



North Carolina Board of Physical Therapy Examiners NEWSLETTER

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Board to Conduct Statewide Forums

Patricia S. Hodson, PT



In October, 2003, I had the pleasure of representing the North Carolina Board of Physical Therapy Examiners (Board) as its Delegate to the Delegate Assembly of the Federa-

tion of State Boards of Physical Therapy (Federation). The Federation is the umbrella physical therapy regulatory organization that is comprised of all licensing jurisdictions in the United States. Its primary purpose is to provide a licensure examination for physical therapists and physical therapist assistants. (www.fsbpt.org) In addition, the Federation and Delegate Assembly discuss and debate other issues that affect regulation and the practice of physical therapy.

A number of the issues discussed by the Delegate Assembly of the Federation will be of interest to North Carolina licensees. Consequently, at a recent meeting the Board voted to fund five (5) statewide forums to discuss issues that are being debated at the Federation level. Tentative sites include Asheville, Charlotte, Greensboro, Greenville, and Wilmington. Dates and final sites will be posted on the Board's webpage (www.ncptboard.org) by February 15, 2004. The issues to be discussed include, but are not limited to: 1) continuing competence, 2) jurisprudence examinations, 3) animal physical therapy, 4) spinal manipulation, 5) professional corporations or professional associations, and 6) requirement of post baccalaureate education for foreign educated physical therapists. The purpose of the forums is to begin dialogue on these issues, as implementation would require changing the North Carolina Physical Therapy Practice Act. In North Carolina, the North Carolina Physical Therapy Association (NCPTA) has usually spearheaded

legislative changes, and the forum would give the Board the opportunity to provide input to the NCPTA.

1. Continuing competence: More than 50% of the jurisdictions now require either CEUs or some form of continuing competence prior to licensure renewal. Many governmental and private agencies and insurers have indicated that they expect licensure boards to require practitioners to demonstrate competence before renewing their licenses to practice.
2. Jurisprudence examinations (examinations about the NC PT Practice Act and Board's rules): Seventeen jurisdictions are now requiring licensees to pass a jurisprudence examination prior to being issued a license. In addition, several states are considering requiring licensees to pass a jurisprudence examination periodically prior to renewing their licenses.
3. Animal physical therapy: Physical therapists across the country are attending courses in animal physical therapy and engaging in the treatment of animals. North Carolina presently restricts the practice of physical therapy to the "...evaluation or treatment of any person."
4. Spinal manipulation: The Practice Act requires a physician to write a prescription for spinal manipulation before a physical therapist is allowed to perform this procedure. Many physical therapists feel that this requirement is obsolete.
5. Professional corporations (PC) and professional associations (PA): Ownership of physical therapy practices by physical therapists has been increasing. North Carolina law does not allow physical therapists to own a PC or a PA and many physical therapists feel that this law should be changed. For additional information, see www.ncptboard.org, go to Position Statements, and click on "Corporate Information."

6. Requirement of post baccalaureate education for foreign educated physical therapists: Currently, all CAPTE accredited physical therapist education programs require a post baccalaureate degree, and the Board's rules require that the education of all foreign educated physical therapists who graduated after January 1, 2003 should be substantially equivalent to a post baccalaureate degree. Others feel that this requirement is discriminatory as many countries do not have post baccalaureate degrees for physical therapists.

These issues and perhaps others will be discussed at the Forums. Additionally, you will have an opportunity to ask specific practice questions to the Board's Executive Director and Attorney. I strongly encourage you to attend, learn about these issues, and share your opinions. The more input the Board has from licensees, the better we are able to develop our positions.

Governor Appoints New Public Member

On September 5, 2004, Governor Michael F. Easley appointed Avil L. Holmes to serve as the Public Member for the North Carolina Board of Physical Therapy Examiners. Ms. Holmes replaced Gloria Lewis who served on the Board from 1996 – 2003.

Ms. Holmes received her Bachelor of Arts degree in 1998 from the University of North Carolina at Chapel Hill and is currently pursuing a degree in nursing. Originally from Walstonburg, NC, Ms. Holmes currently resides in Durham, NC. Her term will expire on December 31, 2004; however, she will be eligible for reappointment.

Who Is Your Supervisor?

By John M. Silverstein, Board Attorney



Although it is a matter of simply stating the obvious, it bears repeating that the physical therapist is the polar star of the provision of physical therapy services. This basic premise is established in North Carolina in the Physical Therapy Practice Act. N.C.G.S. §90-270.24(2) defines “physical therapist” as “...any person who practices physical therapy in accordance with the provisions of this Article.” When combined with the requirement in N.C.G.S. §90-270.24(3) that the “physical therapist assistant” assists in the practice of physical therapy while working under the supervision of a physical therapist and N.C.G.S. §90-270.24(5) which requires a “physical therapy aide” to work under the “...on-site supervision of a licensed physical therapist or physical therapist assistant,” N.C.G.S. §90-270.24(2) essentially means that it is only the physical therapist who can engage in the independent practice of physical therapy in North Carolina.

21 NCAC Chapter 48 contains the rules that have been adopted by the Board that elaborate on the requirements of the Physical Therapy Practice Act. Subchapter 48C is entitled Scope of Physical Therapy Practice. 21 NCAC

48C.0101(c) states: “A physical therapist must supervise physical therapist assistants, physical therapy aides, PT students and PTA students to the extent required under the Physical Therapy Practice Act and these Rules. Physical therapy aides include all non-licensed individuals aiding in the provision of physical therapy service.” 21 NCAC 48C.0103(b) states: “A physical therapist may not permit any person working under his or her supervision to engage in acts or practices beyond the scope allowed by the Physical Therapy Practice Act or these Rules.”

It is not uncommon in some facilities for the Physical Therapy Department to be grouped with other departments, all of which may be headed by a licensee of a different health care profession, or even by a non-licensure. From time to time, the Board has received inquiries regarding patient care issues that have arisen when non-licensurees have attempted to direct the manner in which physical therapy services are to be provided to patients; however, since most health care practitioners in supervisory positions are also licensed under other Practice Acts, they usually respect physical therapy practice limitations, and scope of practice issues are generally resolved in accordance with Physical Therapy Practice Act requirements.

A more difficult issue can be presented when a physical therapist is employed in a facility that is “managed” by a physical therapist assistant or athletic trainer. While there is nothing in the Physical Therapy Practice Act that would prevent a physical therapist assistant or a physical therapy aide from performing supervisory responsibilities of an administrative nature, more difficult questions can arise when there are issues concerning patient treatment.

The Physical Therapy Practice Act is clear that an aide cannot engage in the independent performance of physical therapy procedures. N.C.G.S. §90-270.24(5). Further, 21 NCAC 48C.0202 reads as follows:

- “(a) A physical therapist assistant shall not engage in practices requiring the knowledge and skill of a physical therapist.
- (b) A physical therapist assistant shall not engage in acts beyond the scope of practice delegated by the supervising physical therapist.”

Therefore, if a physical therapist assistant or athletic trainer were to use his or her position as manager of a facility to make suggestions to a physical therapist regarding patient care, serious Physical Therapy Practice Act implications could arise. Quite simply, a physical therapist assistant or aide managing a facility in which physical therapy services are offered should not, as manager, make patient treatment recommendations to a licensed physical therapist. By the same token, a licensed physical therapist should not permit a physical therapist assistant or an aide to make patient treatment recommendations in his or her capacity as manager of the facility.

Who is your supervisor? For the physical therapist assistant or aide involved in patient treatment, it is the physical therapist who assigns and supervises the physical therapy services. For the physical therapist, it may be the manager of a facility concerning scheduling and administrative matters, but with regard to the provision of physical therapy services, the physical therapist’s scope of practice is defined only by the provisions of the Physical Therapy Practice Act and the Board’s Rules.

North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions

June 2003 – Dec 2003

Kieklak, Gerald Herb, PT (Indefinite Suspension)

Location: Portland, OR
License #: P-5589
Conduct: After determining that the requirements of Board Rules 21 NCAC 48G .0601 (b) and (c) were satisfied, the Board imposed the same sanctions as the Oregon Board that Kieklak's license be immediately suspended and remain suspended pending further order of the Oregon Board.

Discipline: Indefinite suspension. (Executed June 26, 2003)

Weaver, Melissa Hinson, PTA (Suspension/Probation)

Location: Kinston, NC, Lenoir County
License #: A-2914
Conduct: Documenting and billing for treatments that were not performed. Entering false and misleading information in physical therapy patient records.

Discipline: 6 months suspension, 15 days active and the remaining period stayed with conditions. 1 year probation. (Executed June 26, 2003)

Johnson, James Darryl, PTA (Probation)

Location: Pamlico County, NC
License #: A-1466
Conduct: Engaging in conduct that could result in harm or injury to a patient.

Discipline: Probation for 1 year. (Executed June 26, 2003)

Eckerstrom, Amy C. PTA (Warning)

Location: Asheville, NC, Buncombe County
License #: A-3089
Conduct: Working for a period of time without renewing her license

Discipline: Warning (executed June 26, 2003)

Glass, Kenneth L. PT (Warning)

Location: Asheville, NC, Buncombe County
License #: P-4131
Conduct: Entering inaccurate and misleading patient treatment times in the physical therapy records.

Discipline: Warning (executed December 5, 2003)

Board Swears Out Warrants

On November 13, 2003, the Executive Director for the NC Board of PT Examiners swore out a Warrant for Arrest in Harnett County for Amanda Penny Stutz for representing herself as a physical therapist assistant when she had not obtained a valid license. On November 25, 2003, a similar warrant was issued in Cumberland County for Stutz.

Stutz graduated from the physical therapist assistant program at Fayetteville Technical Community College in May, 2002, but never took the licensure examination or obtained a valid license as required by the following North Carolina Statute: "90-270.35. *Unlawful practice. Except as otherwise authorized in this act, if any person, firm, or corporation shall:*

- (1) *Practice, attempt to practice, teach, consult, or supervise in physical therapy, or hold out any person as being able to do any of these things in this State, without first having obtained a license or authorization from the Board for the person performing services or being so held out;*
- (2) *Use in connection with any person's name any letters, words, numerical codes, or insignia indicating or implying that the person is a physical therapist or physical therapist assistant, or applicant with "Graduate" status, unless the person is licensed or authorized in accordance with this Article;*
***said person, firm, or corporation shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or

imprisoned, or both fined and imprisoned, in the discretion of the court. Each act of such unlawful practice shall constitute a distinct and separate offense. (www.ncptboard.org).

Court dates are currently pending.

Statistics and Cost of Disciplinary Action

The NC Board of PT Examiners is charged with the responsibility to protect the health, safety, and welfare of the citizens of North Carolina by enforcing the NC PT Practice Act and Board's Rules. For the past few years, on average, the Board has received approximately fifty (50) complaints each year. Of these complaints, there are approximately twenty (20) advertising complaints, twenty (20) complaints against licensees, and ten (10) cases of licensees that fail to renew.

Most advertising complaints are resolved following a letter from the Board's attorney advising the advertiser that it is a violation to advertise physical therapy services unless there is a licensed physical therapist providing the service. Each year the Board disciplines approximately eight (8) licenses. Board action may result in a letter of caution, a warning, probation, or suspension or revocation of a license. A licensee who is disciplined can be assessed the direct cost of the investigation (investigator and attorney's fees). The typical cost for an investigation is approximately \$ 700.00 - \$1,000.00.



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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 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	

Calendar of Events

Jan. 31, 2004 Final deadline for license renewal
 Feb. 1, 2004 Licenses not renewed, lapse
 Mar. 18, 2004 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 Dec. 16, 2002)

	Licensed in NC	Reside in NC	Work in NC
PTs	5,071	3,923	3,371
PTAs	2,235	1,964	1,642



North Carolina Board of Physical Therapy Examiners – 2003

Back Row, Left to Right: John Silverstein (Attorney), Randall Stewart, J.C. Harvell (MD), Herman Bunch, Ben Massey (ED). Front Row, Left to Right: Paula Schrum, Patricia Hodson (Chair), Avil Holmes (Public Member), Joanna Nicholson, Eric Smith.

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