

information provided during the registration process and present that to Security, for entry into the building. Please plan on arriving 30–45 minutes prior to the meeting to allow time for security. If you require reasonable accommodation, please contact the

Departmental Offices Reasonable Accommodations Coordinator at [ReasonableAccommodationRequests@treasury.gov](mailto:ReasonableAccommodationRequests@treasury.gov). If requesting a sign language interpreter, please make sure your request to the Reasonable Accommodations Coordinator is made

at least five (5) days prior to the event if possible.

Dated: July 28, 2024.

**Snider Page,**  
*Director, Office of Civil Rights and EEO and Designated Federal Officer.*

CLEARANCE SHEET: **Federal Register** NOTICE

|                     |  |                                   |              |
|---------------------|--|-----------------------------------|--------------|
| Memo Subject: ..... | Treasury Advisory Committee on Racial Equity (TACRE) <b>Federal Register</b> Notice of September 9, 2024 Meeting |                                   |              |
| Drafted by: .....   | ODEIA .....  | Snider Page .....                 | 202–622–0341 |
| Approved by: .....  | Counselor .....  | Janis Bowdler.                    |              |
| Cleared by: .....   | Exec Sec .....   | <i>Deputy Exec Sec to insert.</i> |              |
|                     | Deputy GCFO .....  | Eric Nguyen.                      |              |
|                     | ODEIA .....  | Rhianna Rogers.                   |              |
|                     | Equity Hub .....   | Diane Lim.                        |              |
|                     | GCFO .....   | Brian Sonfield.                   |              |
|                     | GLER .....   | Christian Furey.                  |              |
|                     | PTR .....  | Robert Faber.                     |              |
|                     | PTR .....  | Spencer Clark.                    |              |
|                     | GLER .....   | Heidi Cohen.                      |              |
|                     | OPA .....  | Ruby Robles Perez.                |              |

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DEPARTMENT OF VETERANS  
AFFAIRS

Notice of Request for Information on  
the Department of Veterans Affairs  
Massage Therapist 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 Massage Therapists. 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 30, 2024.

**ADDRESSES:** Comments must be submitted through <http://www.regulations.gov/>. Except as provided below, comments received before the close of the comment period will be available at <http://www.regulations.gov/> for public viewing, inspection, copying, or including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov/>. VA will not post on <http://www.regulations.gov/> public comments that make threats to individuals or institutions or suggest

that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period’s closing date will not be considered.

**FOR FURTHER INFORMATION CONTACT:**  
Ethan Kalett, Office of Governance, Regulations, Appeals, and Policy (10B–GRAP), 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**

Chapters 73 and 74 of 38 U.S.C. and 38 U.S.C. 303 authorize the Secretary to regulate VA 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 confirming 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 permitting 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 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 its health care professionals, which would standardize a health care professional’s practice in all VA medical facilities, regardless of conflicting state laws, rules, regulations, or other requirements.

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 perform the same type of tasks and duties regardless of the state where they are located or the state license, registration, certification, or other 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 proper education, training, and skills to perform the tasks and duties detailed in the national standard of practice, and that they 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.

### Preemption of State Requirements

The national standard of practice will preempt any state laws, rules, regulations, or other requirements that both are and are not listed in the national standard as conflicting, but that do conflict with the tasks and duties as authorized in VA's national standard of practice. In the event that a state changes their requirements and places new limitations on the tasks and duties it permits in a manner that would be inconsistent with what is authorized under the national standard of practice, the national standard of practice will preempt such limitations and authorize the VA health care professional to continue to practice consistent with the tasks and duties outlined in the national standard of practice.

In cases where a VA health care professional's license, registration, certification, or other requirement permits a practice that is not included in a national standard of practice, the individual may continue that practice so long as it is permissible under Federal law and VA policy, is not explicitly restricted by the national standard of practice and is approved by the VA medical facility.

### Need for National Standards of Practice

It is critical that VA, the Nation's largest integrated health care system, develops national standards of practice to ensure, first, that beneficiaries receive the same high-quality care regardless of where they enter the system and, second, 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 importance of this initiative has been underscored by the coronavirus disease 2019 (COVID-19) pandemic. The increased need for mobility in VA's workforce, including through VA's Disaster Emergency Medical Personnel System, highlighted the importance of creating uniform national standards of practice to better support VA health care professionals who practice across state lines. Creating national standards of practice also promotes interoperability of medical data between VA and the Department of Defense (DoD), providing a complete picture of a veteran's health information and improving VA's delivery of health care to the Nation's veterans. DoD has historically standardized practice for certain health care professionals, and VA has closely

partnered with DoD to learn from their experience.

### Process To Develop National Standards of Practice

As authorized by 38 CFR 17.419, VA is developing national standards of practice via policy. There is one overarching directive to describe Veterans Health Administration (VHA) policy on national standards of practice, VHA Directive 1900(5), VA National Standards of Practice, August 30, 2023. The directive is accessible on VHA's publications website at <https://www.va.gov/vhapublications/>. As each individual national standard of practice is finalized, it is published as an appendix to the directive and accessible at the same website.

To develop these national standards, VA is using a robust, interactive process that adheres to the requirements of Executive Order (E.O.) 13132 to preempt conflicting state laws, rules, regulations, or other requirements. For each health care occupation, a workgroup comprised of VA health care professionals in the identified occupation conducts 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 VA. 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 tasks and duties. The workgroup then drafts a proposed VA national standard of practice using the data gathered and any internal stakeholder feedback received. The workgroup may consult with internal or external stakeholders at any point throughout the process.

The process to develop VA national standards of practice includes listening sessions for members of the public, professional associations, and VA employees to provide comments on the variance between state practice acts for specific occupations and what should be included in the national standard of practice for that occupation. The listening session for Massage Therapists was held on August 31, 2023. No professional associations presented comments on the Massage Therapist standard of practice.

After the proposed standard is developed, it is first internally reviewed. This includes a review from an interdisciplinary VA workgroup consisting of representatives from Quality Management, VA medical facility Chief of Staff, Academic Affiliates, Veterans Integrated Services

Network (VISN) Chief Nursing Officer, Ethics, Workforce Management and Consulting, Surgery, Credentialing and Privileging, VISN Chief Medical Officer, and Electronic Health Record Modernization.

After the internal review, VA provides the proposed national standard of practice to our DoD partners as an opportunity to flag inconsistencies with DoD standards. VA also engages with labor partners informally as part of a pre-decisional collaboration. Consistent with E.O. 13132, VA sends a letter to each state board and certifying organization or registration organization, as appropriate, which includes the proposed national standard and offers the recipient an opportunity to discuss the national standard with VA. After the state boards, certifying organizations, or registration organizations have received notification, the proposed national standard of practice is posted in the **Federal Register** for 60 days to obtain feedback from the public, professional associations, and any other interested parties. At the same time, the proposed national standard is posted to an internal VA site to obtain feedback from VA employees. Responses received through all vehicles—from state boards, professional associations, unions, VA employees, and any other individual or organization who provides comments via the **Federal Register**—will be reviewed. VA will make appropriate revisions in light of the comments, including those that present evidence-based practice and alternatives that help VA meet our mission and goals. VA will publish a collective response to all comments at <https://www.va.gov/standardsofpractice/>.

The national standard of practice is then finalized, approved, and published in VHA policy. Any tasks or duties included in the national standard will be properly incorporated into individual VA health care professionals' privileges, scope of practice, or functional statement once it has been determined by their VA medical facility that the individual has the proper education, training, and skills to perform the task or duty. Implementation of the national standard of practice may be phased in across all VA medical facilities, with limited exemptions for health care professionals as needed.

### Format for the Proposed National Standard for Massage Therapist

The format for the proposed national standards of practice when there are state licenses, registrations, or certifications is as follows. The first paragraph provides general information

about the profession and what the VA health care professionals can do. For this national standard, Massage Therapists skillfully assess and manipulate the soft tissues of the human body for therapeutic purposes. Massage Therapists assess patients, develop evidence-based, individualized massage therapy treatment plans, and participate as members of interdisciplinary health care teams. We reiterate that the proposed standard of practice does not contain an exhaustive list of every task and duty that each VA health care professional can perform. Rather, it is designed to highlight generally what tasks and duties the health care professionals perform and how they practice within VA.

The second paragraph references the education and license, registration, or certification needed to practice this profession at VA. Qualification standards for employment of health care professionals by VA are outlined in VA Handbook 5005, Staffing, dated July 8, 2024. VA follows the requirements outlined in its qualification standards even if the requirements conflict with or differ from a state requirement. National standards of practice do not affect those requirements. For Massage Therapists, VA qualification standards require an active, current, full, and unrestricted state license, registration, or certification.

The second paragraph also notes whether the national standard of practice explicitly excludes individuals who practice under “grandfathering” provisions. Qualification standards may include provisions to permit employees who met all requirements prior to revisions to the qualification standards to maintain employment at VA even if they no longer meet the new qualification standards. This practice is referred to as grandfathering. Massage Therapists have grandfathering provisions included within their qualification standards, and VA proposes to have those individuals authorized to follow the Massage Therapist national standard of practice.

Therefore, there would be no notation regarding grandfathered employees in the national standard of practice as they would be required to adhere to the national standard as any other VA Massage Therapist who meets the current qualification standards.

The third paragraph establishes what the national standard of practice will be for the occupation in VA. It includes whether the profession can practice all duties covered by their license, certification, or registration. For Massage Therapists, they can perform all tasks and duties authorized under their applicable license, registration, or certification. VA reviewed the state laws and practice acts for Massage Therapists on November 2023 and did not identify any conflicts that impact practice of this profession in VA.

This national standard of practice does not address training because it will not authorize VA Massage Therapists to perform any tasks or duties not already authorized under their state license, registration, or certification.

Following public and VA employee comments and revisions, each national standard of practice that is published in policy will also include the date for recertification of the standard of practice and a point of contact for questions or concerns.

#### **Proposed National Standard of Practice for Massage Therapist**

**Note:** All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

1. Massage Therapists skillfully assess and manipulate the soft tissues of the human body for therapeutic purposes. Massage Therapists assess patients, develop evidence-based, individualized massage therapy treatment plans, and participate as members of interdisciplinary health care teams. They use their hands, arms, knees, and feet to perform soft tissue manipulation. Massage Therapists incorporate active and passive range of motion exercise. They also utilize devices and tools to

mimic or enhance manual therapy; incorporate adjunctive modalities; educate patients in health promotion, disease prevention and holistic self-care methods; and facilitate mind-body awareness to achieve healing.

2. Massage Therapists in the Department of Veterans Affairs (VA) possess the education and license, registration, or certification required by VA qualification standards. See VA Handbook 5005, Staffing, Part II, Appendix G56, dated March 12, 2019.

3. VA Massage Therapists can practice all duties covered by their license, local registration, or local certification; or practice in accordance with the National Certification Board for Therapeutic Massage and Bodywork certification, available at: <https://ncbtmb.org/>. VA reviewed the state laws and practice acts for Massage Therapists on November 2023 and did not identify any conflicts that impact practice of this profession in VA.

#### **Request for Information**

1. Is VA’s assessment of what states permit and restrict accurate?
2. Are there any areas of variance between state licenses, certification, registration, or other requirement that VA should preempt that are not listed?
3. Is there anything else you would like to share with us about this VA national standard of practice?

#### **Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on July 17, 2024 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.

**Michael P. Shores,**

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

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