



# North Carolina Board of Physical Therapy Examiners NEWSLETTER

ISSUE 36

SUMMER 2006



**J. Herman Bunch, Jr., PT  
Chairman**

## **Chairman's Message – Ben: Thanks!**

Ben F. Massey, Jr., PT, MA, has served as our Executive Director for ten years this past February, 2006. The North Carolina Board of Physical Therapy Examiners honored him for his ten years of service with the following resolution (*as written by John M. Silverstein, Attorney*). This resolution expresses Ben's excellent leadership so well that I want to share it with all Physical Therapists and Physical Therapist Assistants in North Carolina. Ben has modeled a leadership role, which each and all of us should aspire to emulate. May we all endeavor to follow his example in whatever ways we can as we continue to serve the people of North Carolina.

## **RESOLUTION**

WHEREAS, the North Carolina Board of Physical Therapy Examiners ("Board") has been invested by the North Carolina General Assembly with "...powers and duties...for the purpose of enabling the Board to safeguard the public health, safety and welfare ..." N.C.G.S. §90-270.26; and

WHEREAS, the Board has the authority to employ professional personnel necessary to carry out the provisions of the Physical Therapy Practice Act. N.C.G.S. §90-270.26(4); and

WHEREAS, in 1996, after serving as a member of the Board for more than two years, Ben F. Massey, Jr., was selected to be the Board's first Executive Director; and

WHEREAS, during the ensuing ten years Ben F. Massey, Jr. has demonstrated his commitment to education and professionalism by obtaining his MA in Organizational Management from the University of Phoenix in 2003, and by serving with distinction as President of the American Physical Therapy Association from 2000 to 2006; and

WHEREAS, during the course of his tenure as the Board's Executive Director, the following accomplishments are directly attributable to the endeavors of Ben F. Massey, Jr.:

- The Board's office has been relocated and expanded in Durham, North Carolina.
- The Board regularly sponsors forums throughout the State of North Carolina to educate and inform physical therapy licensees regarding practice issues and licensure requirements.
- The Board has established an Investigative Committee to review complaints and prepare disciplinary actions.
- The Board has been an active participant in the Federation of State Boards of Physical Therapy, and Ben F. Massey, Jr. has served as a member of the Board of Directors of that organization.
- The Board has attained a national reputation for excellence, efficiency and responsiveness to inquiries from licensees and the general public.

NOW, THEREFORE, on the occasion of the commemoration of ten years of distinguished service to the North Carolina Board of Physical Therapy Examiners, the physical therapy profession and the people of North Carolina, the Board hereby offers this resolution of appreciation to Ben F. Massey, Jr. for ten years of strong, conscientious leadership tempered with compassion, care and concern for physical therapy licensees and the citizens of North Carolina.

This the 6th day of June, 2006.

J. Herman Bunch, Jr., PT, Chairman

## Crime Doesn't Pay

By John M. Silverstein, Board Attorney



A license to engage in the practice of a regulated profession is a privilege available only to those who have met specific statutory standards. In North Carolina, the practice of physical therapy has been regulated since 1951. The Physical Therapy Practice Act specifies the qualifications that applicants for licensure must possess, and the Board spends a considerable amount of time reviewing applications for compliance with those requirements.

To a large degree, the Board must rely on the honesty and integrity of the applicant to furnish truthful answers to the questions on the application that determine eligibility for licensure. Unfortunately, from time to time applicants will furnish false or misleading responses to application questions. Fortunately, the Board has mechanisms for confirming whether responses are accurate for some questions, such as requesting the number of times an applicant has taken the examination, whether disciplinary action has been imposed against the applicant in another jurisdiction, or whether past criminal conduct has occurred.

Additionally, NCGS §90-270.29 (1) requires every applicant for licensure to possess "good moral character." Furnishing false information or failing to furnish relevant information is evidence of the absence of good moral character. The Board is more likely to approve applicants who disclose prior conduct with complete explanations of how their character has been rehabilitated since the conduct occurred than applicants who fail to disclose relevant information that is requested on the application. Whenever there is doubt as to whether particular information is relevant, it is always better for the applicant to provide full disclosure and let the Board make that

determination than for the Applicant to determine the information is not germane and then suffer the consequences when the Board determines otherwise.

In rare instances, an applicant will submit fraudulent documents in order to induce the Board to issue a license. When discovered, such conduct not only ensures that the application will be denied, but the Board will proceed with criminal prosecution if that is warranted. For example, on July 16, 2004, the Board received an Application for Physical Therapist Licensure from Loutishia Lunderman Brown, a resident of Mecklenburg County. The application indicated that she had received her MPT in May, 2004. The Board also received a Certification of Physical Therapist Education that contained the seal and signature of the director of the program. Based on the information contained in the application, Ms. Brown was authorized to sit for the examination, which she took on October 6, 2004, but she did not receive a passing grade. The exam was repeated on November 2, 2004, but the results still did not warrant licensure.

In order to assist educational programs to monitor the performance of their graduates on the examination, the programs are furnished with examination scores for their graduates. Ms. Brown's scores were furnished to the program from which she had allegedly graduated. On December 14, 2004, the Board was advised by the Director of Examinations for the Federation of State Boards of Physical Therapy ("FSBPT") that Ms. Brown was not a graduate of a physical therapy program, and that the program director's signature and embossed seal on the Certification had been forged. On that same date, the Board advised Ms. Brown that her eligibility to sit for the National Physical Therapy Examination had been revoked.

This matter was referred to the Board's Investigative Committee which reviewed Ms. Brown's application and conduct more thoroughly, including documents from the test site and interviews with the program director and Ms. Brown. In April, 2005, the information that the Investigative Committee had compiled was forwarded to the Mecklenburg County District Attorney's Fraud Unit. After an additional investigation by that unit, including an interview of Ms. Brown, that agency declined to proceed with prosecution, advising that the case should be prosecuted in Durham County, which is where the application was received.

In October, 2005, the Board's Executive Director, Ben Massey, met personally with District Attorney Mike Nifong who reviewed the Board's materials with Mr. Massey. In January, 2006, the matter was assigned to an Assistant District Attorney, who contacted Mr. Massey to arrange an interview with an investigator with the Fraud Department of the Durham Police Department. After an additional investigation, Ms. Brown was eventually served with a summons charging her with (1) a violation of NCGS §14-122.1, a misdemeanor that prohibits the furnishing of fraudulent or forged materials to procure a license, and (2) common law forgery, a felony. Ms. Brown recently entered a plea that will defer prosecution so long as she satisfies the requirements of her plea, which include 100 hours of community service and supervised probation for 12 months.

Although the Board has learned from this case that the wheels of justice often turn very slowly, the Board feels that its commitment toward prosecution has been justified. The Board has communicated with other licensing boards to advise them of Ms. Brown's conduct in North Carolina, and the FSBPT has been kept advised of the Board's proceedings against Ms. Brown.

The Board believes that a competent application process is an integral element of preserving the integrity of the practice of physical therapy in North Carolina. Applicants who do not possess good moral character will be denied the opportunity to sit for examination. Applicants who engage in criminal conduct will be referred to the appropriate authorities for criminal prosecution. To do anything less would compromise the Board's responsibility to protect the public health, safety, and welfare.

### 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)*	350.00
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	

## North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions

Jan 2006 – June 2006

### Gambill, Robert T., PT (Suspension)

**Location:** Andrews, NC, Cherokee County  
**License #:** P-2943  
**Conduct:** Entering false and misleading information in a patient's records, failing to exercise appropriate supervision of support personnel, failing to provide proper oversight of documentation for services rendered, billing and charging for treatments not performed, failing to maintain legible patient records that contain appropriate documentation.  
**Discipline:** Twelve (12) months suspension, 45 days active and the remaining period stayed with conditions. Reimburse the Board for cost of investigation. (Executed March 14, 2006, Effective March 27, 2006)

### Alfano, Anthony J., PTA, (Probation)

**Location:** State of Florida (Currently resides in Waynesville, NC, Haywood County)  
**License #:** A-3375  
**Conduct:** After determining that the requirements of Board rules 21 NCAC 48G .0601 (b) and (c) were satisfied, the Board imposed the same requirement as imposed by the Florida Board of Physical Therapy.  
**Discipline:** Twenty four (24) months probation with conditions and reimburse the Board for cost of investigation. (Executed March 14, 2006)

### Gillen, John F., PT (Probation)

**Location:** Elizabeth City, NC, Pasquotank County  
**License #:** P-9942  
**Conduct:** Failing to document patient information in a timely manner.  
**Discipline:** Six (6) months probation with conditions and reimburse the Board for cost of investigation. (Executed March 14, 2006)

### Mozingo, Amber S., PTA (Probation)

**Location:** Fayetteville, NC, Cumberland County  
**License #:** A-3161  
**Conduct:** Entering false and misleading information in the chart.  
**Discipline:** Twelve (12) month probation with conditions and reimburse the Board for cost of investigation. (Executed March 14, 2006)

### McGlothlen, David L., PTA (Warning)

**Location:** Elkin, NC, Surry County  
**License #:** A-1694  
**Conduct:** Engaging in inappropriate and unwelcomed comments of a sexual nature with a colleague.  
**Discipline:** Warning and reimburse the Board for cost of investigation. (Executed March 14, 2006)

### Foecking, Joseph William, PT (Renewal Denied)

**Location:** State of Washington (Currently resides in Charlotte, NC, Mecklenburg County)  
**License #:** P-9832  
**Conduct:** After determining that the requirements of Board rules 21 NCAC 48G .0601 (b) and (c) were satisfied, the Board denied licensure renewal and imposed the same sanctions as the Washington Board and determined that his license cannot be reinstated until such time as he is licensed and in "good standing" with the Washington Board of Physical Therapy.  
**Discipline:** Indefinite suspension and reimburse the Board for cost of investigation. (Executed March 14, 2006)

## NCPTA Reports "Physical Therapy Continued Competency Bill Passes!!!!"

According to the NCPTA, "House Bill 1301, introduced by Representative Lucy Allen, passed the House and the Senate and was ratified on July 11, 2006 and was forwarded to the Governor for signature on the same day. House bill 1301 "establishes mechanisms for assessing the continuing competence of licensed physical therapists or physical therapist assistants to engage in the practice of physical therapy, including approving rules requiring licensees to periodically, or in response to complaints or incident reports, submit to the Board: (i) evidence of continuing education experiences; (ii) evidence of minimum standard accomplishments; or (iii) evidence of compliance with other Board approved measures, audits, or evaluations; and specify remedial actions if necessary or desirable to obtain license renewal or reinstatement."

The Licensure Board plans to begin discussion at its next Board Meeting. The Board plans to conduct Forums across the state to solicit input from all licensees in 2007. The entire rules process may take 2-3 years.

## Continuing Education Session – "Mock" Informal Meeting

On October 7, 2005, the Board presented a continuing education session at the Fall Conference of the North Carolina Physical Therapy Association (NCPTA) in Greensboro, NC. The session was entitled a "Mock" Informal Meeting of the Investigative Committee.

For the "Mock" Informal Meeting, to demonstrate the process that is involved in making a recommendation to the Board regarding disciplinary action, members of the Investigative Committee (*Bunch and Massey*), the Board's Attorney (*John M. Silverstein*), and the Board's Investigator (*Kearns*) conducted a "Mock" Informal Meeting with two licensees (*role played by Board members Schrum and Nicholson*), who had been accused of violating the North Carolina Physical Therapy Practice Act and Board's rules. The session walked the attendees through the entire process of receiving of the complaint, decisions made by the Investigative Committee as to how it should be handled, interviews of witnesses, review of medical records, the Informal Meeting with the licensees, and the recommendation of the Investigative Committee to the Board. Attendees at the meeting stated that they were able to experience vicariously the stress, tension, and anxiety that licensees go through during an investigation. As this session received positive reviews and numerous requests by attendees to repeat it as a continuing education program across the state, the Board agreed to five repeat performances (Lumberton, Durham, Charlotte, Winston-Salem, and Hickory). The program in Lumberton was presented last Spring and the remaining cities will be presented in the Fall. Dates can be located in the Calendar of Events.

### N.C. Licensure Statistics

(As of May 16, 2006)

	Licensed	Reside	Work
PTs	5,353	4,294	3,749
PTAs	2,386	2,111	1,830

### 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.]

Addresses can be changed by the licensee on the Licensure Board's web page ([www.ncptboard.org](http://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

### Board Members

J. Herman Bunch, Jr., PT

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*Raleigh, NC*

Joanna W. Nicholson, PTA

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*Charlotte, NC*

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*Executive Director*

Cynthia D. Kiely

*Administrative/Licensing Manager*

Marie Turner

*Licensing Specialist*

Angela Carter

*Office Coordinator*

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Web page [www.ncptboard.org](http://www.ncptboard.org)

## Calendar of Events

Aug. 29, 2006...**Board Meeting** to adopt Proposed Rules\*- (12:30 p.m. – 12:45 p.m., Satsky & Silverstein Law Office, 900 Ridgefield Dr., Suite 250, Raleigh, [www.satskysilverstein.com](http://www.satskysilverstein.com))

Aug. 29, 2006...Investigative Committee Meeting\*, (1:00 p.m. Silverstein Law Office, 900 Ridgefield Dr., Suite 250, Raleigh, [www.satskysilverstein.com](http://www.satskysilverstein.com))

Sept. 19, 2006...**Board Meeting**\*- (8:30 a.m. – 5:00 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill)

Sept 19, 2006...Board “Mock” Informal Meeting of the Investigative Committee, cosponsored by Wake AHEC (6:00 p.m. – 8:30 p.m., Durham Regional Hospital)\*\*

Oct 10, 2006...Board “Mock” Informal Meeting of the Investigative Committee, cosponsored by Charlotte AHEC (6:00 p.m. – 8:30 p.m., Charlotte AHEC Airport Training Center) \*\*

Oct. 12, 2006...Investigative Committee Meeting\*, Silverstein Law Office, 900 Ridgefield Dr., Suite 250, Raleigh, [www.satskysilverstein.com](http://www.satskysilverstein.com))

Oct. 31, 2006...2007 license renewal information will be mailed to licensees. If licensee has not received the renewal information by mid-November, it is the licensee’s responsibility to contact the Board to request the information.

Nov. 28, 2006...Board “Mock” Informal Meeting of the Investigative Committee – cosponsored by Northwest AHEC (6:30 p.m. – 9:00 p.m., Reynolda Business Center, Winston-Salem)\*\*

Dec. 6, 2006...**Board Meeting**\*- (8:30 a.m. – 5:00 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill)

Dec. 12, 2006...Board “Mock” Informal Meeting of the Investigative Committee – cosponsored by Northwest AHEC (5:30 p.m. – 8:00 p.m., Hickory)\*\*

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

\*\*See web page ([www.ncptboard.org](http://www.ncptboard.org)) for additional information.

## Forum Questions and Answers

**Question:** In the home health setting, what is within the scope of the physical therapist with regard to completion of the OASIS, and more specifically to items that therapists may consider to be outside their scope of practice, i.e. the Management of Oral Medications item (MO780)?

**Answer:** Gathering information on the medication a patient is taking and the patient’s ability to take the proper dosage would be considered within the scope of practice for a physical therapist. It would also be appropriate for a physical therapist to provide basic information on medications that may have an impact on the PT plan of care; however, to provide an educational intervention, especially on medications unrelated to the PT plan of care, would not be considered within the scope of practice for a physical therapist. Medical management as required by CMS may at times be accomplished by the PT, but often may require a referral to a nurse to complete the medication management portion of the admission.

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North Carolina  
Board of Physical Therapy Examiners

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