

**NEW JERSEY STATE BOARD OF PHYSICAL THERAPY EXAMINERS**  
**PUBLIC SESSION MINUTES**  
**January 23, 2007**

A regular meeting of the New Jersey State Board of Physical Therapy Examiners was held at 124 Halsey Street, Newark, New Jersey, in the Somerset Conference Room, 6th Floor, on Tuesday January 23, 2007. The meeting was convened in accordance with the provisions of the Open Public Meetings Act. Nancy Kirsch, Chairperson of the Board, called the meeting to order at 9:45 A.M. and a roll call was taken and the following attendance was recorded:

CAROLANNE AARON, P.T Present  
BARBARA J. BEHRENS, P.T.A. Present  
JEAN BICKAL, ESQ Present  
MARY B. BROWNE, P.T. Present  
JEFFREY A. ERICKSON, P.T. Present  
BARRY INGLETT, P.T. Present  
NANCY KIRSCH, P.T. Present  
SUSAN M. QUICK Present  
KAREN WILK, P.T. Present

Also present were: Susan H. Gartland, Executive Director; Susan Berger, Deputy Attorney General; Lisa Petrowski, Assistant to the Executive Director, Members of the public: Richard Stoneking, P.T., President of the APTA-NJ; Patricia Brick, P.T., representative of the APTA-NJ; Kenneth Maily, P.T.; and Lisa Di Giovanni, P.T.A.

### **I. PUBLIC COMMENT**

Kenneth Maily, PT, commented that Assembly Bill No. 3790 would provide New Jersey licensed physical therapists due process by their licensing Board in the event that a payer or its agency decides to reduce, delay, or deny a claim based on their own allegation of misconduct by the physical therapist. Mr. Maily also commented that it would provide New Jersey licensed physical therapists the option to self report the allegation of misconduct made by the payer or its agency to the New Jersey State Board of Physical Therapy Examiners in order for its licensing Board to determine whether its licensee violated any of the statutes and regulations governing their practice of physical therapy or whether its licensee's conduct was not within appropriate standards of care instead of the determination being solely made by the accuser (payer or its agency). Richard Stoneking, PT, did not specifically comment on Assembly Bill No. 3790, but did recommend to the Board that it review Assembly Bill No. 3827 (Synopsis - Expands scope of claims subject to "Health Claims Authorization, Processing and Payment Act," and modifies certain claims procedures.) which was introduced December 14, 2006.

### **II. APPROVAL OF THE MINUTES OF DECEMBER 19, 2006 BOARD MEETING**

Upon a motion made by Mary Browne and seconded by Jean Bickal, the Board voted to accept the minutes of the December 19, 2006 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

### **III. NEW BUSINESS**

A. Assembly No. 3790 (Synopsis - Reforms the review, processing, and payment of certain health and other insurance claims relating to physical therapy services.) - Introduced December 11, 2006

This matter was tabled until the Board's February 27, 2007 meeting.

B. 2007 National Physical Therapy Examination Policies

The Board reviewed the 2007 National Physical Examination Policies and considered them informational.

C. Letter from Kavitha J. Achutha-Falvo, PT  
RE: Continuing Education

Ms. Falvo wrote the Board concerning the new continuing education statute and regulations which require New Jersey licensed physical therapists and physical therapist assistants to complete 30 continuing education credits within each biennial renewal period. Ms. Falvo advised the Board that she graduated in May of 2006 with a Doctor of Physical Therapy Degree and is opening her own physical therapy practice. Ms. Falvo inquired whether it would grant her an exemption from the continuing education requirement during this renewal period (February 1, 2006 through January 31, 2008) due to her financial hardship and time constraints.

A motion was made by Mary Browne and seconded by Karen Wilk to advise Ms. Falvo that it denied her request as her reasons do not rise to the level of significant hardship to warrant an exemption from the continuing education requirement. A vote was taken and the motion carried by a unanimous vote.

D. Assembly No. 2134 (Synopsis - Requires certain persons making dental decisions regarding insurance coverage to be licensed by the New Jersey Board of Dentistry.) - Introduced January 30, 2006

The Board reviewed Assembly No. 2134 and considered it informational and will not submit a comment.

E. Letter from Megha Pandya  
RE: Education

Ms. Pandya advised the Board that she graduated in 2004 with a bachelor's degree in physical therapy and has been licensed to practice physical therapy in the State of New York for a year and a half. Ms. Pandya inquired what she would need to do to become licensed in the State of New Jersey.

A motion was made by Barbara J. Behrens and seconded by Mary Browne to advise Ms. Pandya that in accordance with N.J.S.A. 45:9-37.22( c), she would need to possess at least a master's degree in physical therapy from an accredited college or university in order to be eligible for licensure as a physical therapist in New Jersey. A vote was taken and the motion carried by a unanimous vote.

F. Jurisdictions assuming the ADA (Americans with Disabilities Act) cost for the NPTE (National Physical Therapy Examination)

Currently the FSBPT (Federation of State Boards of Physical Therapy) pays for ADA accommodations of candidates taking the National Physical Therapy Examination. The FSBPT Finance Committee of which Nancy Kirsch, Board Chairman, is a member discussed the possibility of the jurisdictions (State Boards) paying for this expense rather than the FSBPT since it is the jurisdictions who approve the requests for accommodations. The expense to the FSBPT for these accommodations is \$55,000.00.

Upon a motion made by Jeffrey Erickson and seconded by Barbara J. Behrens, the Board voted to co-sponsor with the Nebraska State Board of Physical Therapy Examiners a motion to go to the Delegate Assembly at the annual meeting in September, 2007 in favor of the jurisdictions (State Boards) paying for ADA accommodations of candidates taking the National Physical Therapy Examination. The motion carried by a unanimous vote.

#### **IV. OLD BUSINESS**

A. Letter from Eddie Wu MS-III, PT  
RE: Continuing Education

Mr. Wu initially wrote the Board concerning the new continuing education statutes and regulations which require New Jersey licensed physical therapists and physical therapist assistants to complete 30 continuing education credits within each biennial renewal period. In Mr. Wu's initial letter he advised the Board that he is currently a

third year medical student and inquired whether the Board would grant him an exemption from the continuing education requirement due to his financial hardship and time constraints or whether some of the classes he is currently taking as a medical student could be counted towards the continuing education requirement.

The Board advised Mr. Wu that it denied his request for an exemption from the continuing education requirement. The Board further advised Mr. Wu that licensees who are selected to participate in the continuing education audit can submit courses that have not been pre-approved by the Board and the Board will determine at that time on a case by case basis whether the courses meet the requirements set forth in N.J.A.C. 13:39A-9 et seq and may be granted credit.

Mr. Wu wrote the Board concerning its decision and asked the Board to reconsider his initial request.

The Board will advise Mr. Wu that it reaffirmed its decision. The Board will also advise Mr. Wu that if a licensee who is selected to participate in the continuing education audit provides 30 or more continuing education credits completed within the renewal period (February 1, 2006 through January 31, 2008) that are not all from pre-approved Board courses, the Board will take into consideration that the individual did complete the appropriate number of credits to meet the continuing education requirement. In that event, if the Board finds any of the courses submitted that have not been pre-approved by the Board do not meet the requirements set forth in N.J.A.C. 13:39A-9 et seq., the Board may require the licensee to complete additional coursework.

#### B. Statutes and Regulations of the Tennessee Board of Physical Therapy Examiners

John P. Murdoch II, Esq. inquired whether a New Jersey licensed physical therapist who has completed coursework in the Canine Rehabilitation program at the University of Tennessee Veterinary School could treat dogs who would benefit from physical therapy rehabilitation services under the supervision of a licensed veterinarian.

A motion was made by Jeffrey Erickson and seconded by Barbara J. Behrens to contact the New Jersey Board of Veterinary Examiners and inquire whether a joint committee meeting of the Boards could be scheduled to discuss this matter. A vote was taken and Barry Inglett abstained while all others voted in favor. The motion carried by a majority vote.

#### C. Letter from Lisa Di Giovanni, PTA RE: Supervision

Dana Westby previously advised the Board that she practices in a private school setting and received the revised Chapter 14, Special Education New Jersey Administrative Code, 6A:14-3.9, which states, "...physical therapist assistants shall work in the presence and under the supervision of a certified physical therapist". Ms. Westby further advised the Board in her letter that she noted that the language changed as it use to state direct supervision which she interpreted as a physical therapist on-site must be provided for physical therapist assistants and asked for the Board's clarification.

The Board advised Ms. Westby that a physical therapist supervisor must be in the same building or a contiguous building while the physical therapist assistant is rendering care. The physical therapist must be constantly available through electronic communication to the physical therapist assistant. The Board further advised that depending upon what type of an environment a physical therapist practices in, the physical therapist may need to abide by other State statutes and regulations that may be more restrictive.

Lisa Di Giovanni wrote the Board concerning its response to Ms. Westby. Ms. Di Giovanni also attended the public session of this meeting and advised the Board of her concerns with Chapter 14, Special Education New Jersey Administrative Code, 6A:14-3.9 and asked for an interpretation of this regulation.

The Board advised Ms. Di Giovanni that Chapter 14, Special Education New Jersey Administrative Code, 6A:14-3.9 is regulated by the Department of Education and not within the New Jersey State Board of Physical Therapy Examiners' jurisdiction. The Board also advised Ms. Di Giovanni that she would need to contact the Department

of Education with her concerns and for an interpretation of its regulations.

D. Letter from Rebecca A. Edelman, Esq.  
RE: Permissible Forms of Physical Therapy Practice

Ms. Edelman wrote the Board to confirm that New Jersey laws and regulations do not prohibit physical therapists from being employed by a general business corporation. Ms. Edelman also requested confirmation that it is not prohibited as long as the general business corporation does not direct, instruct or otherwise influence the course or type of physical therapy services rendered by the employed physical therapist or set a fee schedule for the billing of the physical therapy services.

The Board will advise Ms. Edelman that the New Jersey State Board of Physical Therapy Examiners statutes and regulations do not address the type of business practices a physical therapist or physical therapist assistant may engage in while practicing the profession of physical therapy at this time. The Board is working towards promulgating regulations that would address this issue. The Board will also advise Ms. Edelman that if a physical therapist is employed by a general business corporation, the physical therapist must be autonomous in its practice of physical therapy including but not limited to the types of physical therapy services rendered, billing for those physical therapy services, and the setting of the fee schedule. A physical therapist must at all times adhere to the statutes and regulations governing their practice as a physical therapist in New Jersey.

The Board will also advise Ms. Edelman that although the New Jersey State Board of Physical Therapy Examiners' statutes and regulations do not prohibit this type of relationship, there may be other laws or regulations in the State of New Jersey that are applicable.

## **V. FOR YOUR INFORMATION**

A. Orthotics and Prosthetics Board of Examiners  
January 9, 2007 Public Session Agenda

The Board reviewed the Orthotics and Prosthetics Board of Examiners' January 9, 2007 Public Session Agenda and considered it informational.

B. New Jersey State Board of Medical Examiners January 10, 2007 Open Board Agenda

The Board reviewed the New Jersey State Board of Medical Examiners' January 10, 2007 Open Board Agenda and considered it informational.

C. New Jersey State Board of Medical Examiners January 10, 2007 Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' January 10, 2007 Disciplinary Matters Pending Conclusion and considered it informational.

D. New Jersey State Board of Medical Examiners November 8, 2006 Open Board Minutes

The Board reviewed the New Jersey State Board of Medical Examiners' November 8, 2006 Open Board Minutes and considered them informational.

E. New Jersey State Board of Medical Examiners November 8, 2006 Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' November 8, 2006 Disciplinary Matters Pending Conclusion and considered it informational.

F. Memorandum from the FSBPT (Federation of State Boards of Physical Therapy)  
RE: 2007 Budget

The Board reviewed the FSBPT 2007 Budget and considered it informational.

## **APPLICATIONS APPROVED BY THE BOARD:**

1. Fairley Ann Lennor Gariando Kua
2. Josephine A. DeLeon
3. Genise Estiaga
4. Farrah S. Tan
5. Jo Ann Pena
6. Michelle Malalang
7. Ruzziel Rimbawa
8. Aerides Munoz
9. Celso Mendoza Jr.
10. Fritzie Griego
11. Divine Grace Miguel Valencia
12. Maria Sapitula
13. Minette Magno
14. Carlito Ning
15. Anais Sanvictores
16. Veronica Paglinawan

## **APPLICATIONS NOT APPROVED BY THE BOARD:**

1. Anna Victoria A. Bayron
2. Nelly Yolanda Galindo-Pita
3. Roser G. Cunanan
4. Hyeojung Chooi
5. Prem D. Issac
6. Lovely A. Bayron
7. Victor Philip C. Estepa
8. Khanh Lu
9. Bartiomiej Roman

Upon a motion made by Barry Inglett and seconded by Jean Bickal, the Board voted to go into Executive Session to discuss the following matters involving investigations of violations of the Board's enabling act, the Uniform Enforcement Act and/or Board regulations.

1. Seven matters filed with the Board, which require review and additional recommendations with regard to investigations and/or actions.
2. Six matters where additional information has been submitted to the Board concerning pending investigations.

## **ADJOURNMENT**

The Board returned to Public Session and a motion was made by Carolanne Aaron and seconded by Susan Quick to adjourn the meeting at 2:45 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Susan H. Gartland  
Executive Director