



North Carolina Board of Physical Therapy Examiners

NEWSLETTER

Issue 22

1st Quarter 1999

Board Acts to Prohibit Non Licensed Individual from Practicing as a Physical Therapist Assistant

On August 11, 1998 the Board received information that Travis W. Powell was representing herself and practicing as a physical therapist assistant. Upon advice of legal counsel, the Board Chairman immediately issued a subpoena to investigate the allegations. The Board's investigator and executive director interviewed Ms. Powell and her employer on August 12, 1998. Ms. Powell did not return to work and tendered her resignation shortly thereafter.

After conducting a thorough investigation into the allegations, it was determined that Ms. Powell had worked as a physical therapist assistant in at least four settings over the past three years using fraudulent renewal cards. None of her

employers had verified that she had a valid license upon her initial hiring or annual renewal.

On September 4, the Executive Director swore out warrants for Ms. Powell's arrest for practicing without a valid physical therapist assistant license in Cabarrus, Rowan, and Davidson Counties. The District Attorneys (Mark L. Speas, William D. Kenerly, Eugene T. Morris, Jr.) were extremely cooperative with the Board Office in prosecuting these cases and are to be commended for their diligence in assisting with the protection of the health, safety, and welfare of the general public against an unlicensed practitioner.

Ms. Powell pled guilty to misdemeanor

charges and received the following sentences:

Cabarrus County: be imprisoned for a term of 10 days in the custody of the sheriff, suspended with 70 months of unsupervised probation, court costs, and cannot participate in physical therapy unless licensed to practice in North Carolina.

Rowan County: sentenced to thirty (30) days in jail, suspended for three (3) years. Fined \$100.00, and not allowed to practice physical therapy until/unless properly licensed.

Davidson County: court costs and received a prayer for judgement continued.

Chairman's Message J. HERMAN BUNCH, Jr., PT, M.Ed. Past...Present...Future



Over the past year of 1998 a number of accomplishments have been achieved:

- The Governor has re-appointed Geraldine Highsmith, PT, and JoDell King, PTA, to the NCBPTE.
- A new lease has been negotiated for offices in the same location but with more space for the Board.
- Over the past year the Infractions Committee has investigated over seventy (70) complaints—the largest number of

complaints we have ever had in one year.

- Members of the Board have been to a variety of organizational meetings, and some of the members are officers in the Federation and other organizations dealing with Board-related activities.

In projecting some of the activities for 1999, the Board will ask the General Assembly to approve fee increases. These fees are necessary for operating expenses and for dealing with the large number of complaints which require investigations. A significant number of Physical Therapists are without jobs for the first time because of organizational downsizing utilizing more Physical Therapy Assistants and Physical Therapy aides. Physical Therapists are being asked to supervise increasing numbers of aides and Physical Therapy Assistants in order to enable organizations to reduce expenses. These actions have triggered many complains by patients (consumers) about the practices. Patients are stating that they see a professionally trained, Licensed

Physical Therapist one time but never see one again during the entire course of treatments. Several Physical Therapists have been investigated and the investigations revealed that the complaints were indeed valid. The Physical Therapists found guilty have been accordingly penalized by the Board. The responsibility of the supervising Physical Therapists is to supervise and provide proper oversight of the treatment of patients under their care.

My vision for the future includes the hope that the number of complaints against Physical Therapists and Physical Therapist Assistants, will rapidly decrease, and that concerns for proper patient supervision and care will rise. John Silverstein, Board Attorney, has written an article in this newsletter concerning safe and unlawful practice. I would urge each of you to read this article, as well as the others in the newsletter, with careful and diligent attention to sound professionalism. The Physical Therapy Practice Act is designed to assist us and to protect individuals in need of our care.

SAFE AND LAWFUL PRACTICE

John M. Silverstein, Attorney

Practice trends are mirrored in questions presented to the Board office relating to the scope of physical therapy practice. It was not that long ago that the shortage of licensed physical therapists in this country led the Immigration and Naturalization Service (INS) to place physical therapists in the highest preference category for professionals seeking immigration to the United States. Now, physical therapists and physical therapist assistants are losing jobs, and the manner in which the physical therapist is being used as the focal point for the delivery of physical therapy services is undergoing dramatic changes. Nevertheless, the Practice Act has not changed, and it is important to begin to examine some of these recent trends to determine if the demands being placed on physical therapists are consistent with the requirements of the Physical Therapy Practice Act.

In essence, the requirement that the physical therapist supervise physical therapist assistants and physical therapy aides in the provision of physical therapy services is being tested to its limits – and beyond. The Board has recently reviewed several examples to support this conclusion. Physical therapists are supervising more and more personnel, with the result that the physical therapist is spending less time with each patient. Physical therapists are being asked to supervise unlicensed individuals who are not considered physical therapy aides, but the Practice Act has no provisions for the supervision of personnel who are not assisting or aiding in the practice of practice therapy. Some physical therapy aides have their own patient loads, and while such a development may not be inherently unlawful, the aide is still prohibited from



engaging in any independent performance of physical therapy procedures, and a licensee is required to provide on-site supervision at all times.

On the other hand, physical therapy personnel, including physical therapists, frequently find themselves being supervised by persons licensed in other disciplines who are not as cognizant of the requirements of the Practice Act as are physical therapists, which can increase the potential for Practice Act violations to occur. At the same time, physical therapists are being asked to stretch the limits of their own scope of practice and perform screens or evaluate patients for conditions or symptoms that would be treated by a health care practitioner whose scope of practice does not include physical therapy.

The Board has been advised that some physical therapists are being requested to include discharge planning at the time a patient is evaluated. The remainder of the patients' treatment is handled by a physical therapist assistant. At a minimum, each patient should be reevaluated by the

physical therapist prior to discharge to see if the goals have been attained. Normally, during the course of treatment the patient will be evaluated, reevaluated as needed and discharged, each of which is a separate evaluative procedure that must be performed by a physical therapist. A physical therapist assistant is prohibited from performing evaluations or from making any modification in the patient's treatment program that is not minor. In other words, a physical therapist should not evaluate a patient, establish a treatment program and then have no further contact with the patient.

In more than twenty years of representing the North Carolina Board of Physical Therapy Examiners, I have observed a scope of practice of physical therapy that is dynamic and evolving. However, the principles of the Physical Therapy Practice Act that delineate the scope of practice have remained unchanged. The physical therapist must be the polar star in the delivery of physical therapy services. A physical therapist must evaluate each patient before physical therapy treatments are undertaken, before modification of the treatment program occurs and before a patient is discharged from physical therapy. The physical therapist must determine that physical therapy services are being delivered by qualified personnel under appropriate supervision.

At a time when physical therapists are being requested to test the limits of lawful practice in supervising personnel, as well as in the nature of services they are being requested to perform, every physical therapist and physical therapist assistant must remember that no licensee is ever relieved of his or her obligation to comply with the requirements of the North Carolina Physical Therapy Practice Act.

ANONYMOUS COMPLAINTS

Below is an anonymous complaint that was received by the Board Office and a response from John M. Silverstein, Board Attorney:

Dear Board:

I have been given a tip that there is [an unlicensed person] who is practicing as a PT, performing evaluations and billing under PT services. Granted this information is second hand and I do not have any personal knowledge that this is occurring, but my sources are trustworthy. I am giving the board this information to do with as you see fit. The business name is _____ and the proprietor is _____. I hope that there will be some type of investigation to determine if this is an illegal practice.

Response: The letter above was sent to the Board, and the blank spaces represent portions that have been edited. As has been stated many times in the past, the Board does not act on anonymous "tips." If a matter is important enough for the Board to investigate, the complainant should be willing to furnish the Board with the name and address of a person who has knowledge of the illegal activity. Otherwise, the Board would simply be participating in a "fishing expedition" that could subject the Board to a loss of credibility or even liability if it is determined there was no basis for the investigation.

NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS

Board Orders / Consent Orders / Other Board Actions July, Aug, Sept, Oct, Nov, Dec, 1998

Surrender of License (1)

Oliver, Janine A., PT, (Surrender of License), Consent Agreement
Location: Beaufort County, NC
License #: PT 3522
Conduct: Engaging in conduct that could result in harm or injury to the public. Inadequate documentation of physical therapy evaluations and treatments.
Discipline: October 8, 1998, Consent Order executed. Board approved a motion to allow Ms. Oliver to surrender her license to practice physical therapy in North Carolina.

Warning

Johnson, Georgia J., PTA, (Warning)
Location: Camden County, NC
License #: PTA 2180
Conduct: Engaging in the practice of physical therapy when her license had not been renewed.
Discipline: Warning was issued by the Board on December 17, 1998.

Reprimands

At the July 9, 1998 Board Meeting, one reprimand was issued to a licensee. At the October 8, 1998 Board Meeting four (4) reprimands were issued to licensees.

From the Executive Director **BEN F. MASSEY, JR., PT**

Anually, the Board's Executive Director fields more than 1,000 telephone calls and 250 e-mails regarding practice issues. These calls and e-mails have increased significantly over the past three months as a result of changes in reimbursement and a tight job market. The majority of these calls and e-mails request clarification regarding appropriate supervision.

Physical therapists and assistants state that they are being asked "to do things" that they do not feel are legal or ethical. They further state that when they question their corporate supervisors about their concerns, the supervisor's response is "you can do as you are told, resign, or face termination." The therapists and assistants report that the job market is completely saturated and that there are no job openings.

Physical therapist assistants call to obtain information that would require their physical therapist supervisor to provide better supervision. Physical therapists call, at the bequest of their corporate supervisors, to clarify the minimal supervision requirement to avoid violating the



Ben F. Massey, Jr., PT

Practice Act. Therapists and assistants are caught in the middle between economic pressures and legal requirements.

The Board has made a concerted effort to provide licensees with information regarding legal practice. The Third Edition of **Practice Under Pressure** was made available on our web page (www.ncptboard.org) at no cost in November, 1998. **Practice Under**

Pressure is a reference book specifically devoted to supervision issues in North Carolina that was developed by the Licensure Board in collaboration with the North Carolina Physical Therapy Association. The **Practice Act** and Board's Rules have been available on the web page for several months.

Regardless of the pressures, physical therapists and assistants must be vigilant in following the **Practice Act** and Board's Rules. The purpose of the **Practice Act** and Rules is to protect the health, safety, and welfare of the general public. The **Practice Act** was adopted by the General Assembly in 1985 and the Board's Rules were recently amended in 1998.

Many of the phone calls that are received by the Executive Director suggest that licensees feel that the Board should consider tightening the law and rules regarding supervision to discourage abuse by licensees and corporations. The Board hears your concerns and is looking at various ways to respond. Communication of concerns and problems is the first step to developing a strategy to address the issues.

Tentative Schedule of Board Activities

| | |
|----------------|----------------------------------|
| March 11, 1999 | Board Meeting* |
| March 23, 1999 | Investigative Committee Hearing* |
| June 24, 1999 | Board Meeting* |

* Call Board Office for details.

WEB PAGE...ncptboard.org

As reported in the previous issue of the Newsletter, the Board has a Web Page (ncptboard.org). We encourage all licensees to visit the web page at least once a month to keep up with any changes that may affect the practice of physical therapy (*add our web page to your bookmarks!!*). All important notices and announcements will be placed on the web page. In addition, you will find a copy of the Practice Act, Rules, disciplinary actions, and other information related to the practice of physical therapy.

North Carolina Board of Physical Therapy Examiners

Board Members

J. Herman Bunch, Jr., PT
Chairman, Raleigh
JoDell F. King, PTA
Secretary - Treasurer, Erwin
James L. Comadoll, MD
Salisbury
Geraldine K. Highsmith, PT
Raleigh
Gloria Lewis
Public Member, Henderson
Randall C. Stewart, PT
Rocky Mount
Judy A. White, PT
Chapel Hill
Thomas Wilson, PTA
Elon College

Staff

Ben F. Massey, Jr., PT
Executive Director
Cynthia D. Kiely
Administrative Assistant
Diane Kelly
Receptionist
Pam Kelly
Office Assistant

Legal Counsel

John M. Silverstein, Esquire

NC Board of PT Examiners
18 West Colony Place, Suite 120
Durham, NC 27705
919-490-6393
800-800-8982
Fax 919-490-5106
NCPTBoard@mindspring.com
Web page ncptboard.org

Summary of Fees

| | |
|---------------------------------|----------|
| Renewal (PT & PTA) | \$ 40.00 |
| Revival Fee and Renewal Fee | 65.00 |
| Application Fee PT | 100.00 |
| Application Fee PTA | 90.00 |
| Exam Cost (PT & PTA)* | 185.00 |
| Exam Retake Fee | 30.00 |
| Transfer Fee | 15.00 |
| Licensee Directory | 6.24 |
| License Card | 6.00 |
| Labels of Licensees (PT or PTA) | 60.00 |
| Certificate Replacement | 15.00 |
| *plus PT or PTA Application Fee | |

Appointments and Elections

In October, 1998 Geraldine K. Highsmith, PT and JoDell F. King, PTA were reappointed by Governor Hunt to serve additional three year terms from 1998 - 2000. Following these appointments the Board conducted an election of Officers at the December 17, 1998 Board Meeting. J. Herman Bunch, Jr., PT was reelected by acclamation as Chairman and JoDell F. King, PTA was reelected by acclamation as Secretary - Treasurer. In 1999, the Governor is scheduled to appoint a physical therapist, physician, and public member.

Forum: Question and Answers

Q: Can a physical therapist store prescription medications on the premises?

A: This question was addressed in Issue 8 of the Board Newsletter. In consulting with the Executive Director of the Board of Pharmacy, David Work, the Board has determined that it would not be a violation of the Pharmacy Practice Act to store prescription drugs (but not controlled substances) that have been prescribed by a physician for use with a particular patient.

Note to licensees: Recently, as a result of a review of illegible patient physical therapy medical records, the Investigative Committee requested that the therapist provide typed records; therefore, the Investigative Committee encourages all therapists to write legibly or have your notes typed.

Change of Address / Name / Licensee Directory Correction Form

Current Name _____ New Name _____ PT _____ PTA _____
New Home Address _____
New Home City, State, Zip _____ Phone _____
New Work Address _____
New Work City, State, Zip _____ Phone _____ Fax _____
License # _____ Mail or Fax to: NC Board of PT Examiners,
18 West Colony Place, Durham, NC 27705 Fax 919-490-5106 E-mail: ncptboard@mindspring.com

7000 copies of this public document were printed at a cost of \$1,340 or .19 cents per copy.

North Carolina
Board of Physical Therapy Examiners
18 West Colony Place, Suite 120
Durham, N.C. 27705

BULK RATE
U.S. POSTAGE
PAID
DURHAM, N.C.
PERMIT NO. 947