

that the items meet that requirement. The evidence is normally in the form of a tag or seal affixed to the item, such as a label on beef product. In most cases, this requires no additional effort on the part of the contractor, as the items come from the factory with the tags already in place, as part of the manufacturer's standard manufacturing operation. Occasionally, for items not already meeting standards or for items not previously tested, a contractor will have to furnish a certificate from an acceptable laboratory certifying that the items furnished have been tested in accordance with, and conform to, the specified standards. Only firms whose products have not previously been tested to ensure the products meet the industry standards required under the solicitation and contract will be required to submit a separate certificate. The information will be used to ensure that the items being purchased meet minimum safety standards and to protect VA employees, VA beneficiaries, and the public.

*Affected Public:* Business or other for-profit.

*Estimated Annual Burden:* 559 hours.

*Estimated Average Burden per*

*Respondent:* 30 minutes.

*Frequency of Response:* One per contract.

*Estimated Number of Respondents:* 1,118.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.*

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## DEPARTMENT OF VETERANS AFFAIRS

### Notice of Request for Information on the Department of Veterans Affairs Kinesiotherapist Standard of Practice

**AGENCY:** Department of Veterans Affairs

**ACTION:** Request for Information.

**SUMMARY:** The Department of Veterans Affairs (VA) is requesting information to assist in developing a national standard of practice for VA Kinesiotherapists. VA seeks comments on various topics to help inform VA's development of this national standard of practice.

**DATES:** Comments must be received on or before September 27, 2022.

**ADDRESSES:** Comments may be submitted through [www.regulations.gov](http://www.regulations.gov). Comments received will be available at [www.regulations.gov](http://www.regulations.gov) for public viewing, inspection or copies.

### FOR FURTHER INFORMATION CONTACT:

Ethan Kalett, Office of Regulations, Appeals and Policy (10BRAP), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202-461-0500. This is not a toll-free number.

### SUPPLEMENTARY INFORMATION:

#### Authority

38 U.S.C. 73 and 74 and 38 U.S.C. 303 permit the Secretary to further regulate VA's health care professions to make certain that VA's health care system provides safe and effective health care by qualified health care professionals to ensure the well-being of those Veterans who have borne the battle.

On November 12, 2020, VA published an interim final rule to confirm that VA health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any State license, registration, certification or other requirements that unduly interfere with their practice. 38 CFR 17.419; 85 FR 71838. Specifically, this rulemaking confirmed VA's current practice of allowing VA health care professionals to deliver health care services in a state other than the health care professional's state of licensure, registration, certification or other state requirement, thereby enhancing beneficiaries' access to critical VA health care services. The rulemaking also confirmed VA's authority to establish national standards of practice for health care professionals which would standardize a health care professional's practice in all VA medical facilities.

The rulemaking explained that a national standard of practice describes the tasks and duties that a VA health care professional practicing in the health care profession may perform and may be permitted to undertake. Having a national standard of practice means that individuals from the same VA health care profession may provide the same type of tasks and duties regardless of the VA medical facility where they are located or the state license, registration, certification or other state requirement they hold. We emphasized in the rulemaking, and reiterate here, that VA will determine on an individual basis that a health care professional has the necessary education, training and skills to perform the tasks and duties detailed in the national standard of practice and will only be able to perform such tasks and duties after they have been incorporated into the individual's privileges, scope of practice or functional statement. The rulemaking explicitly did not create any such

national standards and directed that all national standards of practice would be subsequently created via policy.

### Need for National Standards of Practice

As the Nation's largest integrated health care system, it is critical that VA develops national standards of practice to ensure beneficiaries receive the same high-quality care regardless of where they enter the system and to ensure that VA health care professionals can efficiently meet the needs of beneficiaries when practicing within the scope of their VA employment. National standards are designed to increase beneficiaries' access to safe and effective health care, thereby improving health outcomes. The COVID-19 pandemic underscored the importance of this initiative. With an increased need for mobility in our workforce, including through VA's Disaster Emergency Medical Personnel System, creating a uniform standard of practice better supports VA health care professionals who already practice across state lines. In addition, developing national standards of practice aligns with VA's long-term deployment of a new electronic health record (EHR). National standards of practice are critical for optimal EHR implementation to enable the specific roles for each health care profession in EHR to be consistent across Veterans Health Administration (VHA) and to support increased interoperability between VA and the Department of Defense (DoD). DoD has historically standardized practice for certain health care professionals, and VHA closely partnered with DoD to learn from their experience.

### Process To Develop National Standards of Practice

Consistent with 38 CFR 17.419, VA is developing national standards of practice via policy. There will be one overarching National Standard of Practice directive with each individual national standard of practice as an appendix to the directive. The directive and all appendices will be accessible on VHA Publications website at: <https://vaww.va.gov/vhapublications/> (internal) and <https://www.va.gov/vhapublications/> (external) once published.

To develop these national standards, VA is using a robust, interactive process that is consistent with our authority under the Supremacy Clause of the United States Constitution and consistent with the guidance outlined in Executive Order (E.O.) 13132 to utilize such authority. The process includes consulting with internal and external

stakeholders, including State licensing boards.

For each identified VA occupation, a workgroup comprised of health care professionals is established to conduct state variance research to identify internal best practices that may not be authorized under every state license, certification or registration, but would enhance the practice and efficiency of the profession throughout the agency. The workgroup may consult with internal stakeholders at any point throughout the process. If a best practice is identified that is not currently authorized by every state, the workgroup determines what education, training and skills are required to perform such task or duty. The workgroup then drafts a proposed VA national standard of practice using the data gathered during the state variance research and incorporates internal stakeholder feedback to date.

The proposed national standard of practice is internally reviewed, to include review by an interdisciplinary workgroup consisting of representatives from Quality Management; Field Chief of Staff; Academic Affiliates; Associate Director Patient Care Services; Ethics; Workforce Management and Consulting; Surgery; Credentialing and Privileging; Field Chief Medical Office; and Electronic Health Record.

Externally, the proposed national standard of practice is provided to our partners in DoD. In addition, unions are engaged informally as part of a pre-decisional collaboration. We note that the opportunity for bargaining exists later in the process and prior to publication of the national standard. Consistent with E.O. 13132, a letter is sent to each State board that includes the proposed national standard and an opportunity to further discuss the national standard with VA. After the states have received notification, the proposed national standard of practice is published to the **Federal Register** for 60 days to obtain feedback from the public, including professional associations and unions. At the same time, the proposed national standard is published on an internal VA site to obtain feedback from VA employees. Feedback from State boards, the **Federal Register**, VA employees and any other person or organization who informally provides comments will be reviewed. VA will make appropriate revisions based on comments, including those that present evidence-based alternatives that help VA meet our mission and goals, and that are better for Veterans or VA health care professionals. We will publish a collective response to all

comments at <https://www.va.gov/standardsofpractice>.

After the national standard of practice is published and effective, any additional tasks or duties included in the national standard will be incorporated into an individual health care professional's privileges, scope of practice or functional statement only if their VA medical facility performs this function for beneficiaries and the health care professional has the necessary education, training and skill to perform the task or duty.

#### National Standard for Kinesiotherapists

The proposed structure for national standards of practice when there is a national registration body is as follows: the first paragraph is general information about the profession and what the health care professionals can do at a high level; the second paragraph references the education and credential needed to practice this profession at VA and confirms that this profession follows the standard of practice set by the registration body; and a final statement confirms that as of the date of the workgroup's research into requirements, all individuals in this profession follow the same standard of practice.

We note that proposed standards of practice do not contain an exhaustive list of every task this profession can perform. Rather, it is designed to highlight whether there are any areas of variance in how this profession can practice across states and how this profession will be able to practice within VA notwithstanding their state requirements.

VA qualification standards require Kinesiotherapists to be registered with the Council on Professional Standards for Kinesiotherapy (COPSKT). VA reviewed whether there are any alternative registrations, certifications or state requirements that could be required for a Kinesiotherapist and found that there were none. VA proposes to adopt a standard of practice consistent with this national registration; therefore, Kinesiotherapists will continue to follow the same standard as set by their national registration. The standard of practice for the national registration can be found at <https://akta.org/professional-development/scope-of-practice>.

#### Proposed National Standard of Practice for Kinesiotherapists

The Kinesiotherapist is an allied health professional competent in the administration of scientifically based musculoskeletal, neurological, ergonomic, biomechanical, psychosocial

and task-specific functional tests and measures combined with other evidence-based modalities used to physically, physiologically and psychologically improve the human function, movement and well-being of the Veteran. The Kinesiotherapist provides acute, sub-acute or post-acute rehabilitative therapy and wellness interventions focusing on therapeutic exercise, mobility, reconditioning, education and behavior change emphasizing the psychological as well as physical interventions to enhance outcomes for a holistic approach to rehabilitation.

Kinesiotherapists in VA possess the required education and registration with COPSKT, which is a national board for Kinesiotherapist in accordance with VA qualification standards, as more specifically described in VA Handbook 5005, Staffing, Part II, Appendix G21. This national standard of practice confirms Kinesiotherapists practice in accordance with the American Board of Registration for Kinesiotherapists standards from COPSKT, available at: <https://akta.org/>. As of July 2021, Kinesiotherapists in all States follow this national registration.

#### Request for Information:

1. Are there any required trainings for the aforementioned practices that we should consider?
2. Are there any factors that would inhibit or delay implementing the aforementioned practices for VA health care professionals in any states?
3. Is there any variance in practice that we have not listed?
4. What should we consider when preempting conflicting state laws, regulations or requirements regarding supervision of individuals working toward obtaining their license or unlicensed personnel?
5. Is there anything else you would like to share with us about this national standard of practice?

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on July 11, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Luvenia Potts,**

*Regulation Policy Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

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