promulgation of regulations to establish a certification for direct access authorization for physical therapists is found in:

§ 54.1-3482. (Contingent effective date - see Editor's note) Certain experience and referrals required; unlawful to practice physical therapist assistance except under the direction and control of a licensed physical therapist.

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. A physical therapist who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 14 consecutive business days after evaluation without a referral under the following conditions: (i) the patient at the time of presentation to a physical therapist for physical therapy services is not being currently cared for, as attested to in writing by the patient, by a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation; (ii) the patient identifies a practitioner from whom the patient intends to seek treatment if the condition for which he is seeking treatment does not improve after evaluation and treatment by the physical therapist during the 14-day period of treatment; (iii) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (iv) the physical therapist notifies the practitioner identified by the patient no later than three days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Evaluation and treatment may not be initiated by a physical therapist if the patient does not identify a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician to manage the patient's condition. Treatment for more than 14 consecutive business days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the

practitioner identified by the patient at the end of the 14-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. A physical therapist shall not perform an initial evaluation of a patient under this subsection if the physical therapist has performed an initial evaluation of the patient under this subsection within the immediately preceding three months. For the purposes of this subsection, business days means Monday through Friday of each week excluding state holidays.

C. After completing a three-year period of active practice upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician, a physical therapist may conduct a one-time evaluation, that does not include treatment, of a patient who does not meet the conditions established in (i) through (iv) of subsection B without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

D. Invasive procedures within the scope of practice of physical therapy shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician.

E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed nurse practitioner as authorized in his practice protocol, whose medical condition is determined, at the time of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

F. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

(2000, c. 688; 2001, c. 858; 2002, cc. 434, 471; 2003, c. 496; 2005, c. 928; 2007, cc. 9, 18.)

§ 54.1-3482.1. (For contingent effective date - see Editor's note) Certain certification required.

A. The Board shall promulgate regulations establishing criteria for certification of physical therapists to provide certain physical therapy services pursuant to subsection B of § 54.1-3482, without referral from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the

supervision of a licensed physician. The regulations shall include but not be limited to provisions for (i) the promotion of patient safety; (ii) an application process for certification to perform such procedures; (iii) minimum education, training, and experience requirements for certification to perform such procedures; and (iv) continuing education requirements relating to carrying out direct access duties under § 54.1-3482.

B. The minimum education, training, and experience requirements for certification shall include evidence that the applicant has successfully completed (i) a doctor of physical therapy program approved by the American Physical Therapy Association; (ii) a transitional program in physical therapy as recognized by the Board; or (iii) at least three years of active practice with evidence of continuing education relating to carrying out direct access duties under § 54.1-3482.

C. In promulgating minimum education, training, and experience criteria, the Board shall consult with an advisory committee comprised of three members selected by the Medical Society of Virginia and three members selected by the Virginia Physical Therapy Association. All members of the advisory committee shall be licensed by the Board of Physical Therapy or the Board of Medicine and shall engage in clinical practice. The committee shall have a duty to act collaboratively and in good faith to recommend the education, training, and experience necessary to promote patient safety. The advisory committee shall prepare a written report of its recommendations and shall submit this report to the Board of Physical Therapy and shall also submit its recommendations to the Board of Medicine for such comments as may be deemed appropriate, prior to the promulgation of draft regulations. The advisory committee may meet periodically to advise the Board on the regulation of such procedures.

*D. In promulgating the regulations required by this section, the Board shall take due consideration of the education, training, and experience requirements adopted by the American Physical Therapy Association and the American Medical Association.
(2007, cc. 9, 18.)*

The third enactment provides that the amendments to § 54.1-3482 become effective 180 days after the effective date of regulations promulgated under § 54.1-3482.1.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The purpose of the regulatory action is compliance with the statute that requires the Board to establish criteria for certification to provide certain physical therapy services without referral. Regulations must provide for promotion of patient safety and for continuing education to carry out direct access duties. Therefore the qualifications for certification are a doctoral or transitional program that includes education in screening for medical disorders or differential diagnosis or specific continuing education in those areas coupled with at least three years of experience in active practice. In addition, a physical therapist who intends to maintain certification will have to direct at least four of the required 30 hours of continuing education each biennium to topics related to practice in a direct access environment.

In compliance with the law, a physical therapist treating a patient without referral will be required to obtain an attestation from a patient that he is not currently being treated for the same condition by another practitioner and written consent to provide a copy of the patient record to another practitioner identified by the patient, if the condition for which he is seeking treatment does not improve after the 14-day period in which the physical therapist is allowed to treat.

The qualifications required for certification in direct access assure that the physical therapist has education and training in the recognition of and screening for medical disorders to protect patient health and safety while in the care of the physical therapist. The requirement for written consent to provide patient records to another health care practitioner will assure that the physical therapist is able to work collaboratively with other practitioners to provide safe and effective treatment.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed criteria for direct access certification are identical to those set out in the Code of Virginia and in the emergency regulations currently in effect. For those that do not hold a doctoral degree or a transitional doctorate in physical therapy, at least three years of post-licensure, active practice with evidence of 15 contact hours of continuing education in medical screening or differential diagnosis, including passage of a post-course examination are required for certification. The application fee for certification is set at \$75.

To maintain certification, it is required to have four contact hours related to carrying out direct access duties as part of the required 30 contact hours of continuing education for biennial renewal in courses relating to clinical practice in a direct access setting. The renewal fee is \$35 per biennium.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

- 1) Since the regulations follow the mandate for criteria for certification and the requirement for continuing education to practice in a direct access environment, there are no particular advantages or disadvantages to the public.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.

3) These regulations replace emergency regulations that expire October 31, 2008.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements more restrictive than applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

The Board is seeking comments on the proposed regulations, including but not limited to 1) ideas to assist in the development of a 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 Board 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) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail or email to Lisa Hahn, Executive Director of the Board of Physical Therapy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or lisa.hahn@dhp.virginia.gov or may submit comment on the Virginia Regulatory Townhall at www.townhall.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period noted on the Townhall.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) after the publication of the proposed regulation. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. The on-going costs relating to direct access certification are those associated with review of applications, response to inquiries about criteria and practice, audit for continuing education and enforcement of laws and regulations. Fees set in regulation are intended to be sufficient to cover related costs.</p>	
<p>Projected cost of the regulation on localities</p>	<p>None</p>	
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The entities that are likely to be affected by these regulations would be physical therapists who qualify for direct access certification and want to practice with such certification.</p>	
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The agency has no estimate of the number of entities affected since the number that may apply in the future is unknown. An enactment on the 2007 legislation provides that practice with certification doesn't go into effect until 180 days after the effective date of the emergency regulations, which will be April 29, 2008. Therefore, the Board has had only 16 applications completed that are ready to be certified. There are 4757 physical therapists with active licenses who could qualify for direct access certification. Of that number, many work within health care systems or in environments in which direct access for patients is not important. Of those who do seek direct access certification, some would be considered small businesses but many PT's work as employees of hospitals, corporate practices, or other entities. The agency has no figures on those practices that are independently owned.</p>	
<p>All projected costs of the regulation for affected individuals, businesses, or other entities.</p>	<p>For applicants for certification in direct access,</p>	

<p>Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>there will be some additional costs. The application fee is \$75 for a physical therapist to obtain certification to provide services without a referral; the fee for biennial renewal on a direct access certification is \$35; and there is a fee of \$15 for processing a late renewal of certification in addition to the renewal fee</p>
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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.

In order to determine the minimum education, training, and experience required for certification, the Board was required to consult with an advisory committee, as set forth in subsection C of § [54.1-3482.1](#). The law requires that the advisory committee be comprised of three members selected by the Medical Society of Virginia and three members selected by the Virginia Physical Therapy Association. All members of the advisory committee must be licensed by the Board of Physical Therapy or the Board of Medicine and must engage in clinical practice.

The Committee met on Friday, May 11, 2007, from 4:00pm - 6:00pm at the Department of Health Professions in Richmond, Virginia. All members were in attendance.

The Committee began its discussions with consideration of the minimum criteria set out in subsection B of [54.1-3482.1](#), as follows: *The minimum education, training, and experience requirements for certification shall include evidence that the applicant has successfully completed (i) a doctor of physical therapy program approved by the American Physical Therapy Association; (ii) a transitional program in physical therapy as recognized by the Board; or (iii) at least three years of active practice with evidence of continuing education relating to carrying out direct access duties under § [54.1-3482](#).*

The physical therapists on the Committee described the scope of the doctoral program and the transitional program in physical therapy, including the preparation for practice in a direct access environment. Students graduating from accredited physical therapy programs currently receive the DPT or Doctor of Physical Therapy degree. Physical therapists who graduated before schools adopted doctoral programs may enter a transitional program that leads to a doctoral degree. Virginia physical therapy schools have been graduating doctoral students for at least three years. The physical therapists also provided information about courses available for continuing education in medical screening and differential diagnosis.

There was discussion about the educational and practice preparation in medical screening and differential diagnosis in the DPT and transitional programs and about the need for some period of time in independent practice of physical therapy to ensure experience with patient presentation, treatment options and indicators for referral. Based on the information provided

and its responsibility to recommend the education, training and experience criteria necessary to promote patient safety, the Committee recommends the following qualifications for certification:

- 1) Evidence of completion of a doctor of physical therapy program approved by the American Physical Therapy Association and completion of at least one year of post-licensure, full-time, clinical practice;
- 2) Evidence of completion of a transitional program in physical therapy as recognized by the Board of Physical Therapy and completion of at least one year of post-licensure, full-time, clinical practice; or
- 3) Evidence of completion of at least 15 contact hours of continuing education (to include face-to-face or on-line courses with a post-course examination) in patient assessment or differential diagnosis, offered by a provider approved by the Board and at least three years of post-licensure, full-time, clinical practice.

The 2007 legislation required the advisory committee to provide a written report of its recommendations and submit it to the Board of Physical Therapy. Prior to the Board’s adoption of regulations, the recommendations were also be submitted to the Board of Medicine for such comments as may be deemed appropriate. Therefore, the advisory committee submitted its report to the Board of Medicine for its review and comment at its meeting on June 21, 2007. The Board of Medicine accepted the report without further recommendation. The Board of Physical Therapy is required to promulgate regulations, including continuing education requirements relating to carrying out direct access duties, to be effective within 280 days of its enactment or by November 26, 2007. The provisions of the act amending § [54.1-3482](#) do not become effective for 180 days after the effective date of the regulations. Finally, the law provides that the Committee may meet periodically to advise the Board on the regulation of such procedures.

The Board of Physical Therapy accepted the report of the Advisory Committee but did not follow its recommendation for one year of post-licensure, full-time clinical practice as qualification for certification in direct access. It is the position of the Board that graduates from a DPT program have been taught to practice in a direct access environment since most states already permit PT’s to evaluate and treat patients without referral. In addition, physical therapy programs are now doctoral-level with extensive hours of clinical experience in seeing patients, making differential diagnoses. They have knowledge and training in knowing when to refer patients who present with conditions or diseases that require medical care. Therefore, there was no compelling reason to require graduates to have an additional year of experience to be qualified for direct access.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Matthew Pulisic, PT	At least 2 or 3 years of clinical experience should be required for all applicants seeking certification, including newly graduated	Since the law only specifies years of clinical experience for who do not hold a DPT or a transitional DPT, the Board did not choose to

	DPT's. PT's would benefit from treating patients with referral first to gain experience.	make the regulation more restrictive.
Brian Hoke, PT	Entry-level DPT graduates should also have an experiential component to ensure adequate recognition of appropriate medical conditions. Recertification is not appropriate and 4 hours of coursework is arbitrary and not necessary.	Response same as above. Continuing education is a requirement of the law, but the Board chose to limit the hours to 4 per biennium and to include those hours as part of the 30 hours already required for renewal of licensure. The Code of Virginia specifies that: <i>"The regulations shall include but not be limited to provisions for ... (iv) continuing education requirements relating to carrying out direct access duties under § 54.1-3482."</i>
Bill Whiteford, PT	Opposes the requirement for four hours of continuing education for direct access certification	The CE is required by the law (see above). While the continuing education required for non-doctoral PT's to qualify for direct access certification is specific to medical screening or differential diagnosis, the 4 hours of continuing education needed for renewal must only relate to clinical practice in a direct access setting. The subject area is broad enough to encompass almost any clinically-based CE for a practitioner who holds direct access certification.
Colleen Whiteford, PT	Opposes the four hours of continuing education and requirement for recertification. Also opposes the fees for certification and renewal.	The Board's regulations do not require re-certification, which would necessitate proof of re-qualification. The requirement for continuing education is mandated by the Code. All licenses, certification and registration issued by a health regulatory board must be renewed periodically. The same is true for direct access certification, especially since there is a statutory expectation of continuing education that must be attested at the time of renewal. The fee for renewal has been set at a minimal amount (\$35 every two years) and is based on an estimate of the revenue that may be required to audit continuing education requirements, investigate complaints relating to direct access and adjudicate cases arising from violations of law or regulation. Those who hold the certification should be responsible for costs associated with certification; those costs should not be borne by PT's without direct access certification or by PTA's. Application costs are set by calculating the total of one renewal cycle (\$35), a wall certificate (\$15), a license (\$5) and the administrative costs of reviewing, processing and approving an application. A fee of \$75 arguably does not cover all the component elements of a direct access certification, but the Board chose to hold the application fee to a minimum.
Pat Salin Huston, PT	Sets a dangerous precedence by allowing newly graduated DPT's to practice with direct access if experienced PT's are not. All should be required to have experience, so	See board responses above.

	consumers do not believe that a DPT grad has superior skills to experienced PT's. Opposes to recertification and inflated fee structure.	
Brian D'Orazio, PT	Opposes the 4 hours of continuing education and recertification as too burdensome and unnecessary. The Board should consider specialty board certification as a qualification for certification. Applications from DPT or persons with board certification could be fast-tracked and less expensive.	See responses above about continuing education & renewal of certification. The law specifies the three pathways for certification and does not include specialty board certification. The application fee structure must be consistent for all applicants because the component costs are similar.
Bob Turner, PT	Opposes 4 hours of continuing education; should have an exemption for persons with specialty board certification. Opposes fees for certification and recertification.	See responses above about continuing education and fees.
Mary Wooten, PT	Opposes 4 hours of continuing education; should have an exemption for persons with specialty board certification; ultra-specific wording of requirement to re-certify will make it difficult to find courses. Fees are higher than appropriate.	See response re: continuing education and content of CE above. See response above on fees.
Gayle Garnett, PT	Opposes requirement for recertification and proof of 4 hours of continuing education. Opposes fees as stated in regulations	See response re: continuing education. See response above on fees.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory 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.

There is no impact on the family.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number	Current requirement	Proposed change and rationale
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n/a	81	n/a	<p>A. An applicant for certification to provide services to patients without a referral as specified in § 54.1-3482.1 shall hold an active, unrestricted license as a physical therapist in Virginia and shall submit evidence satisfactory to the board, that he has one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Completion of a doctor of physical therapy program approved by the American Physical Therapy Association; or 2. Completion of a transitional program in physical therapy as recognized by the board; or 3. At least three years of post-licensure, active practice with evidence of 15 contact hours of continuing education in medical screening or differential diagnosis, including passage of a post-course examination. The required continuing education shall be offered by a provider or sponsor listed as approved by the board in 18VAC112-20-131 and may be face-to-face or on-line education courses. <p><i>The minimum qualifications for certification were set in § 54.1-3482 in the legislation. The Board did not include additional requirements for training, education or experience. The law allows a PT with 3 years of active practice to qualify with evidence of continuing education, which the Board determined should be 15 contact hours in specific subjects, including a post-course test. The 15 hours could include on-line education and is readily available to PT's throughout Virginia.</i></p> <p>B. In addition to the evidence of qualification for certification required in subsection A, an applicant seeking direct access certification shall submit to the board:</p> <ol style="list-style-type: none"> 1. A completed application as provided by the board; 2. Any additional documentation as may be required by the board to determine eligibility of the applicant; and 3. The application fee as specified in 18VAC112-20-150. <p><i>The application requirements are necessary to ensure that the Board has sufficient information to determine eligibility and that the application fee has been paid.</i></p>
90	n/a	Sets out the general responsibilities of a physical therapist in his practice	<p>Adds subsection E: A physical therapist providing services with a direct access certification as specified in §54.1-3482 shall utilize the Direct Access Patient Attestation and Medical Release Form prescribed by the board or otherwise include in the patient record the information, attestation and written consent required by subsection B of §54.1-3482.</p> <p><i>The law specifies a 14-day period of treatment under direct access and requires the PT to obtain certain attestations and written consent from the patient before</i></p>

			<i>treatment without referral can be initiated. The additional language in section 90 is necessary to assure that the PT's responsibility is carried out in accordance with the law.</i>
130	n/a	Sets out the requirements for biennial renewal including evidence of continuing competency	<p>Adds subsection D: In order to renew a direct access certification, a licensee shall be required to:</p> <ol style="list-style-type: none"> 1. Hold an active, unrestricted license as a physical therapist; and 2. Comply with continuing education requirements set forth in 18VAC112-20-131 I. <p><i>The Board has established a biennial renewal of certification concurrent with the renewal of a PT's license.</i></p>
131	n/a	Establishes the hours of continuing competency required for renewal and the listing of approved providers	<p>Adds subsection I: Physical therapists holding certification to provide direct access without a referral shall include four contact hours related to carrying out direct access duties as part of the required 30 contact hours of continuing education. Courses for direct access continuing education shall relate to clinical practice in a direct access setting.</p> <p><i>The law requires continuing education requirements related to carrying out direct access without referral. The Board determined that four hours every two years (as a part of the 30 hours required for renewal of a PT license) relating to clinical practice in direct access was minimal.</i></p> <p><u>Change from the emergency regulation:</u></p> <p>Subsection I was rewritten to eliminate duplicative language. There was no substantive change.</p>
150	n/a	Establishes the fees for application and renewal of certification	<p>Adds subsection F for direct access certification fees: 1) The application fee shall be \$100 for a physical therapist to obtain certification to provide services without a referral; 2) The fee for renewal on a direct access certification shall be \$35 and shall be due by December 31st in each even-numbered year; and 3) A fee of \$15 for processing a late renewal of certification within one renewal cycle shall be paid in addition to the renewal fee.</p> <p><i>The application fee includes a biennial renewal of certification (\$35) or at least 24 months of certification before renewal is required. It also includes the cost of review of an application and issuance of a new license with direct access certification noted. The renewal fee is based on the need to cover expenses related to audits for continuing education, investigation of complaints for direct access care, and any disciplinary proceedings that may result for such care. The late fee is consistent with Department policy for late fees to be approximately 1/3 of the renewal fee.</i></p>

			<p><u>Change from the emergency regulation:</u></p> <p>The application fee was reduced from \$100 to \$75 because staff believes that is an adequate amount to cover the cost of application review, a wall certificate, a paper license and one biennial review (the component cost of an application according to the Principles for Fee Development adopted by the Department in 2000)</p>
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