



North Carolina Board of Physical Therapy Examiners NEWSLETTER

ISSUE 23

FALL 1999

Model Practice Act for the New Millennium

by J. HERMAN BUNCH, Jr., PT, M.Ed., Chairman

The North Carolina Board of Physical Therapy Examiners (NCBPTE) voted to sponsor a symposium to discuss the Model Practice Act (MPA) and its potential implications on the practice of physical therapy. The symposium will be held on Saturday, November 13, 1999 at the McKimmon Center on the campus of North Carolina State University in Raleigh.

The MPA was developed by a committee of the Federation of State Boards of Physical Therapy (FSBPT) over a three year period that began in 1994. The development included extensive field review and included open forums at the American Physical Therapy Association annual conferences. Since its publication in 1997, several state legislatures have adopted the MPA or specific concepts from the MPA. The MPA is a living document and is currently being revised again.

Blair Packard, PT, President of the FSBPT, and Chair of the MPA Committee will deliver the Keynote Address to discuss possible implications of the Act. John M. Silverstein, Attorney for the NCBPTE, will address the MPA as it relates to current North Carolina law. William H. Potter, Jr., lobbyist for the North Carolina Physical Therapy Association (NCPTA), will discuss (videotape) the political climate for the 2001 General Assembly in relation to potential

changes of the current Practice Act. (As most of you are aware, the NCPTA must take the lead role in spearheading substantive legislative changes of the Practice Act because state law prohibits licensing boards from spending money on efforts to pass legislation.) Ben F. Massey, Jr., PT, Executive Director of the NCBPTE and member of the FSBPT Board of Directors, will moderate an open forum for licensees.

When North Carolina revised its Practice Act in 1985, I was a member of the NCPTA Legislative Committee. The primary purpose for the revision was to obtain Direct Access. Planning for this revision began several years prior to the introduction of the Bill into the General Assembly. If and when PTs and PTAs decide that the Practice Act needs to be revised again, many months of careful planning will be required. A rewrite of the Practice Act that will gain legislative approval will require a carefully developed strategic plan of action by the NCPTA involving all licensees from across the state.

The NCBPTE was very impressed by the large attendance at our area educational programs across the State and at NCPTA meetings whenever the Practice Act has been discussed; therefore, we wanted to have a meeting where all licensees in the State of North Carolina would have an opportunity to hear the Model



Practice Act discussed and become more directly involved in the planning process.

From this meeting we may see that some changes are "desired" in our current Practice Act, some changes are "necessary", or we may decide that the present Act continues to serve its purpose in the protection of the health, safety, and welfare of the general public. In addition, the NCPTA may determine that the legislative climate is currently not conducive for a major revision at this time. All licensees are strongly encouraged to attend and voice their opinions or concerns.

Please make plans to attend. A pre-registration form is enclosed in this Newsletter. A nominal fee of \$20.00 will be charged to cover the costs of the program and seating will be limited to approximately 225 attendees.

Public Recognition for Public Members

JOHN M. SILVERSTEIN, Attorney



In the late 1970's, the North Carolina Legislature enacted sweeping legislation providing that the enabling laws for the licensing for all professional occupations would "sunset" (expire) on a certain date. The date varied for each board, but sufficient time was provided to

allow a special commission charged with the duty to examine each profession and its licensing board to determine whether the licensing law was necessary to protect the public health, safety and welfare and whether the board was operating in an efficient, effective manner. If so, the licensing provisions would be renewed, but if the Sunset Commission found that licensure was designed simply to create barriers to entering the profession to protect the vested interests of those already licensed without providing a benefit to the public, the statutory scheme would expire or "sunset".

Although most of the health professions emerged from the scrutiny of the Sunset Commission with little or no change in their statutory authority, the Commission did recommend to the Legislature that all licensing boards that did not have a public member should have one added. The Legislature adopted this recommendation, and in 1982, the North Carolina Board of Physical Therapy Examiners grew from 7 to 8 members, and welcomed its first public member, Shirley Wright. Ms. Wright traveled from her home on the Outer Banks to every meeting until she was replaced in 1985 by Donna Creech, who served until 1990. Ms. Creech was a most valuable asset to the Board through her contacts with the state legislature and state government, and she was an effective advocate for the Board on issues in which she had special expertise.

James Bacon was the public member from 1991 to 1995. Mr. Bacon lives in Durham, and his proximity to the Board office and experience in business affairs enabled

him to play a key role in negotiating leases for the Board's office space. Conny Peake and Ben Massey both frequently called on Mr. Bacon for assistance with Board matters. Our current public member, Gloria Lewis, who has served since 1996, has played an active role in the disciplinary cases that have been heard by the full Board. Her incisive questions at the proceedings have demonstrated that she takes her role as a public member very seriously.

G.S. §90-270.25 provides, "...the public member shall be appointed by the Governor and shall be a person who is not licensed under Chapter 90 who shall represent the interest of the public at large..." The North Carolina Board of Physical Therapy Examiners has indeed been fortunate that North Carolina governors have appointed four very capable, competent and dedicated people to serve as public members on the Board. Each has compiled an excellent attendance record at Board meetings, and each has participated in Board deliberations, offering a perspective that is simply not available in a group that consists solely of licensed professionals. Perhaps their greatest contribution has been the ability to intercede on the Board's behalf, particularly with governmental agencies. Since they are not licensees of the board they represent, they bring a perception of credibility and lack of bias that commands attention and respect.

When public members were first being considered, some physical therapists were unsure of how a lay person might interact with a professional board. Would they be able to understand the technical aspects of the practice of physical therapy? Would they be intimidated by other board members? Would they bring a personal agenda to board deliberations? I believe that the benefit of 18 years of experience has shown that these concerns simply have not materialized into problems. Quite to the contrary, the public members who have served on the North Carolina Board of Physical Therapy Examiners have become an integral component of a board that has a statewide and national reputation for efficiency and competence.

Tentative Schedule of Board Activities

Sept 16, 1999	Board Meeting	Jan 31, 2000	Final deadline for license renewal
Sept 22, 1999	Deadline for return of ballots for Election of Board Members	Feb 1, 2000	Licenses not renewed will lapse
Nov 1, 1999	License renewals to be mailed	<i>Additional Meetings and all Public Hearings will be posted on our Homepage (www.ncptboard.org). Please check this site regularly.</i>	
Nov 13, 1999	Board Symposium on MPA		
Dec 16, 1999	Board Meeting		
Jan 1, 2000	Recommended deadline for license renewal		

Registration Form: The Model Practice Act of the New Millennium

Date: November 13, 1999, Saturday

Place: McKimmon Center, Campus of North Carolina State University, Raleigh, NC

Time: Registration 8:30 - 9:00; Program 9:00 - 4:00

Fee: \$20.00 Early Bird Registration if received by November 5, 1999
\$25.00 Registration after November 5, 1999

Description: This program will discuss the Model Practice Act and its potential implications on the practice of physical therapy in North Carolina. In addition, there will be a discussion of the political climate in North Carolina and necessary prerequisites for introduction of a rewrite of the current North Carolina Physical Therapy Practice Act.

Target Audience:

Physical therapists and physical therapist assistants. **Attendance limited to 225 participants.**

Objectives:

- Understand the conceptual differences between the Federation's Model Practice Act and the current North Carolina Physical Therapy Practice Act.
- Individuals will be provided information that will allow them to begin developing their position on the necessity and wisdom of a practice act rewrite.
- Obtain a better understanding and appreciation of the climate of the General Assembly in consideration of the timing for a Practice Act Rewrite.
- Allow individuals the opportunity for open dialogue, and questions and answers.

Faculty:

Blair Packard, PT

MS-Duke University (1976), Full-time clinician and co-owner of East Valley Physical Therapy & Aquatic Rehabilitation, President of Federation of State Boards of Physical Therapy-FSBPT (1999 - 2001), Legislative Committee / Model Practice Act Task Force Chair (1994 -1999), AZ Board of PT Examiners (1987 - 1991), APTA Board of Directors (1991 - 1994), President of the AZ-PTA (1983 - 1984)

John M. Silverstein,
Attorney

JD from the University of North Carolina-Chapel Hill (1971), served as legal counsel for the NCBPTE since 1977 and participated in numerous lectures at physical therapy conferences and seminars over the past twenty years.

William H. Potter, Jr.,
Attorney
(video presentation)

JD from the University of North Carolina-Chapel Hill (1969), served as lobbyist and general counsel for the NCPTA since 1981, author of 1985 PT Practice Act Rewrite, also represents the NC Dental Association.

Ben F. Massey, Jr., PT

BS-University of North Carolina-Chapel Hill (1976), currently serves as the executive director for the NCBPTE, member of the FSBPT Board of Directors, Vice Speaker and Secretary of APTA (1992 - 1998), President of NCPTA (1983 - 1985)

Directions:

From 1-40 traveling east from Airport / Durham / Chapel Hill. Take Gorman Street Exit #295. Turn left onto Gorman Street. Go approximately 1 mile. McKimmon Center is on the right past Avent Ferry Road, before Western Blvd.

From I-40 traveling west from Wilmington. Take Gorman Street Exit # 295. Turn right onto Gorman Street. Go approximately 1 mile. McKimmon Center is on the right past Avent Ferry Road, before Western Blvd.

Refunds:

Full refunds will be made if notified by November 5, 1999. No refund will be made after this date.

Comfort:

Most Participants find it helpful to bring a sweater or light jacket. While we try to assure comfort, it is often difficult to maintain an ideal room temperature.

Lunch (on your own):

There is a café in the McKimmon Center and several fast food restaurants located within walking distance of the program.

Special Assistance:

The NCBPTE ensures that no individual with a disability is discriminated against because of the absence of auxiliary aides or services. In order to attend this program, if you require any assistance identified in the Americans with Disabilities Act, please contact the Board Office at 919-490-6393 / 800-800-8982 by November 1, 1999.

Continuing Education Credits:

The NCBPTE does not issue CEUs; however, a certificate of attendance will be presented with a credit of seven (7) contact hours.



Registration (Please print legibly)

Name _____ PT _____, PTA _____, Other _____

Preferred Address _____

Daytime Telephone # _____ Evening Telephone # _____

Payment (Must be included with registration form, make checks payable to NCBPTE)

\$20.00 by Nov. 5, 1999 \$25.00 after Nov. 5, 1999

Mail to: NCBPTE, 18 West Colony Place, Suite 120, Durham, NC, 27705

Office use: Postmark date _____ Check number _____



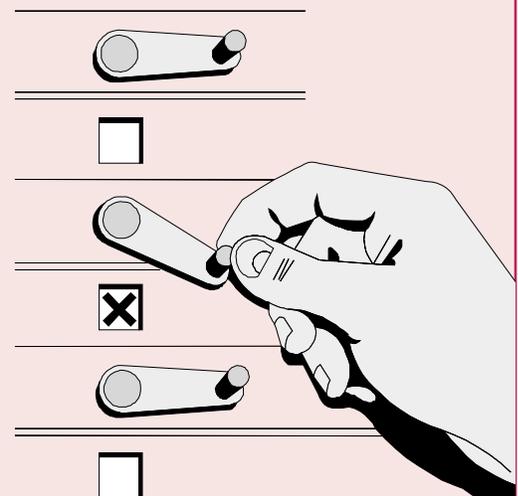
North Carolina Board of Physical Therapy Examiners - 1999

Back Row-Left to Right: *John M. Silverstein, Board Attorney; J. Herman Bunch, Jr., PT, Chairman; James C. Harvell, Jr., MD; Thomas D. Wilson, PTA; Ben F. Massey, Jr., PT, Executive Director;*
 Front Row-Left to Right: *Geraldine K. Highsmith, PT; JoDell F. King, PTA, Sec-Treas; Gloria Lewis, Public Member; Patricia Stavrakas, PT; Judy A. White, PT*

1999 Appointments and Elections

In February of 1999, Governor James B. Hunt, Jr. appointed James C. Harvell, Jr., MD and Patricia A. Stavrakas, PT to the NC Board of PT Examiners for a three-year term. These new appointees replaced outgoing Board members, James L. Comadoll, MD of Salisbury and Randall C. Stewart, PT of Rocky Mount. Dr. Harvell is an orthopaedic surgeon at Orthopedics East in Greenville and Ms. Stavrakas is on the faculty at East Carolina University in Greenville. The Board is fortunate to have these new appointees with such distinguished qualifications.

At the March Board Meeting, the Board unanimously reelected J. Herman Bunch, Jr. to serve as Chairman and JoDell F. King to serve as Secretary-Treasurer. Mr. Bunch has served as chairman since 1995 and has generously given of his time and energies in this position. Mr. Bunch will be completing his final year of his second three-year term in 1999. Ms. King has served as Secretary-Treasurer since 1997 and has one more year remaining on her second term.



FEE INCREASE: From the Executive Director

by BEN F. MASSEY, Jr., PT



Ben F. Massey, Jr., PT

We would like to thank the North Carolina Physical Therapy Association for their assistance in securing the passage of the Physical Therapy Fee Bill. Without their endorsement and assistance, it would have been most difficult to have achieved the Bill's passage. In addition, we would especially like to recognize and express our sincerest appreciation to six legisla-

tors who were most helpful with this legislation, the Bill Sponsor, Senator John H. Kerr, III of Goldsboro, and Representatives Philip A. Baddour of Goldsboro, Gordon P. Allen of Roxboro, Julia C. Howard of Mocksville, Carolyn B. Russell of Goldsboro, and Constance K. Wilson of Charlotte.

The additional income from the fee increase will allow the Board to continue in its role to protect the health, safety, and welfare of the general public who are recipients of physical therapy services. In meeting this obligation, the Board has demonstrated a willingness to discipline licensees who violate the Practice Act or Board's Rules. From 1990-1996, the Board publicly disciplined three licensees. In 1997, thirteen licensees were disciplined; in 1998, six licensees were disciplined; and to date in 1999, nine licensees have been disciplined.

In addition, each year approximately twenty licensees have received reprimands which are not considered to be disciplinary actions. Although these numbers are troubling, it is important to keep in mind that out of 6,400 licensees, this is still a very low number of violations. The Investigative Committee also addresses approximately 10-15 advertising complaints each year, most of which do not involve licensees.

Over the past few years, the Board has taken some very positive steps for licensees. The addition of the web page has provided licensees and the general public with practice information, position statements, and

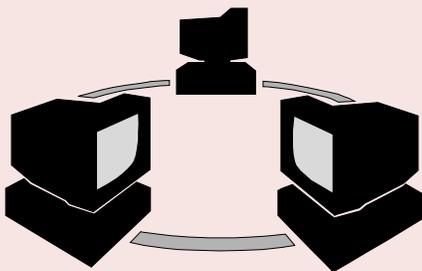
copies of recent newsletters. Many of the other NC Licensing Boards currently post licensee information on their web page. The PT Board has been debating this issue for a couple of years as to what information should be made available to the general public on the web. The Board may include additional questions in the next renewal information for addresses for the web page.

Additionally, the fee increase will allow the Board to move next door to a larger suite to accommodate our growth over the past ten years and hire one additional staff person. We will be moving from a nine-hundred square foot office to a sixteen-hundred square foot office. This is still relatively small in comparison to most other Boards as we strive to maintain cost efficiency.

We are fortunate to have an independent Physical Therapy Board (as compared to a "superboard" in some other states) who is able to make decisions that can positively impact the quality and safety of physical therapy services in North Carolina. In addition, we are fortunate to have highly qualified individuals who are dedicated to serving on the Board. Lastly, we are also very fortunate to have licensees in North Carolina who recognize the importance of the role of the Board and are willing to support a fee increase so the Board can continue to fulfill its obligations.

	Current	Maximum Cap Approved by Legislature	Proposed Fees Effective Nov. 1, 1999*
Application	\$100.00	\$150.00	\$120.00
Renewal	\$40.00	\$120.00	\$60.00
Verification / Transfers	\$15.00	\$30.00	\$25.00
Exam Retake	\$30.00	\$60.00	\$50.00
Late Renewal	\$20.00	\$20.00	\$20.00
License Revival	\$25.00	\$30.00	\$30.00
Directory	\$5.00	\$10.00	\$10.00
License Lists or Labels	\$60.00	\$60.00	\$60.00

* Pending approval of a Temporary Rule by the Rules Review Commission



WEB PAGE...ncptboard.org

As reported in the previous issue of the Newsletter, the Board has a Web Page (ncptboard.org). We encourage all licensees to visit the web page at least once a month to keep up with any changes that may affect the practice of physical therapy (*add our web page to your bookmarks!!*). All important notices and announcements will be placed on the web page. In addition, you will find a copy of the Practice Act, Rules, disciplinary actions, and other information related to the practice of physical therapy.

North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions

January, February, March 1999

Suspension

Hafer, Lyndsey R., PTA (Suspension)

Location: Winston-Salem, NC

License #: A2113

Conduct: Documenting and charging for home health patient visits that were not performed.

Discipline: 03/30/99 Consent Order executed. Suspension. The suspension will be for a period of twelve (12) months; however, all but six (6) months shall be stayed upon completion of the terms and conditions of the Consent Order.

Probation

Gawelko, Paul E., PT (Probation)

Location: Fayetteville, NC

License #: PT4779

Conduct: Failure to adequately supervise facility personnel and for allowing an occupational therapist to evaluate and treat a physical therapy patient.

Discipline: 03/11/99 Three (3) month period of probation

Warning

Metzger III, Raymond S., PT (Warning)

Location: Fayetteville, NC

License #: PTA 2180

Conduct: Failure to disclose disciplinary action taken in North Carolina on an application for licensure in another state that requested disclosure of prior disciplinary action.

Discipline: 03/11/99 Warning

Open Response to Complaint Board

The following is an anonymous complaint received by the Board and the Board's response:

COMPLAINT:

I am a physical therapist assistant. I have seen this practice going on and want to ask your input, or actually for you to look into this matter since I don't think it is right. I work at _____ and they have a work hardening program. Sometimes the therapist working there takes a vacation and they have an aide or trainers, not PT/PTA there, working with the patients. They asked a PT/PTA to write the note and bill for it. Is this legal? I would think that if a PT/PTA weren't doing the treatment that it isn't right. I am afraid they will ask me and then put my license at risk.

I need to stay anonymous since I need the job. If this isn't right, maybe you as a Board may want to check this company out. Thank you.

PTA

RESPONSE:

Every licensee is obligated to report an unlawful practice to the Board. Otherwise, the licensee could be found to be aiding and abetting the unlawful practice of physical therapy. However, that requirement is not satisfied by submitting an anonymous complaint, which provides too great an opportunity for abuse or even harassment to justify the expenditure of time and money on the Board's part to conduct an investigation.

We need additional information, but we have no way to contact you because you did not furnish a name,

address or telephone number. The Board has no way to confirm that you are an employee of the facility. You did not give us a time period within which this practice occurred ("sometimes"); you did not give us the names of patients who were treated by unsupervised aides; you did not tell us whether the trainers were licensed practitioners or were billing for physical therapy.

If a licensee is going to be subject to disciplinary action, in order to confront and contest the allegations made against him or her, the licensee must have access to as much information as possible. In the case of an anonymous complaint, the licensee may be placed at a severe disadvantage in being able to respond. The Board has therefore concluded that in view of the potential for unreliability of complaints that are anonymous, or based on rumor or hearsay, the Board is unable to initiate investigations unless it can contact patients or practitioners who can furnish the Board's investigators with specific direction regarding evidence of a Practice Act violation. While it is sometimes either prudent or necessary to keep a complainant's identity confidential, or even the existence of the investigation confidential as long as possible, there is a great difference between an investigation based on confidentiality and one based on anonymity. Ultimately, the Board will need to produce evidence of a Practice Act violation, which cannot be supported by anonymous testimony or hearsay evidence.

Please contact us again to at least furnish your name and how we can contact you; otherwise, we will have to dismiss your complaint with no action taken.

**North Carolina Board of
Physical Therapy Examiners**

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Summary of Fees

Nov. 1, 1999*

Renewal (PT & PTA)	\$ 40.00	\$60.00
Revival Fee and Renewal Fee	65.00	90.00
Application Fee PT	100.00	120.00
Application Fee PTA	90.00	120.00
Exam Cost (PT & PTA)**	185.00	185.00
Exam Retake Fee	30.00	50.00
Verification/Transfer Fee	15.00	25.00
Licensee Directory	6.24	11.24
License Card	6.00	10.00
Labels of Licensees (PT or PTA)	60.00	60.00
Certificate Replacement	15.00	20.00

**pending approval of Temporary Rules by Rules Review Commission
**plus PT or PTA Application Fee*

Licensure Statistics (As of July 27, 1999)

	Licensed in NC	Reside in NC	Work in NC
PTs	4480	3213	2718
PTAs	1972	1670	1353

Change of Address / Name / Licensee Directory Correction Form

Current Name _____ New Name _____ PT _____ PTA _____

New Home Address _____

New Home City, State, Zip _____ Phone _____

New Work Address _____

New Work City, State, Zip _____ Phone _____ Fax _____

License # _____ Mail, fax, or e-mail addresses to the Board Office.

7000 copies of this public document were printed at a cost of \$2,570.00 or .367 cents per copy.

**North Carolina
Board of Physical Therapy Examiners**
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