

15100671D

HOUSE BILL NO. 1457

Offered January 14, 2015

Prefiled December 30, 2014

A BILL to amend and reenact §§ 54.1-3482 and 54.1-3482.1 of the Code of Virginia, relating to direct access to physical therapy.

Patrons—O'Bannon, Carr and Ransone

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3482 and 54.1-3482.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3482. Practice of physical therapy; certain experience and referrals required; physical therapist assistants.

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, or dental surgery, a licensed nurse practitioner as authorized practicing in accordance with his practice protocol agreement, 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 completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 14 30 consecutive business days after an initial evaluation without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) 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 is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner as authorized practicing in accordance with his practice protocol agreement, 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) from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (iv) (c) the physical therapist notifies the practitioner identified by the patient no later than three 14 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 30 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, or dental surgery, a licensed nurse practitioner as authorized practicing in accordance with his practice protocol agreement, 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 30-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 for the same condition within the immediately preceding three months 60 days. For the purposes of this subsection, business days means Monday through Friday of each week excluding state holidays.

INTRODUCED

HB1457

59 C. After completing a three-year period of active practice upon the referral and direction of a
60 licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner
61 as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a
62 licensed physician, a *A physical therapist who has not completed a doctor of physical therapy program*
63 *approved by the American Physical Therapy Association or who has not obtained a certificate of*
64 *authorization pursuant to § 54.1-3482.1* may conduct a one-time evaluation, that does not include
65 treatment, of a patient who does not meet the conditions established in (i) through (iv) of subsection B
66 without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or
67 dental surgery, a licensed nurse practitioner as *authorized practicing in accordance with his practice*
68 *protocol agreement*, or a licensed physician assistant acting under the supervision of a licensed
69 physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate
70 practitioner.

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

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

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

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

97 **§ 54.1-3482.1. Certain certification required.**

98 A. The Board shall promulgate regulations establishing criteria for certification of physical therapists
99 to provide certain physical therapy services pursuant to subsection B of § 54.1-3482; without referral
100 from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed
101 nurse practitioner as *authorized practicing in accordance with his practice protocol agreement*, or a
102 licensed physician assistant acting under the supervision of a licensed physician. The regulations shall
103 include but not be limited to provisions for (i) the promotion of patient safety; (ii) an application
104 process for a one-time certification to perform such procedures; and (iii) minimum education, training,
105 and experience requirements for certification to perform such procedures; and (iv) continuing education
106 requirements relating to carrying out direct access duties under § 54.1-3482.

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

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

121 committee may meet periodically to advise the Board on the regulation of such procedures.
122 D. In promulgating the regulations required by this section, the Board shall take due consideration of
123 the education, training, and experience requirements adopted by the American Physical Therapy
124 Association and the American Medical Association.