

NEW JERSEY STATE BOARD OF PHYSICAL THERAPY EXAMINERS
PUBLIC SESSION MINUTES
February 24, 2009

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 February 24, 2009. The meeting was convened in accordance with the provisions of the Open Public Meetings Act. Karen Wilk, Chairperson of the Board, called the meeting to order at 9:30 A.M. and a roll call was taken and the following attendance was recorded:

CAROLANNE AARON, P.T Excused
BARBARA J. BEHRENS, P.T.A. Present
JEAN BICKAL, ESQ Present
MARY B. BROWNE, P.T. Present
DENNISE KRENCICKI, P.T. Present
NANCY KIRSCH, P.T. Present
CINDY MOORE, P.T. Present
SUSAN M. QUICK Excused
KAREN WILK, P.T. Present

Also present were: Carmen Rodriguez, Deputy Attorney General and Lisa Petrowski, Executive Director; Members of the public: Kenneth Mailly, PT, Dana Cartin, PT and Anubha Goel

I. APPROVAL OF THE MINUTES OF JANUARY 27, 2009 BOARD MEETING

Upon a motion made by Nancy Kirsch and seconded by Mary Browne, the Board voted to accept the minutes of January 27, 2009 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

II. NEW BUSINESS

A. Letter from Nancy E. Gould, PTA
RE: Supervision

Ms. Gould inquired whether a physician or nurse could supervise a physical therapist assistant. Ms. Gould inquired whether a physical therapist assistant may conduct physical therapy groups without a physical therapist "on grounds". Ms. Gould also inquired whether a physical therapist assistant could provide patient education programs under the supervision of a physician or other supervisory official in a state agency. Ms. Gould also provided the Board with a copy of a job description of a physical therapist assistant from the New Jersey Department of Personnel.

A motion was made by Jean Bickal and seconded by Barbara J. Behrens to advise Ms. Gould that pursuant to N.J.S.A. 45:9-37.20(b) and N.J.A.C. 13:39A-2.3 (a), a physical therapist assistant may initiate physical therapy treatment only at the direction of and under the direct supervision of a licensed physical therapist. Ms. Gould will also be advised that pursuant to N.J.A.C. 13:39A-7.2 (a), the licensed physical therapist supervisor shall be in the same building or, where physical therapy is rendered in several contiguous buildings, in one of the contiguous buildings, while the licensed physical therapist assistant is rendering care. The Board will also advise Ms. Gould that the job description she submitted appears to be in conflict with N.J.S.A. 45:9-37.20(b) which should be brought to the attention of her employer. A vote was taken and the motion carried by a unanimous vote.

B. Letter from Renee R. Couvrette, PT
RE: Pulse Oximeter

Ms. Couvrette inquired whether a physical therapist could utilize a pulse oximeter without the referral of a physician.

The Board will advise Ms. Couvrette that a physician referral is not required for a physical therapist to utilize a pulse oximeter.

C. Letter from Joni Bragen, PTA

RE: Physical Therapist Assistant Scope of Practice

Ms. Bragen inquired whether a physical therapist assistant could perform joint mobilizations or neural glides.

The Board will advise Ms. Bragen that a physical therapist assistant may perform joint mobilizations and neural glides under the direct supervision of a licensed physical therapist provided the physical therapist assistant has additional training and is deemed competent by the physical therapist to perform those interventions.

D. Continuing Education Course Reviewers' Recommendations

Nancy Kirsch and Dennise Krencicki were recused and did not participate in the discussion.

The Board reviewed the recommendations of the course reviewers at the University of Medicine and Dentistry of New Jersey (UMDNJ) for continuing education courses submitted by sponsors for the Board's approval. A motion was made by Mary Browne and seconded by Barbara J. Behrens to accept the course reviewers' recommendations as presented. The 32 approved courses and the 1 denied course will be posted on the New Jersey State Board of Physical Therapy Examiners' website. The course, Preventing Falls in Geriatrics, sponsored by Edlantis Seminars was denied as it did not meet all the requirements set forth in N.J.A.C. 13:39A-9 et seq. A vote was taken and the motion carried by a unanimous vote.

E. Letter from the American Physical Therapy Association

RE: Assembly No. 2123 (Synopsis - Concerns Access to physical therapy services, and insurance claims handling following access to those services.)

- Introduced February 25, 2008

A motion was made by Nancy Kirsch and seconded by Barbara J. Behrens to advise the Division of Consumer Affairs legislative liaison that the Board of Physical Therapy Examiners opposes the bill in its current form. The Board understands and agrees with the need to improve access to and payment for physical therapy services as well as decrease consumer confusion about how physical therapy services are covered by insurance carriers. While this bill has the intent to address these issues, the Board is concerned that the potential negative implications of the bill outweigh the possible benefit.

The bill creates a minimum fee schedule for physical therapy services. Physical Therapy is not a mandated benefit in New Jersey. Insurance companies faced with this minimum fee schedule may be forced to choose to decrease coverage or eliminate physical therapy altogether as a benefit of their plan because of significant financial ramifications. This would have the ultimate effect of decreasing consumer access to physical therapy services. Further, the mandated fee schedule can negatively impact payment arrangements previously negotiated in good faith between insurance companies and physical therapy providers including hospital and home care settings.

Since 2003 consumers have had the right to access physical therapy services directly without the need for a referral from another health care provider. This bill permits insurance providers to require a physician referral in order to reimburse for physical therapy services. This eliminates direct access for consumers, creates delays and increases costs for consumers in the form of co-pays by requiring a physician visit to access physical therapy services.

The Board does feel there are positive aspects to the bill, namely the provision that physical therapy services would be covered if authorization from the payer is not received within seven days after the request is made. This can decrease confusion consumers have about when a service is covered and permit more timely access to services.

The Board supports reasonable remuneration for physical therapy services. Currently some providers of physical therapy are being forced out of business due to reimbursement practices that do not cover the cost of providing services, leading to decreased consumer choice when accessing physical therapy services.

The Board of Physical Therapy supports the concept on which the bill is based. However, the Board is concerned that if passed as presently written, this bill has the potential to have significant negative implications for the consumers of the State by decreasing their access to physical therapy services, decreasing or eliminating physical therapy as a covered benefit, and increasing their personal costs when accessing services, which in the current economic climate is a significant burden. A vote was taken and Jean Bickal abstained while all others voted in favor. The vote carried by a majority vote.

F. Letter from Silverio Derikito, PT
RE: Continuing Education

Mr. Derikito inquired whether he could receive continuing education credit for the courses he is taking to complete his master's degree.

The Board will advise Mr. Derikito that pursuant to N.J.A.C. 13:39A-9.3(b)2 he could receive continuing education credit for successful completion of a course in an academic master's or doctoral program related to the practice of physical therapy if the courses are completed within the appropriate renewal period.

G. Letter from the International Weightlifting Association
RE: Continuing Education

The International Weightlifting Association advised the Board that they changed the name of the approved course, "Functional Exercise Training" to "Integrative Resistance Training" to better explain the course content. The International Weightlifting Association advised the Board that nothing else was changed but the title of the course.

A motion was made by Nancy Kirsch and seconded by Barbara J. Behrens to advise the International Weightlifting Association that the Board will post the new course name on its website. A vote was taken and the motion carried by a unanimous vote.

H. Letter from Theresa Jones
RE: Documentation

Ms. Jones inquired whether a physical therapist or physical therapist assistant could use a rubber stamp for their license number on documentation.

A motion was made by Barbara J. Behrens and seconded by Nancy Kirsch to advise Ms. Jones that a physical therapist and a physical therapist assistant can use a rubber stamp to stamp their license number on documentation. A vote was taken and the motion carried by a unanimous vote.

I. Letter from Josephine Damen-Petit, PT
RE: Duplicate License

Ms. Petit advised the Board that she is working in a school district where children are sent from other school districts. The sending school districts are requesting a copy of her physical therapy license for their files and she is hesitant to provide them with a photocopy of her license.

The Board advised Ms. Petit that she must post her license at the location where she practices and the sending school districts can call the Division of Consumer Affairs verification telephone number, 973-273-8090, to have a verification of her license faxed to them.

Ms. Petit inquired whether she could make a photocopy of her license if the sending school districts request it as they require it for Medicaid reimbursement purposes.

The Board will advise Ms. Petit that she can provide the sending school districts with a photocopy of her license in order for them to provide it to Medicaid if that is what is required to comply with Medicaid's verification procedures.

J. Letter from David Barmak, Esq.
RE: Continuing Education

Mr. Barmak advised the Board that he represents the New Jersey Society of Independent Physical Therapists, Inc. and inquired what the Board would need in order for them to consider accepting credits awarded from courses sponsored by the New Jersey Society of Independent Physical Therapists.

A motion was made by Nancy Kirsch and seconded by Jean Bickal to request information from Mr. Barmak regarding the course review process utilized by the New Jersey Society of Independent Physical Therapists in order for the Board to determine whether the organization meets the criteria for automatic approval. A vote was taken and the motion carried by a unanimous vote.

K. Letter from Helene Santillo, PT
RE: Documentation

Ms. Santillo inquired whether a physical therapist assistant could document a progress note for a patient. Ms. Santillo also inquired whether a physical therapist assistant could document a patient's discharge summary.

A motion was made by Barbara J. Behrens and seconded by Mary Browne to advise Ms. Santillo that a physical therapist assistant can write the final treatment note and give input concerning discharge but the physical therapist must write the discharge note/summary with the assessment data. The Board will also advise Ms. Santillo that a physical therapist assistant can document a progress note provided it is co-signed by the supervising physical therapist. A vote was taken and the motion carried by a unanimous vote.

III. OLD BUSINESS

A. 10:00 AM Joseph Gerald Brandt
Motion for Reconsideration
RE: Application for Licensure

The Board previously denied Joseph Gerald Brandt's application for physical therapist assistant licensure through endorsement as he did not meet the licensing requirements because he did not complete a two-year physical therapist assistant program from an accredited college or university approved for the education and training of physical therapist assistants by an accrediting agency recognized by the Council on Post Secondary Accreditation and the United States Department of Education. New Jersey does not recognize substitute education in lieu of the two year physical therapist assistant program.

Mark D. Miller, Esq. wrote the Board on behalf of Joseph Gerald Brandt and asked the Board to reconsider Mr. Brandt's application for licensure.

Joseph Gerald Brandt appeared before the Board concerning the denial of his application for licensure and his request for reconsideration. Mr. Brandt was accompanied by his attorney, Mark D. Miller.

After the Board returned to Public Session to continue the meeting, a motion was made by Jean Bickal and seconded by Barbara J. Behrens to reaffirm the Board's original decision to deny Joseph Gerald Brandt's application for licensure as he does not meet the New Jersey licensing requirements and the information presented at the Motion for Reconsideration did not provide new information that did not exist at the time the application for a physical therapist assistant license was reviewed. It is the opinion of the Board that the State of New York and the State of New Jersey's requirements for licensure are not substantially equivalent. A vote was taken and the motion carried by a unanimous vote.

IV. FOR YOUR INFORMATION

A. Federation of State Boards of Physical Therapy February 9, 2009 Newsflash

The Board reviewed the Federation of State Boards of Physical Therapy's February 9, 2009 Newsflash and considered it informational.

B. Federation of State Boards of Physical Therapy January 2009 NewsBriefs

The Board reviewed the Federation of State Boards of Physical Therapy's January 2009 NewsBriefs and considered it informational.

C. Commission on Graduates of Foreign Nursing Schools February 2, 2009 News Release

The Board reviewed the Commission on Graduates of Foreign Nursing Schools' February 2, 2009 News Release and considered it informational.

D. New Jersey Board of Medical Examiners' February 11, 2009 Open Board Agenda

The Board reviewed the New Jersey Board of Medical Examiners' February 11, 2009 Open Board Agenda and considered it informational.

E. New Jersey Board of Medical Examiners' February 11, 2009 Open Agenda of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey Board of Medical Examiners' February 11, 2009 Open Agenda of Disciplinary Matters Pending Conclusion and considered it informational.

F. New Jersey Board of Medical Examiners' December 3, 2008 Open Board Minutes

The Board reviewed the New Jersey Board of Medical Examiners' December 3, 2008 Open Board Minutes and considered them informational.

G. New Jersey Board of Medical Examiners' December 3, 2008 Open Minutes of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey Board of Medical Examiners' December 3, 2008 Open Minutes of Disciplinary Matters Pending Conclusion and considered them informational.

H. Consent Order filed February 10, 2009 In the Matter of Elizabeth Fevola, PT

The Board is in receipt of a copy of the Consent Order filed February 10, 2009 in the matter of Elizabeth

Fevola, PT for violation of N.J.S.A. 45:9-37.34 and N.J.A.C. 13:39A-9.1 et seq. as she did not obtain the thirty (30) continuing education credits prior to January 31, 2008. The physical therapist was issued a \$500.00 civil penalty. The Board considers this matter to be concluded.

I. Consent Order filed February 10, 2009
In the Matter of Gary Harris, PT

The Board is in receipt of a copy of the Consent Order filed February 10, 2009 in the matter of Gary Harris, PT for violation of N.J.S.A. 45:9-37.34 and N.J.A.C. 13:39A-9.1 et seq. as he did not obtain thirty (30) continuing education credits prior to January 31, 2008. The physical therapist was issued a \$250.00 civil penalty. The Board considers this matter to be concluded.

J. Consent Order filed February 10, 2009
In the Matter of Nancy Hernandez, PT

The Board is in receipt of a copy of the Consent Order filed February 10, 2009 in the matter of Nancy Hernandez, PT for violation of N.J.S.A. 45:9-37.34 and N.J.A.C. 13:39A-9.1 et seq. as she did not obtain the thirty (30) continuing education credits prior to January 31, 2008. The physical therapist was issued a \$250.00 civil penalty. The Board considers this matter to be concluded.

K. Consent Order filed February 10, 2009
In the Matter of William Lloyd, Jr., PT

The Board is in receipt of a copy of the Consent Order filed February 10, 2009 in the matter of William Lloyd, Jr, PT for violation of N.J.S.A. 45:9-37.34 and N.J.A.C. 13:39A-9.1 et seq. as he did not obtain the thirty (30) continuing education credits prior to January 31, 2008. The physical therapist was issued a \$1,000.00 civil penalty. The Board considers this matter to be concluded.

APPLICATIONS APPROVED BY THE BOARD

1. Christian B. Toledo
2. Cecile Borbon
3. Aravinda Gachumale

APPLICATIONS NOT APPROVED BY THE BOARD

1. Noha R. Wahba
2. Soraya Allie
3. Arbie Entero
4. Chang Yoon
5. Neyha Kaul

Upon a motion made by Nancy Kirsch 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. Nine 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 Nancy Kirsch and seconded by Dennise

Krencicki to adjourn the meeting at 3:30 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Lisa Petrowski
Executive Director