

NEW JERSEY STATE BOARD OF PHYSICAL THERAPY EXAMINERS
PUBLIC SESSION MINUTES
February 27, 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 February 27, 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 9:40 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
JEFFREY A. ERICKSON, P.T. Present
BARRY INGLETT, P.T. Present - Arrived at 10:30AM
NANCY KIRSCH, P.T. Present
SUSAN M. QUICK Excused
KAREN WILK, P.T. Excused

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.

I. PUBLIC COMMENT

II. APPROVAL OF THE MINUTES OF JANUARY 23, 2007 BOARD MEETING

Upon a motion made by Jean Bickal and seconded by Barbara J. Behrens, the Board voted to accept the minutes of the January 23, 2007 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

III. NEW BUSINESS

A. Assembly No. 3827 (Synopsis - Expands scope of claims subject to "Health Claims Authorization, Processing and Payment Act," and modifies certain claims procedures) - Introduced December 14, 2006

A motion was made by Jeffrey Erickson and seconded by Barbara J. Behrens to strongly support A-3827 as it provides significant advantages to the consumer when accessing physical therapy services that are to be reimbursed by a third party payer. The Board commented on the following four areas: (1) The expansion of the Health Claims Authorization, Processing and Payment Act, P.L. 2005 to include physical therapists is beneficial to the consumer of physical therapy services, as physical therapists were not previously included in this act. (2) The demand that carriers and organized delivery systems (ODS) make their utilization decision algorithms available to physical therapy practitioners will assist the physical therapists in understanding how decisions have been made. Utilization decisions regarding medical necessity have a large impact on patient care plans and ultimately on outcomes. It is important that practitioners have access to decision making protocol to insure that decisions are not arbitrary or lack sound evidence based rationale. (3) The requirement that the limitation of requested services, or denial of those services must be made by a physical therapist is beneficial to the consumer, because the knowledge of the decision maker should be consistent with and based on, "The Guide to Physical Therapist Practice" and consistent with accepted physical therapy treatment rationale. (4) The reduction in the time frame for a carrier or ODS to make a determination from fifteen to three days is beneficial to the consumer to permit continuity and timeliness of care which is so important in the treatment of most conditions seen by physical therapists. A vote was taken and the motion carried by a unanimous vote.

B. Letter from Catherine L. Siazon-Leviste, PT
RE: Physical Therapy Practice

Ms. Leviste advised the Board that she is not only licensed in the State of New Jersey as a physical therapist but also as a medical doctor. Ms. Leviste inquired whether she could see patients in both capacities at her own physical therapy practice.

The Board will advise Ms. Leviste that the documentation in the patient records should be consistent with the capacity in which she is functioning either as a medical doctor as a physical therapist while treating the patient.

C. Letter from Jane C. Robbins, PT
RE: Patient Records

Ms. Robbins inquired whether rehabilitation notes could be maintained in the rehabilitation room instead of in the hard charts behind the nurses' station in a nursing home environment. Ms. Robbins further inquired whether there were any regulations that addressed the timeframe in which the rehabilitation notes were to be incorporated into the hard chart. Ms. Robbins also asked for clarification as to what information goes to a physiatrist for signature within a week, the orders contained in the hard chart to evaluate and treat or the physician's orders contained on the rehabilitation evaluation.

The Board will advise Ms. Robbins that the notes must be written contemporaneously and maintained in the patient's permanent record in accordance with N.J.A.C. 13:39A-3.1(a), "A licensed physical therapist shall prepare and maintain for each patient a contemporaneous, permanent patient record that accurately reflects the patient contact with the physical therapist whether in an office, hospital or other treatment, evaluation or consultation setting". The Board will also advise Ms. Robbins that each page of the patient record must include her name, licensure status, and license number in accordance with N.J.A.C. 13:39A-3.1(c)1. The Board will further advise Ms. Robbins that she should be consistent with the facility's institutional policy as to the location that the patient records are maintained and as to what is referred to the physiatrist.

D. Letter from Catherine Karas, PT
RE: Continuing Education

Ms. Karas advised the Board that she is having difficulty finding courses to take that interest her and are approved by the State Board. Ms. Karas also advised the Board that she noted that there are only a handful of courses being offered in 2007 listed on the website.

The Board will provide Ms. Karas with the most updated list and advise her that all the courses listed on the website are approved through January 31, 2008. The website also advises licensees that they should contact the sponsors for additional dates. The website also includes a sponsor contact list. Currently there are 274 approved courses listed on the website.

E. Letter from Ferdie C. Quijano, PT
RE: Continuing Education

Mr. Quijano inquired whether the Board would consider granting licensees some continuing education credits for being a member of the APTA (American Physical Therapy Association). Mr. Quijano advised the Board that he feels the association offers a vast amount of information and clinical research which is beneficial to the profession.

The Board will advise Mr. Quijano that the Board cannot grant any continuing education credits for being a member of the APTA as the membership does not meet the requirements set forth in N.J.A.C. 13:39A-9 et seq.

F. Review of Jurisprudence Examination

The Board reviewed the jurisprudence examination that is provided with the initial licensure application. The

Board made amendments to the jurisprudence examination and will review the amended jurisprudence examination at its March 27, 2007 meeting.

G. Assembly No. 2536 (Synopsis - Revises laws for the regulation of massage, bodywork and somatic therapists.)

The Board of Physical Therapy Examiners reviewed S-2536 and offers the following in strong opposition to the bill which expands the scope of practice of massage therapists.

The bill permits massage therapists to engage in the treatment of individuals with disease and pathology. It permits the consumer to have direct access to massage therapists, who are not permitted to diagnose disease or pathology but are not restricted by the provisions in this act from treating individuals who may self refer for treatment of "illness, disease, impairment or disability." There are no requirements to refer or consult with a licensed health care provider when seeing an individual who presents with any type of pathology.

There are several issues in this act that do not protect the consumers of New Jersey.

I. Licensure is a standard that the public should be assured represents a minimum level of educational preparation followed by a baseline test of competence. This educational preparation should insure that the holder of that license is capable of performing all the aspects of care the consumer may require that is within the scope of practice of the licensee. Removing the stipulation that currently prevents massage therapists from treating illness, disease, impairment or disability permits them to engage in the treatment of any condition a patient may present with. This is of considerable concern because: 1) Massage therapy education is very inconsistent, though the norm is at least 600 hours or 6-7 months of education there is no standard and indeed this act requires only 500 hours of education. This is in sharp contrast to other licensed health care providers who at the minimum possess an associates degree and most education is at the masters or doctoral level. 2) The educational programs are inconsistent in their course content. The twenty three programs in New Jersey that are listed on the American Massage Therapy association website vary greatly in content, some offering pathology courses, some do not. Prerequisite courses that would provide foundational information for the student to safely assess and treat pathology are not required as the program of study only requires a high school diploma. The length of study and the qualifications of the instructors are also inconsistent. This bill provides for a significant increase in the scope of practice of the massage therapist that is not supported by their educational preparation beyond high school. They are not required to have the basic science preparation, the basic medicine preparation or more in depth knowledge of disease, pathology and differential diagnosis to permit the safe and effective treatment of individuals with medical problems 3) In this legislation the Board determines the adequacy of programs of study. While there are several accrediting bodies the Commission of Massage Therapy Accreditation is attempting to set the standards for accreditation of programs within accredited schools. This act does not specify any accrediting body nor does it require that the educational program sit within an accredited institution. The exam to determine minimal competence can be either the National Certification Board for Therapeutic Massage and Bodywork exam or a substantially equivalent exam approved by the committee. This permits variability even within the baseline competency assessment.

II. Physicians may delegate treatment to licensed health care providers under their supervision. To date those licensed health care providers have all been graduates of approved schools with set standards of educational preparation. Licensure would permit massage therapists to work in physicians offices providing interventions for individuals with pathology. We are concerned that the massage therapist may not recognize indications and contraindications to their interventions with their limited knowledge. This places the consumer at risk in several ways. The massage therapist may do harm by omission, neglecting to provide the patient the full scope of what they need, or by providing inappropriate or harmful interventions. Their lack of knowledge may have them overlook indicators that should make them request consultation by the supervising physician, further placing the consumer at risk.

III. The bill argues that licensure will provide more protection for the consumers of massage services in New Jersey. At the present time massage therapists are certified in New Jersey. They practice under the Board of Nursing. This provides regulation of massage, body work and somatic therapists that is adequate to protect the

consumers in New Jersey and permits them to offer services within the limited scope of practice that is appropriate for their level of educational preparation, generally with the well population. At the present time they do not deal with patients with acute pathology, as their education does not contain the background to do any type of differential diagnosis or in depth evaluation. Permitting them to treat all illness, disease, impairment and disability does not protect the consumers of New Jersey but rather exposes consumers to inappropriate treatment by individuals without the education to support such a broad range of potential treatment options. The proliferation of another committee under the Division of Consumer Affairs does not seem necessary as certification under the Board of Nursing would appear to be adequate to protect the consumers of New Jersey.

As we review this legislation in view of its intent to open services to consumers and provide beneficial services a very typical scenario comes to mind. This case example is not an infrequent situation that occurs with physical therapists and other practitioners who deal with soft tissue pathology and musculoskeletal problems.

Case Example

A patient presents to a massage therapist with low back pain. The massage therapist begins soft tissue massage, and the patient experiences some relief, however the relief is only temporary. The patient returns for several visits because of recurring low back pain, they do get relief each time but the relief does not last, causing them to seek further treatment. Within a period of a month the patient has received 12 treatments. They indicate that they feel better after their massage but it does not last and the pain is getting worse between visits. It is more than likely with the very limited education that the massage therapist has that they will have the evaluative skills to recognize that the person they are treating has metastasis to the spine of cancer from another site. Treating this person with massage may not only enhance the spread of the cancer more important, treatment is delayed for over a month or more with palliative methods that do not address the unrecognized disease process.

This is only one example of inappropriately applied interventions that are not in the best interests of the patient.

At the present time, consumers in New Jersey have direct access to massage therapy services to address issues not related to acute illness, disease, impairment or disability. Under the Board of Nursing massage therapists are certified, given credentials consistent with their educational preparation. This permits massage therapists to offer their services to the public to safely "promote and maintain health and well being." Expansion of this scope of practice does not protect consumers. Maintaining certification as the state mandated credential for an individual to call themselves a massage therapist continues to protect the consumer and maintains the open access clients have to seek the services of a massage therapist within their appropriate scope of practice.

H. Letter from Christa Breen, PTA

RE: Physical Therapy Scope of Practice

Ms. Breen informed the Board that she practices in a hospital with an acute psychiatric unit. Ms. Breen also informed the Board that the occupational therapist performs evaluations and group sessions with patients in the acute psychiatric unit. Ms. Breen inquired whether it was within a physical therapist's scope of practice to perform a psychiatric evaluation if there is a physician's order. Ms. Breen also inquired whether a physical therapist or physical therapist assistant can conduct the group sessions after an occupational therapist does the initial evaluation. Ms. Breen further asked whether a license is required to perform group sessions.

The Board will advise Ms. Breen that it is not within a physical therapist's scope of practice to perform psychiatric evaluations. The Board will also advise Ms. Breen that there needs to be a physical therapy evaluation within the scope of practice of physical therapy prior to conducting any physical therapy interventions. The Board will further advise Ms. Breen that it cannot answer her question concerning whether a license is required to perform group sessions based on the information she provided.

I. Division of Consumer Affairs

State Board of Chiropractic Examiners

Permissible Practice Structures

Proposed New Rule: N.J.A.C. 13:44E-2.15

A motion was made by Barry Inglett and seconded by Jean Bickal to submit a comment supporting the State Board of Chiropractic Examiners Proposed New Rule: N.J.A.C. 13:44E-2.15 as it is within the best interest of the public and is a good model for other health care practitioners. A vote was taken and the motion carried by a unanimous vote.

J. April 24, 2007 and May 22, 2007 New Jersey State Board of Physical Therapy Examiners Meetings

A motion was made by Barry Inglett and seconded by Jeffrey Erickson to cancel its April 24, 2007 Board meeting and reschedule its May 22, 2007 Board meeting to May 8, 2007 due to lack of quorum. A vote was taken and the motion carried by a unanimous vote.

IV. OLD 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

Barry Inglett will draft a comment for the Board to review at its March 27, 2007 meeting.

B. Board Discussion

RE: Continuing Education

The Board will request that the APTA-NJ (American Physical Therapy Association of New Jersey) provide it with a detailed course outline of the courses being offered at its Spring Educational Series concerning Complimentary and Alternative Therapies Relevant and Adaptable for Physical Therapy Practice for its review to ensure that it meets the requirements set forth in N.J.A.C. 13:39A-9 et seq.

C. Board Discussion

RE: Corporate Practice

Regulatory Analyst, Charles Manning, met with the Board to discuss regulations that it intends to draft. A committee of the Board will work with Mr. Manning on a draft corporate practice regulation. The committee consists of Barry Inglett, PT; Jean Bickal, Esq; and Mary Browne, PT.

V. FOR YOUR INFORMATION

A. Notice from the FSBPT (Federation of State Boards of Physical Therapy)

RE: Philippine Authorities Raid Test Prep Center

The Board reviewed a notice from the FSBPT regarding the Philippine Authorities Raid Test Prep Center and considered it informational.

B. FSBPT (Federation of State Boards of Physical Therapy)

News Brief - January, 2007

The Board reviewed the FSBPT January, 2007 News Brief and considered it informational.

C. January 23, 2007 New Jersey Legislative Journal Session Day Report

The Board reviewed the January 23, 2007 New Jersey Legislative Journal Session Day Report and considered it informational.

D. Notice from the New Jersey Orthotics and Prosthetics Board of Examiners

RE: Meeting dates for 2007

The Board reviewed a notice from the New Jersey Orthotics and Prosthetics Board of Examiners regarding their meeting dates for 2007 and considered it informational.

E. New Jersey Board of Chiropractic Examiners
December 21, 2006 Public Session Minutes

The Board reviewed the New Jersey Board of Chiropractic Examiners' December 21, 2006 Public Session Minutes and considered them informational.

F. New Jersey State Board of Medical Examiners
December 13, 2006 Open Board Minutes

The Board reviewed the New Jersey State Board of Medical Examiners' December 13, 2006 Open Board Minutes and considered them informational.

G. New Jersey State Board of Medical Examiners
December 13, 2006 Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' December 13, 2006 Disciplinary Matters Pending Conclusion and considered it informational.

H. New Jersey State Board of Medical Examiners
February 14, 2007 Open Board Agenda

The Board reviewed the New Jersey State Board of Medical Examiners' February 14, 2007 Open Board Agenda and considered it informational.

I. New Jersey State Board of Medical Examiners
February 14, 2007 Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' February 14, 2007 Disciplinary Matters Pending Conclusion and considered it informational.

APPLICATIONS APPROVED BY THE BOARD:

1. Nitin Chhoda
2. Mary Grace Arabaca
3. Dindo Baquian
4. Trisky Monsanto
5. Giselle Zara
6. Maria Rossinie Carlos
7. Vincent M. Lacsina
8. Cherry Carino Lacsina
9. Glenn Nasara
10. Eleanor Enriquez
11. Nika Mittal
12. Mary Ann Evans Lozada Krickenbeek
13. Paz Gerali

APPLICATIONS NOT APPROVED BY THE BOARD:

1. Salvacion Cosidon
2. Ryan Baria
3. Gogilavanni Pillai
4. Jackson Mutuku Kilonzo

5. Ann Hazel Bunag
6. Melanie Flores
7. Maria Pineda
8. Estella Plarisan
9. Nkolika Genevieve Jackson

APPROVED TEMPORARY VISITING LICENSES:

1. Dexter Witt
2. Mark Randell

Upon a motion made by Jean Bickal and seconded by Barbara J. Behrens, 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. Two matters filed with the Board, which require review and additional recommendations with regard to investigations and/or actions.
2. Seven 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 Jeffrey Erickson and seconded by Barbara J. Behrens to adjourn the meeting at 4:00 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Susan H. Gartland
Executive Director

SHG/lp