



North Carolina Board of Physical Therapy Examiners NEWSLETTER

ISSUE 30

SUMMER 2003

Message from the Board Chair

Patricia S. Hodson, PT



As I assume my role as the newly elected Chair of the North Carolina Board of Physical Therapy Examiners, I would be remiss if I did not

express our sincerest appreciation to our outgoing chair and Board member, Judy White, who has recently been replaced after serving 2 three-year terms on the Board. Throughout her service on the Board and for the past three years as chair, Judy has provided sound leadership, clinical and academic expertise, and fiscal responsibility. Judy has always recognized that public protection is the Board's top priority.

During her tenure as chair, Judy had responsibility for guiding significant revisions to the Board's rules through the Rules Review Commission and the General Assembly. Judy made an excellent presentation before the Joint Legislative Oversight Committee in defense of the Board's rules. Judy led public forums and public hearings to solicit input from licensees and the citizens of North Carolina.

As an educator, Judy felt that the role of the licensure board included reinforcing basic principles of safe and legal practice for licensees, so she

spearheaded Board sponsored statewide educational programs on supervision issues. She also served on a task force on continuing competence and as a member of the Board's Finance Committee.

Additionally, Judy has been involved in physical therapy licensure issues on the national level. Since her appointment to the PT Board in 1995, Judy has served on the Education Committee and as a member and chair of the Examination Development Committee of the Federation of State Boards of Physical Therapy. At the Federation's Annual Conference in September 2002, Judy was selected to receive the prestigious President's Award. The recipient is honored by the President in recognition of outstanding contributions to the Federation. At the same conference, Judy was also elected to serve a three-year term as a member of the Board of Directors of the Federation.

As much as we will miss Judy's leadership and participation on the Board, we are pleased to welcome our newest member. On April 29, 2003, Governor Easley appointed Paula Schrum, PT, for a three-year term. Paula is the Director of the Physical/Occupational Therapy Department at Carolinas Medical Center in Charlotte. Paula received her physical therapy degree from the University of North Carolina at Chapel Hill in 1977 and her MBA from Pfeiffer University in 1997. The Board is eager to tap into Paula's wealth of clinical expertise and administrative knowledge.

In addition, Governor Easley has reappointed Eric Smith, PTA. Eric was elected by the Board to continue serving as Secretary-Treasurer, an office he has held since 2001, and was reappointed to the Finance and Audit Committee for 2003. We are fortunate to be able to continue to utilize his history and experience on the Board and are pleased that he is willing to continue serving for three more years.

As Chair, I have appointed J. Herman Bunch, Jr., PT, to serve as the Board Member to the Investigative Committee. Having previously served in this position from 1995-1999, I am confident that Herman's knowledge and experience of the disciplinary process will be an asset to this Committee.

There are numerous issues that other state physical therapy boards are considering. These include: practice act revisions, continuing competence, jurisprudence examinations, physical therapy for animals, interaction with other licensed professionals, credentialing of foreign educated physical therapists and assistants, expanding the definition of physical therapy to include non-traditional interventions, continuing to provide necessary services at the lowest possible cost, and supervision responsibilities. Please feel free to share your thoughts regarding these issues or other licensure/regulatory issues with the Board (ncptboard@mindspring.com).

I look forward to serving the Board as Chair.

Reader's Forum

By John M. Silverstein, Board Attorney



From time to time, the Board receives letters from licensees critical of Board actions, policies or procedures. Frequently, the objectionable activity is caused by mandates to the Board based on state or federal law. For example, each year a few licensees will object to furnishing their social security numbers or having an address included in the Directory. However, North Carolina law requires the Board to

obtain social security numbers from licensees for child support enforcement purposes, and federal law allows such disclosure to child support enforcement agencies. NCGS §90-270.27 requires the Board to keep a record of its licensees, including business and home addresses. Under North Carolina law, any information obtained by the Board in its regular course of business is a public record, and the Board has no authority to exclude such information from its Directory.

The following letter to the Board's chair offers a different criticism:

"Recently I received the Fall 2002 Newsletter of the Board, and once again I was appalled at the very minimal punishment given to an individual...for documenting and billing for treatments that were not performed.

..., I take this to be fraud. Yet, time and again, I have seen the Board mete out nothing more than a slap on the wrist: "6 months suspension, 1 month active and the remaining period stayed with conditions."

I do not want people who would do this in my profession. It weakens us all. You are sending a message that this is not so serious. I feel that these individuals should lose their license permanently. We are stunned by the corporate fraud that has been revealed in our nation in the past 18 months, yet among our own, the message seems to be a slap on the wrist, a wink, and, "now, get back out there working with the folks you're screwing over."

I hope you will share this letter with the other members of the Board, and with Ben Massey and John Silverstein. The Board is really doing the profession a disservice in being so lenient."

The Board has directed me to respond to this letter in this column in hopes of providing licensees a better understanding of the disciplinary process. Prior to beginning this discussion, however, the Board felt it was important to register and explain its strong disagreement with the writer's characterization of a licensure suspension as "very minimal punishment."

When a licensee is disciplined by the Board, in addition to the newsletter notice, the licensee's name and the nature of the offense are published on the Board's website for one year. Further, a Report of Disciplinary Action is forwarded to the National Practitioner Data Bank which serves as a clearinghouse for all disciplinary actions imposed on physical therapy licensees by any jurisdiction in the United States. Disciplined licensees are "flagged" by third-party payors, who routinely either exclude such licensees from their networks, or require a detailed explanation of the conduct for which discipline is imposed. Additionally, a

disciplined licensee can encounter difficulty in obtaining or retaining malpractice insurance. Moreover, license suspension is usually accompanied by termination of employment, which also impacts the licensee's family. It is therefore inconceivable that any licensee who has received an active suspension of his or her license would agree that the punishment was a "wink" or a "slap on the wrist."

Unfortunately, the Board has dealt with a number of cases that have involved licensees who have documented and billed for treatments that were not performed. Not all of these cases are alike. At one end of the spectrum, the Board has investigated cases of isolated incidents that had less to do with financial gain than with employment pressures or even vacation schedules. At the other end of the spectrum, the Board's investigations have revealed patterns of conduct designed to reward the practitioner to the detriment of patients who did not receive needed physical therapy interventions. Obviously, a pattern of conduct involving documentation and billing for "phantom visits" will be subject to more severe punishment than misstating patient treatment on one occasion.

The Board rejects the notion that the standard punishment for documenting or billing for treatments not performed should be license revocation. There are simply too many variables to paint with such a wide and severe brush. While the Board views its role in imposing disciplinary action in order to protect the public health, safety and welfare quite seriously, is also cognizant of the fact that each licensee who has committed a disciplinary action is not automatically a bad or evil person, nor an unprofessional or incompetent practitioner. In that regard, the Board does encourage any licensee who is disciplined to take the necessary steps to modify the behavior that lead to the violation in order that the licensee may return as a valuable and contributing member of the profession.

The most frequent discipline for documenting and billing for treatments that were not performed has been a one year suspension, six months of which are active, with the licensee also being required to reimburse the Board for its costs of investigation. A six month active suspension means the licensee cannot in any way be associated with the practice of physical therapy for six months. Depending on the nature of the violation and its impact on patients, the Board has in the past imposed longer periods of active and inactive suspension when it appears the conduct justified a more severe disciplinary action, and the discipline has been reduced when the documentation or billing involved one or two treatments on a single date.

The Board recognizes the importance of preserving the credibility and integrity of the profession. By the same token, it believes that rehabilitation and second chances are not invariably in conflict with its responsibilities to the public. Therefore, it will continue to consider the facts of each individual case before determining the appropriate disciplinary action, and will reserve the imposition of its most severe disciplinary sanction—license revocation—for the rare cases in which it is warranted.

-Continued Page 3-

North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions
Dec. 2002 – May 2003

Yane, Robert John, PT (Suspension)

Location: Raleigh, NC, Wake County
License #: P-8115
Conduct: Entering false and misleading information regarding timesheets.
Discipline: 6 months suspension, 1 month active and the remaining period stayed with conditions. (executed Dec. 16, 2002)

Clarke, James Richard, PT (Suspension)

Location: Rockville, MD
License #: P-7229
Conduct: After determining that the requirements of 21NCAC 48G .0601(b) were met in its entirety, the Board imposed the same sanction as the Maryland Board of Physical Therapy Examiners suspending Mr. Clarke's license for 2 years (stayed) and the subsequent probation.
Discipline: Suspension of license for a period of not less than 2 years (stayed) and subsequent probation. (executed Mar. 6, 2003)

Shell, Michael G., PTA (Warning)

Location: Mocksville, NC, Davie County
License #: A-1099
Conduct: Working as a physical therapist assistant when his license had not been renewed.
Discipline: Warning (executed Dec. 16, 2002)

Wooters, C. Renee, PT (Warning)

Location: Greenville, NC, Pitt County
License #: P-2641
Conduct: Failure to exercise appropriate supervision over a PTA.
Discipline: Warning (executed Mar. 6, 2003)

Roberson, Dawn Briley, PTA (Warning)

Location: Greenville, NC, Pitt County
License #: A-2223
Conduct: Performing activities beyond the scope of work for a PTA.
Discipline: Warning (executed Mar. 6, 2003)

Continued from Attorney's Column

On a final and personal note, I totally disagree with the letter writer's opinion that the Board is sending a message that it does not consider documenting and billing for treatments not performed as a serious offense and that it is, in effect, telling licensees who have been disciplined "now, get back out there working with folks you're screwing over." While it is inconceivable to me that anyone would consider public notice of disciplinary action and losing the ability to practice a profession for a period of time to be a "wink" or a "slap on the wrist", I am much more concerned that the letter writer impugns the integrity and character of the members of the North Carolina Board of Physical Therapy Examiners by suggesting the Board assists disciplined licensees in "screwing" their patients. The Board not only takes its responsibilities seriously, it is made up of good and decent people who are trying to do their very best to protect the public health, safety and welfare, as well as to consider the impact of their decisions on individual licensees. I do hope that other licensees agree that the integrity of Board members should not be in question as they continue to utilize their best efforts to make these most difficult decisions.

**TENTATIVE CALENDAR
FOR VOTING PROCESS OF APPOINTMENTS FOR 2004**

| | |
|-----------------------------|---|
| May 2003 | Call for Nominations letter sent to Licensees residing in North Carolina |
| June 27, 2003 | DEADLINE for nominations due back to <u>NCBPTE</u> Office |
| July 07, 2003 (week of) | NCPTA Representative, NCBPTE Representative, and NCBPTE Executive Director to open and count nominations |
| July 14, 2003 | NCBPTE to send out "consent to serve" letters to nominees regarding interest in serving on the Board |
| August 8, 2003 | Deadline for replies from nominees to the July 14, 2003 "consent to serve" letter |
| August 25, 2003 | Mail Ballots |
| October 01, 2003 | DEADLINE for returning ballots to <u>NCPTA</u> Headquarters |
| October 06, 2003 (week of) | NCPTA to open and count ballots (NCBPTE Executive Director to assist) and forward ballot results to NCPTA President |
| Early Nov., 2003 | NCPTA Staff to obtain résumés |
| Late Nov. / Early Dec. 2003 | Nominations submitted by NCPTA President to Governor for 2004 appointments |



**NOTE:
21 NCAC 48F .0105 CHANGE OF NAME AND ADDRESS**

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.
This can now be done by the licensee on the Licensure Board's Web page (www.ncptboard.org), 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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NC Board of PT Examiners
 18 West Colony Place, Suite 140
 Durham, NC 27705
 919-490-6393
 800-800-8982
 Fax 919-490-5106
 Email NCPTBoard@minspring.com
 Web page www.ncptboard.org

Summary of Fees

| | |
|---------------------------------|---------|
| Renewal (PT & PTA) | \$80.00 |
| Revival Fee and Renewal Fee | 110.00 |
| Application Fee PT & PTA | 135.00 |
| Exam Cost (PT & PTA)* | 285.00 |
| Exam Retake Fee | 60.00 |
| Verification/Transfer Fee | 25.00 |
| Licensee Directory | 10.00 |
| License Card | 10.00 |
| Labels of Licensees (PT or PTA) | 60.00 |
| Certificate Replacement | 25.00 |
| *Plus PT or PTA Application Fee | |

Effective

Feb. 1, 2003

Calendar of Events

May 22, 2003...Investigative Committee Meetings (Greenville (AM) and Raleigh (PM))
 June 26, 2003...Board Meeting* (8:30 AM – 4:00 PM, Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC)

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

Licensure Statistics (As of May 3, 2002)

| | Licensed in NC | Reside in NC | Work in NC |
|------|----------------|--------------|------------|
| PTs | 4,762 | 3,729 | 3,192 |
| PTAs | 2,136 | 1,907 | 1,594 |

Forum: Questions & Answers

Question: If I have an “evaluate and treat order”, would that be sufficient to perform spinal manipulation?

Answer: No. According to the definition of physical therapy in the NC PT Practice Act, “Physical therapy does not include ... manipulation of the spine unless prescribed by a physician licensed to practice medicine in North Carolina...”; therefore, you would need a specific order from a medical doctor that includes a prescription for spinal manipulation.

Question: As North Carolina has Direct Access, am I allowed to perform spinal manipulation after performing an appropriate examination?

Answer: No. A physical therapist must have a specific order from a medical doctor before performing a spinal manipulation.

Question: How does the Board define “spinal manipulation”?

Answer: For the purposes of defining physical therapist practice within the state practice act, a spinal manipulation performed by a physical therapist is part of the continuum of manual therapy techniques to apply skilled passive movements to the spine involving a small amplitude/high velocity procedure, sometimes called a “thrust.”

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18 West Colony Place, Suite 140
 Durham, N.C. 27705

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