



# North Carolina Board of Physical Therapy Examiners NEWSLETTER

ISSUE 38

SUMMER 2007

## Chemical Dependency Programs

By Paula B. Schrum, PT, MBA, Chair



Over the past ten years, the Board's Investigative Committee has received eight (8) complaints related to alcohol/chemical impairment problems or theft of patient medications by physical therapy licensees. As the Board dealt with these specific complaints, it expressed concern that there was no procedure for addressing chemical dependency issues by licensees other than the formal disciplinary process.

In the late '90s, the Board investigated the feasibility of developing a Chemical Dependency Program for physical therapy licensees. Due to the low incidence of complaints and high cost of the program, it was cost prohibitive to develop and implement the program at that time. In 2005, the Board had three (3) complaints related to chemical dependence and/or theft of prescription medications. In response to an increase in these complaints, the Board instructed the Executive Director (Ben F. Massey, Jr., PT) and Attorney (John M. Silverstein) to examine alternative chemical dependency programs

administered by other licensing boards and make a recommendation to the Board. After reviewing the chemical impairment programs administered in North Carolina by the Boards of Medicine, Pharmacy, and Nursing, they were particularly impressed by the Board of Nursing's (BON) voluntary Alternative Program for Chemical Dependency and its mandatory Chemical Dependency Discipline Program.

The philosophy of the BON's Alternative Program is based on the following:

- chemical dependency is a disease; effects of chemical dependency can negatively affect one's work performance;
- without appropriate intervention, chemical dependency is considered a terminal disease;
- the chemically dependent licensee may be a danger to the patient and to the public;
- recovery from chemical dependency is an ongoing life long process;
- licensees who are chemically dependent have the potential to successfully participate in the recovery process;
- the chemically dependent licensee is responsible for accepting the accountability for his/her actions, and;
- the Board supports the opportunity for chemically dependent licensees to seek treatment and appropriate interventions.

The objectives of the BON program are: 1) to ensure the health and safety of the public through a program that closely monitors licensees whose ability to

safely and competently practice may be impaired due to dependency on drugs or alcohol, 2) achieve earlier intervention with intent to accomplish decreased time between the licensee's acknowledgement of chemical dependency and entry into the recovery process and provide a means of returning the licensee to safe and effective practice in a more efficient and rapid manner, minimizing financial impact, than was achieved through the disciplinary process, and 3) provide a process for licensees to recover from impairment in a therapeutic, non-punitive and confidential process. The Alternative Program is a minimum of a 3-year program that includes entering into a treatment program of chemical dependency, monitoring of the licensee's recovery by submission of self reports, counselor reports, regular attendance at AA/NA meetings, drug screens, and some restrictions to practice for a period of time.

The BON's Alternative Program has been in effect since 1993. In 2006, there were 189 licensees monitored in the Alternative Program and a total of 411 who were monitored in all drug screening programs. There were 129 participants in the Alternative Program at the year-end (December 2006). The Alternative Program had an 89% success rate based on the number of licensees who completed the program.

Mr. Silverstein and Mr. Massey determined that the BON's program is truly the "Gold Standard" of Chemical Dependency Programs among licensure boards.

Continued on page 3

## Continuing Competence Continues

By John M. Silverstein, Board Attorney



Continuing Competence: the General Assembly acted; the Board must implement; the process has started. The enabling legislation authorizing the Board to establish procedures for assuring the continuing competence of physical therapy licensees contains less than eight full lines. The rules establishing

the manner in which licensees may complete continuing competence requirements will be much more voluminous.

In an effort to engage as many licensees as possible in the process to enact rules relating to what will be required for continuing competence, the Board has attempted to provide opportunities for licensees to express their views. Forums have been scheduled across the state. Information has been disseminated through this newsletter and the Board's website. Licensees have participated through attendance at the forums, emails to the Board and providing information to the Advisory Panel established by the Board to assist the Board in adopting rules for continuing competence.

At this point, there appears to be little debate that requiring licensees to demonstrate continued competence is in the best interest of the public health, safety and welfare. Nevertheless, as should be expected, the devil is in the details. Although it is still premature to specifically delineate continuing competence requirements for licenses, it is timely to discuss some of the significant considerations that have emerged from the forums and comments received by the Board.

### Reasonable Means of Compliance

- Simply stated, every North Carolina licensee must have a reasonable opportunity to complete continuing competence requirements enacted by the Board.
- There must be programs and options that will enable licensees in all parts of the state to meet the requirements.
- The cost of compliance must not be prohibitively expensive.
- In demonstrating continuing competence, a licensee should not be required to miss so much work that patient treatment would be compromised.
- Alternatives must exist so that licensees can demonstrate continuing competence in their areas of expertise, even if they are not directly related to patient treatment.

### Minimum Levels of Competence

In establishing continuing competence requirements, the Board is limited to securing the minimum level necessary to protect the public health, safety and welfare. Some suggestions have clearly gone beyond this standard by recommending tests and measures that would achieve maximum competence for every licensee. On the other hand, others have suggested that licensees who do not work full time or may be under financial constraints should not have to complete the same requirements as other licensees. The Board cannot require each licensee to obtain his or her maximum level of competence, nor can it allow licensees to be excused from obtaining minimum levels of competence in response to personal practice choices.

### Goals for Continuing Competence

Ideally, licensees should be enthusiastic about opportunities to maintain minimum levels of competence. The public is benefited by licensees who are sufficiently engaged in their professional obligations to take measures to not only remain competent but also to assist other licensees in remaining competent. On the other hand, the public is not benefited by licensees who engage in continuing competence activities out of threat or fear. It is therefore the Board's goal to provide continuing competence choices that are interesting, challenging and appropriate.

### Summary

The phrase "continuing competence" is deceptively simple. The Board is charged with the responsibility to establish a mechanism to enable all licensees to remain competent. Rules regarding continuing competence must be flexible without sacrificing relevance. Creativity must be encouraged so long as it is related to professional competence. Opportunities must be authorized that are not expensive. What is minimal competence to one may be unduly burdensome to another. Simply by virtue of differences in geographic areas, practice settings and job responsibilities, some licensees will have better opportunities to complete continuing competence requirements than others. It will be the Board's continuing mission to authorize programs that will neither be unduly burdensome for licensees, nor designed to benefit licensees rather than the public. In sum, we must be all reasonable in finding ways to assist physical therapy licensees to continue to serve the needs of the citizens of North Carolina in a safe and competent fashion.

## North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions

Jan 2007 – June 2007

### Wallace, Loretta, PTA (Suspension)

**Location:** Charlotte, NC, Mecklenburg County  
**License #:** A-404  
**Conduct:** Violating NCGS § 90-270.36: The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or renewal by failing to disclose her 2005 disciplinary action in South Carolina on her 2006 Renewal Form.  
**Discipline:** Thirty (30) days active suspension. Reimburse the Board for cost of investigation. (Executed March 14, 2007, Effective March 26, 2007)

### Moore, Karen B., PTA (Warning)

**Location:** Elkin, NC, Surry County  
**License #:** A-1285  
**Conduct:** Entering false and misleading information in patients' physical therapy charts.  
**Discipline:** Warning and reimburse the Board for cost of investigation. (Executed March 14, 2007)

### Chair's Article

Continued from page 1

Since it would not be cost effective for this Board to replicate the BON programs for a much smaller number of licensees, they recommended to the Board that it contract with the BON to provide chemical dependency services for physical therapy licensees. The Board accepted the recommendation and effective January 1, 2007, the Board entered an Agreement with the BON that would offer physical therapy licensees the opportunity to seek eligibility for enrollment in the treatment programs administered by the BON for practitioners who are impaired as a result of chemical dependency. Within this Agreement is a provision for voluntary enrollment; however, there is still a provision to allow the Board to impose disciplinary action on individuals who are not eligible for the Alternative Program and to require these licensees to enter into the Mandatory Chemical Dependency Discipline Program, which is a mirror image of the Alternative Program. For information regarding the Chemical Dependency Programs, contact Ben F. Massey, Jr.

The Board would like to express its appreciation to the BON and its outstanding staff for their willingness to enter into this agreement. Lastly, I would also like to commend the Board for dedicating funds to this extremely important program. It is money well spent.

### Love, James T, PT (Suspension)

**Location:** Raleigh, NC, Wake County  
**License #:** P-9616  
**Conduct:** Billing for treatments not performed and entering false and misleading information in patients' records.  
**Discipline:** Twelve (12) months suspension, 3 months active and the remaining stayed with conditions. Required to take an Ethics course that has been approved by the Board and also complete the Board's Jurisprudence Exercise. Must reimburse the Board the cost of the investigation. (Executed June 27, 2007)

### Fink, Jerold Erick, PT (Probation)

**Location:** Dunn, NC, Harnett County  
**License #:** P-9396  
**Conduct:** Failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional and delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such a person is not qualified by training, by experience, or by licensure to perform such responsibilities.  
**Discipline:** Probation with conditions for six (6) months. Required to take an Ethics course that has been approved by the Board and also complete the Board's Jurisprudence Exercise. Must reimburse the Board the cost of the investigation. (Executed June 27, 2007)

### Notice

NCGS § 90-270.27 requires the Board to maintain a record of the "...name, last known place of business, and last known place of residence, and date and number of licensure certificate as a physical therapist or physical therapist assistant, for every living licensee." This information is considered to be a public record, and the information is available for any person requesting the information.

The Board has published a Directory of Licensees for many years. Some licensees view the Directory as essential to their practice. In recent years, however, many licensees have objected to personal information about them being published in the Directory, and others have objected to the natural resources wasted in publishing the Directory. Therefore, at its June, 2007 meeting, the Board voted that effective with the next issue of the next Directory to be published, licensees may choose to receive a hard copy, an electronic copy, or no Directory at all.



#### 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 at 919-490-6393 or 800-800-8982.

## North Carolina Board of Physical Therapy Examiners

### Board Members

Paula B. Schrum, PT  
Chair  
Charlotte, NC  
JoDell F. King, PTA  
Secretary-Treasurer  
Erwin, NC  
Michael C. Fajgenbaum, MD  
Raleigh, NC  
Avil Holmes, Public Member  
Durham, NC  
Leslie P. Kesler, PT  
Wilmington, NC  
Stuart W. MacRoberts, PT  
Hendersonville, NC  
Deborah J. Ragan, PT  
Dunn, NC  
Pearl L. Rhone, PTA  
Fayetteville, NC

### Staff

Ben F. Massey, Jr., PT  
Executive Director  
Cynthia D. Kiely  
Administrative/Licensing Manager  
Marie Turner  
Licensing Specialist  
Angela Carter  
Licensing Specialist  
Joshua Weaver  
Office Coordinator

### Legal Counsel

John M. Silverstein, Esquire  
NC Board of PT Examiners  
18 West Colony Place, Suite 140  
Durham, NC 27705  
919-490-6393/800-800-8982  
Fax 919-490-5106  
E-mail NCPTBoard@mindspring.com  
Web page www.ncptboard.org

### Calendar of Events

July 19, 2007 (Thurs)	Investigative Committee Meeting* (8:30 a.m. – 1:00 p.m., Satsky and Silverstein Law Firm, Raleigh, NC)
July 24, 2007 (Tues)	Continuing Competence Advisory Panel* (10:00 a.m. – 3:00 p.m., Hilton, Charlotte University Place, Charlotte, NC)
Oct. 3, 2007 (Wed)	Board Meeting* (8:30 a.m. – 4:30 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC, <a href="http://www.sienahotel.com">http://www.sienahotel.com</a> )
Sept. 06, 2007 (Thurs)	Forum regarding Continuing Competence* (7:00 p.m. – 9:00 p.m.) MAHEC, Asheville, NC (see Board's web page for details)
Sept. 25, 2007 (Tues)	Forum regarding Continuing Competence* (7:00 p.m. – 9:00 p.m.) CPCC, Charlotte, NC (see Board's web page for details)
Nov. 1, 2007 (Thurs)	2008 license renewal information will be mailed to licensees. If licensee has not received information by mid-November, it is the licensee's responsibility to contact the Board to request the information.
Nov. 13, 2007 (Tues)	Continuing Competence Advisory Panel* (10:00 a.m. – 3:00 p.m., Hilton, Charlotte University Place, Charlotte, NC)
Dec. 12, 2007 (Wed)	Board Meeting* (8:30 a.m. – 4:30 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC, <a href="http://www.sienahotel.com">http://www.sienahotel.com</a> )
Jan. 31, 2008 (Thurs)	Final deadline for license renewal.
Feb. 01, 2008 (Fri)	Lapse of licenses not renewed.

\*Dates are tentative. Please confirm by contacting the Board Office (800-800-8982).

### Position on Removal of Sutures or Staples by a Physical Therapist Assistant

- Q:** Can a physical therapist assistant remove sutures and staples?  
**A:** Since this procedure is not within the scope of practice of physical therapy, the Board cannot take a position on whether a PTA can perform this procedure; however, it is important to reiterate the basic premise that the supervising physical therapist is ultimately responsible for the activities of the PTA.

\* There has been a similar position for PTs posted on the web page since Aug. 11, 2006.

### Summary of Fees

(Effective March 1, 2007)

Renewal (PT & PTA)	\$100.00
Revival Fee and Renewal Fee	130.00
Application Fee PT & PTA	150.00
Exam Cost (PT & PTA)*	350.00
Exam Retake Fee	60.00
Verification/Transfer Fee	30.00
Licensee Directory	10.00
License Card	10.00
Labels of Licensees (PT or PTA)	60.00
Certificate Replacement	30.00

\*plus PT or PTA Application Fee

### N.C. Licensure Statistics

(As of July 12, 2007)

	Licensed	Reside	Work
PTs	5,822	4,663	4,049
PTAs	2,564	2,254	1,924