



North Carolina Board of Physical Therapy Examiners NEWSLETTER

ISSUE 40

NOVEMBER 2008

Professional Responsibilities

By Paula B. Schrum, PT, MBA, Chair



As I complete the last few months of my second and final term as a Board member, it is appropriate to reflect on some of the issues that the Board has confronted during my tenure as a Board member, then Chair. I would like to commend the Board for making tremendous strides in further defining the scope of physical therapy practice, addressing issues related to supervision, entering into an Agreement with the Board of Nursing to deal with problems related to chemical dependence, and especially for developing a comprehensive package of rules requiring licensees to demonstrate continuing competence as a condition of license renewal.

As I leave the Board, I would like to address professional responsibility. It is imperative that licensees embrace the responsibility to know and understand the Practice Act and Board's rules. Numerous times over the past six years, licensees have stated that they did not keep up with changes in rules adopted by the Board.

The Board goes above and beyond

what is required by the Office of Administrative Hearings (OAH) and the Rules Review Commission to enact Rules, which is to publish proposed rules in the North Carolina **Register**, conduct Public Hearings, and have a period of public comment. For example, before adopting rules governing continuing competence, our Board conducted statewide forums, posted proposed rules, and updated changes on the Board's web page to solicit comments. The Board has a responsibility to communicate with licensees and the web page is the Board's primary vehicle for communication. Licensees have a professional responsibility to read the Board's web page and stay informed; therefore, we encourage all licensees to visit the web page at least monthly.

The Board has appreciated the comments it received regarding continuing competence and incorporated many suggestions into its final version submitted to the Rules Review Commission. Following the adoption of the rules by the Rules Review Commission, the Board will publish a Special Edition of the Board Newsletter to publicize the rules.

On a different subject, the Board recently posted several important articles, alerts, and notices that could directly impact licensees and especially managers who supervise therapists and assistants. On August 27, 2008, the Board posted an alert regarding an unlicensed former physical therapist assistant who was applying for jobs posing as a licensed physical therapist using fraudulent

identification. Although the Board received very positive feedback for its quick action in addressing this illegal action, many managers and licensees remained vulnerable because they do not visit the web page on a routine basis.

Regardless of practice pressures, licensees should accept the professional responsibility of understanding the laws and regulations that govern their practice. Professional responsibility means not only knowing the laws, but also following those laws and regulations.

Overall, I am extremely proud to be among a profession of licensees in North Carolina who practice with high standards and accept their professional responsibilities. North Carolina currently has approximately nine-thousand (9,000) physical therapy licensees. In the last six years, the Board has disciplined sixty-five (65) licensees, or less than 1% of individuals who are licensed by the Board. It's reassuring to know that an overwhelming majority of our colleagues accept their professional responsibility of knowing the law and practicing legally and ethically. We all can be proud of the professionalism, quality of service and leadership provided by the Executive Director, Ben Massey, the Board Attorney, John Silverstein, Administrative Licensing Manager, Cindy Kiely, and the Board staff. I leave this office knowing that our profession is in good hands, and with deep appreciation for the opportunity to serve on the Board.

Before Continuing Competence

By John M. Silverstein, Board Attorney



In 2006, the North Carolina General Assembly granted to the Board of Physical Therapy Examiners the power to “(3a) establish mechanisms for assessing continuing competence of licensed physical therapists or physical therapist assistants to engage in the practice of physical therapy, including approving rules...to obtain license renewal or

reinstatement;” A great deal of the Board’s attention has been focused on developing rules pursuant to this authority, and licensees have kept up with these developments through this Newsletter, forums conducted across the State and the Board’s website.

It is understandable that licensees are showing great interest in the new requirements for assessing *continuing* competence; however, licensees should not lose sight of the fact that competent practice has always been a requirement of the Physical Therapy Practice Act. GS 90-270.36 gives the Board the authority to impose disciplinary action for “(7) The commission of an act or acts of malpractice, gross negligence or *incompetence* in the practice of physical therapy;” (emphasis added).

At the same time the Legislature was amending the Physical Therapy Practice Act, the Board was in the process of amending rules related to documentation requirements for all licensees. 21 NCAC 24C .0102(l) lists the documentation requirements for every evaluation and intervention/treatment by a physical therapist, and 21 NCAC 48C .0201(f) lists the requirements for every intervention/treatment by a physical therapist assistant. The complete rules can be found at the Board’s website, but the first seven requirements are essentially the same for each licensee; that is (1) signature and designation by the licensee performing the service; (2) date of service; (3) times of treatment during session; (4) patient status report; (5) changes in clinical status; (6) identification of specific elements of service; and (7) equipment provided. For physical therapists, the eighth requirement is “Interpretation and analysis of clinical signs and symptoms and response to treatment based on subjective and objective findings, including any adverse reactions to an intervention.” For physical therapist assistants, the final requirement is “Response to treatment based on subjective and objective findings, including any adverse reactions to an intervention.” Physical therapists are also required to comply with 21 NCAC 48C .0102(m), which requires documentation at least every thirty days of (1) the patient’s response to intervention; (2) progress toward achieving goal; and (3) justifications for continuing treatment.

In the course of reviewing patient treatment records subpoenaed pursuant to investigations, the Board’s Investigative Committee has been dismayed by the lack of compliance with the rules regarding documentation. The failure of a licensee to comply with documentation requirements will be considered incompetence in the practice of physical therapy that would subject the licensee to disciplinary action by the Board. All licensees supervising and/or

engaged in patient treatment should make certain that each of the elements of 21 NCAC 48C .0102(l) and (m) for physical therapists and 21 NCAC 48C .0201(f) for physical therapist assistants are present in the patient treatment record.

It is encouraging that most licensees have embraced the notion that it is an essential element of public protection for licensees to demonstrate continuing competence in the practice of physical therapy. It is even more important for licensees to keep abreast of practice requirements embodied in the Board’s Rules and elaborated upon in the Board’s Position Statements, all of which can be found at the Board’s website. Before a licensee addresses the requirements of continuing competence, he or she must be engaged in the practice of physical therapy in a competent manner. Frequent review of the Practice Act, the Board’s Rules and Position Statements is an important element of competent practice.

Position regarding the Performance of Massage by PT’s & PTA’s

- Q:** My employer is hosting a health fair. Is it in my scope of practice as a licensed PT to perform fifteen (15) minute massage demonstrations on voluntary participants?
- A:** Therapeutic massage is a component of physical therapy intervention. If you are advertising and performing strictly massage, then you may need a license to practice Massage Therapy and may wish to consider contacting the Massage Therapy Board; however, if you’re using massage as a component of a therapy session / screening such as also evaluating posture, flexibility, strength, and you determine that massage is indicated, then message would be an appropriate component of physical therapy.
- Q:** Can a physical therapist employ a massage therapist in a physical therapy practice?
- A:** Massage therapists are licensed pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes. So long as massage therapists are held out to the public in that capacity, the Physical Therapy Practice Act does not prevent their employment in a physical therapy clinic or department. However, if the patient is first evaluated by the physical therapist, and the patient is billed for physical therapy, a massage therapist involved in that patient’s treatment must be considered to be a physical therapy aide, and cannot have an independent patient load. In essence, if the physical therapist is involved in the patient treatment, the massage therapist must be supervised as a physical therapy aide; if the massage therapist is treating the patient independent of the physical therapist, and the patient is not being billed for physical therapy, the massage therapist can engage in practice pursuant his or her practice act.

North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions

January 2008 – August 2008

Casper, Angela W., PTA (Suspension)

Location: Greenville, NC, Pitt County

License #: A-1292

Conduct: Failure to follow treatment orders, practicing beyond the scope of work of a physical therapist assistant, and failure to document treatment in patient records.

Discipline: Suspension for one (1) year with fifteen (15) days active and the remaining period stayed with conditions. Licensee must pay the cost of the investigation. (Executed - June 19, 2008)

Paul E. Underwood, PT (Suspension)

Location: Charlotte, NC, Mecklenburg County

License #: P-2647

Conduct:

1. Recording false and misleading data, measurements or notes regarding a patient,
2. Billing or charging for services or treatment not performed, and
3. Conviction of a felony in the United States District Court for the Western District of North Carolina.

Discipline: Suspension for four (4) years retroactive to June 20, 2004, the date his license was surrendered. Underwood must complete eight (8) hours of continuing education in 2008 and pay the cost of the investigation prior to the revival of his license, which will be issued with conditions requiring ongoing supervision and completion of the Jurisprudence Exercise. (Executed - June 19, 2008)

Tanas, Nabila, PT (Suspension)

Location: Raleigh, NC, Wake County

License #: P-2825

Conduct:

1. Failure to appropriately supervise physical therapy aides,
2. Failing to document patient treatment notes and billing patients for treatment received,
3. Continuing physical therapy treatments beyond the time patients had reached treatment goals.

Discipline: Suspension for one (1) year with ten (10) days active and the remaining period stayed with conditions. Tanas must complete the Jurisprudence Exercise, and pay the cost of the investigation. (Executed – August 28, 2008)

Hultz, Richard, PT (Suspension)

Location: Greensboro, NC, Guilford County

License #: P-7136

Conduct:

1. Recording false and misleading data, measurements or notes regarding a patient, and
2. Billing or charging for services or treatment not performed.

Discipline: Suspension for one (1) year with ninety (90) days active and the remaining period stayed with conditions. Hultz must take an Ethics Course, complete the Jurisprudence Exercise, and pay the cost of the investigation. (Executed - June 19, 2008, Suspension effective June 23, 2008)

Forbes, Allan R, PT (Probation)

Location: Durham, NC, Durham County

License #: P-4009

Conduct:

1. Recording false and misleading data, measurements or notes regarding patients,
2. Billing or charging for services or treatment not supported by documentation, and
3. Basing continued treatment on the extent of third party benefits instead of patients' conditions.

Discipline: Probation with conditions for a period of 1 year and pay cost of the investigation. (Executed - August 28, 2008)

Stack, Kenneth P., PT (Warning)

Location: Raleigh, NC, Wake County

License #: P-8899

Conduct: Failure to accurately complete patient notes.

Discipline: Warning and pay cost of the investigation. (Executed – August 28, 2008)

Jones, Shondell L. PT (Warning)

Location: Greenville, NC, Pitt County

License #: P-9060

Conduct: Failure to exercise appropriate supervision over physical therapist assistants.

Discipline: Warning and pay the cost of the investigation. (Executed - June 19, 2008)

Hafer, Lyndsey Rae, PTA (Surrender of License)

Location: Asheville, NC, Buncombe County

License #: A-2113

Conduct: Obtaining positions in two facilities by posing as a physical therapist using the identity and personal information of a North Carolina licensee with whom she had worked.

Discipline: License was voluntarily surrendered on July 28, 2008.

Letters of Caution: The Board issued thirteen (13) Letters of Caution for licensees for failure to renew license by February 1, 2008.



21 NCAC 48F .0105 CHANGE OF NAME AND ADDRESS REQUIRED

Each licensee must notify the Board within 30 days of a change of name or work or home address. [History Note: Authority G.S. 90-270.27; Eff. August 1, 2002.]

Addresses can be changed by the licensee on the Licensure Board's web page (www.ncptboard.org) or by letter, fax (919-490-5106), or call the Board's office @919-490-6393 or 800-800-8982.

North Carolina Board of Physical Therapy Examiners

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Calendar of Events *Dates are tentative / please confirm by contacting Board Office (800-800-8982)

Nov 6, 2008 (Thurs)	Investigative Committee Meeting *- (8:00 a.m. – 1:00 p.m., Satsky and Silverstein Law Firm, Raleigh, NC)
Dec. 4, 2008 (Thurs)	Board Meeting *- (8:30 a.m. - 4:30 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC, http://www.sienahotel.com/)
Dec. 11, 2008 (Thurs)	Investigative Committee Meeting *- (8:00 a.m. – 1:00 p.m., Satsky and Silverstein Law Firm, Raleigh, NC)
Jan 1, 2009 (Thurs)	Rules regarding continuing competence go into effect (<i>pending approval by the Rules Review Commission</i>)
Jan 22, 2009 (Thurs)	Investigative Committee Meeting *- (8:00 a.m. – 1:00 p.m., Satsky and Silverstein Law Firm, Raleigh, NC)
Jan. 31, 2009 (Sat)	Final Deadline for License Renewal.
Mar. 12, 2009 (Thurs)	Board Meeting *- (8:30 a.m. - 4:30 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC, http://www.sienahotel.com/)
June 18, 2009 (Thurs)	Board Meeting *- (8:30 a.m. - 4:30 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC, http://www.sienahotel.com/)

Notice

In an effort to modernize the **North Carolina Physical Therapy Practice Act**, which was last revised in 1985, the North Carolina Physical Therapy Association (NCPTA) has drafted legislation that will be considered for introduction in the North Carolina General Assembly in 2009. For information, all licensees may contact Rick Young, NCPTA Director of Practice, dalpractice@windstream.net.

Board Presentations

Explaining new Continuing Competence Requirements

For more information, go to Board’s web page.

- Jan. 8, 2009 – Wilmington, NC
- Jan. 27, 2009 – Charlotte, NC
- Feb. 10, 2009 – Fayetteville, NC
- Feb. 17, 2009 – Greenville, NC
- Mar. 3, 2009 – Raleigh, NC
- Mar. 24, 2009 – Asheville, NC

N.C. Licensure Statistics

(As of October 8, 2008)

	Licensed	Reside	Work
PTs	6,227	5,021	4,281
PTAs	2,722	2,399	2,000

9,500 copies of this public document were printed at a cost of \$1,473.00 or .155 cents per copy.

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