

**NEW JERSEY STATE BOARD OF PHYSICAL THERAPY EXAMINERS**  
**PUBLIC SESSION MINUTES**  
**July 22, 2008**

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 July 22, 2008. 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 9:30 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. Excused  
JEAN BICKAL, ESQ Present  
MARY B. BROWNE, P.T. Excused  
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; Lisa Petrowski, Assistant to the Executive Director; Susan Gartland, representative of the Division of Consumer Affairs; Members of the public: Keri Bratcher, PT, representative of the APTA-NJ; Kenneth Maily, PT.

**I. APPROVAL OF THE MINUTES OF June 24, 2008 BOARD MEETING**

Upon a motion made by Jean Bickal and seconded by Cindy Moore, the Board voted to accept the minutes of June 24, 2008 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

**V. NEW BUSINESS**

A. Letter from Robert Leu, PT  
RE: Permissible Business Structures

Mr. Leu wrote the Board concerning permissible forms of physical therapy practice, specifically whether a physical therapist would work for a pain management medical doctor, orthopedic doctor, or chiropractor.

A motion was made by Karen Wilk and seconded by Cindy Moore to advise Mr. Leu 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 Mr. Leu that if a physical therapist is employed by a general business corporation, the physical therapist must be autonomous in his or her practice of physical therapy including but not limited to the types of physical therapy services rendered, billing for those physical therapy services, and setting of their fee schedule. A physical therapist must at all times adhere to the statutes and regulations governing their practice as a physical therapist in the State of New Jersey.

The Board will further advise Mr. Leu 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 and regulations in the State of New Jersey that are applicable. A vote was taken and the motion carried by a unanimous vote.

B. Letter from Cynthia Kelly, Director of Medical Program Development of Ameri Balance  
RE: Continuing Education

Ms. Kelly inquired whether a physical therapist assistant is permitted to provide training for vestibular rehabilitation therapy (VRT) in the State of New Jersey if the physical therapist assistant is not licensed in New Jersey but in another State and is not touching patients. Ms. Kelly also inquired whether there were any provisions in which the physical therapist assistant would need to comply with in order to provide training for VRT in the State of New Jersey.

The Board will request that Ms. Kelly provide them with more information concerning the training including if and how patients would be involved and if the training contains a hands on component.

C. Letter from Ma. Cecilia M. Vargas, PT  
RE: Test of English as Foreign Language (TOEFL)

The Board reviewed a letter from Ma. Cecilia M. Vargas concerning her TOEFL. The Board noted that they were not in receipt of Ms. Vargas TOEFL scores.

D. Letter from Lee Ann Guenther, PT  
RE: Continuing Education

Ms. Guenther inquired whether the lecturer for a jurisprudence course could be someone other than a current Board member. Ms. Guenther also inquired whether a jurisprudence course will be offered through the Board on the internet within this biennial renewal period.

The Board will advise Ms. Guenther that she can apply for Board approval of a course or courses concerning laws related to the general practice of physical therapy such as Medicare laws, Stark laws, Federal laws, etc.

The Board is exploring different avenues in which to implement a jurisprudence course which would focus on the New Jersey Physical Therapy Licensing Act of 1983 and its regulations. A jurisprudence course will not be offered through the Board on the internet within this biennial renewal period.

E. Letter from Mary Glenn Tan, PT  
RE: N.J.A.C. 13:39A-2.5

Ms. Tan advised the Board that CMS recently issued Transmittal 88 indicating a change in the clarification period of the therapy plan of care for Medicare Part B patients. Ms. Tan further advised that under the new guidelines, CMS now allows for a certification period for the initial plan of care and updated plan of care for up to 90 days. Ms. Tan inquired whether the 90 days was in conflict with N.J.A.C. 13:39A-2.5(b), "Not more than 30 days from the date of initial treatment of functional limitation or pain, a licensed physical therapist shall inform the patient's licensed health care professional of record regarding the patient's plan of care. In the event there is no identified licensed health care professional of record, the licensed physical therapist shall recommend that the patient consult with a licensed health care professional of the patient's choice".

The Board will advise Ms. Tan that N.J.A.C. 13:38-2.5(b) stipulates what a physical therapist is obligated to do when they have a patient in a direct access situation to ensure good communication with other health care providers regarding the patient's plan of care. The CMS Transmittal 88 refers to Medicare documentation guidelines. Medicare does not permit direct access, therefore the physical therapist will need to receive a referral from a primary care provider and is not functioning in a direct access situation. The Board will further advise that while direct access is permitted in New Jersey, not all third party payers will reimburse for a direct access encounter with a physical therapist and the physical therapist will need to also adhere to their guidelines in order to receive reimbursement.

F. Sponsor - Centra State Medical Center  
RE: Course "Aquatic Options"

Centra State Medical Center wrote the Board concerning its denial of a course they submitted titled, "Aquatic Options" as the speakers were not qualified to present to physical therapists on the topic.

A motion was made by Jean Bickal and seconded by Dennise Krencicki to reaffirm its denial of the course, "Aquatic Options" as there was no new information submitted for the Board's consideration. A vote was taken and the motion carried by a unanimous vote.

#### G. Continuing Education Course Reviewers' Recommendations

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

Mary Browne participated via telephone and was included in the vote.

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 Cindy Moore and seconded by Jean Bickal to accept the course reviewers' recommendations as presented. All 33 approved courses will be posted on the New Jersey State Board of Physical Therapy Examiners' website. A vote was taken and the motion carried by a unanimous vote.

#### H. Letter from Susan Lynn, PT RE: Telephone Orders

Ms. Lynn inquired whether a physical therapist could take a telephone order in a long term or skilled nursing facility site of practice.

The Board will advise Ms. Lynn that the New Jersey State Board of Physical Therapy Examiners statutes and regulations do not preclude a physical therapist from taking a telephone order or taking a telephone order in any specific setting. The Board will also advise Ms. Lynn that if a physical therapist takes a telephone order, it should be memorialized in the patient's record.

#### I. Letter from Ethan Hood, PT RE: Continuing Education

Mr. Hood advised the Board that Nexus Rehab Seminars is interested in conducting a live online course via two way full videoconferencing with complete two way communication between the instructor and the attendee. Mr. Hood inquired whether this type of course would be awarded the same credit as a live in person continuing education course.

The Board will advise Mr. Hood that Nexus Rehab Seminars would need to submit an application to the Board for approval of the course in order for the Board to make a determination concerning the credits awarded as the completed application will have all the information concerning the course in question.

#### J. Letter from Marcia Sullivan, PT RE: Continuing Education

Ms. Sullivan inquired whether her transitional DPT courses can be counted towards the continuing education requirement. Ms. Sullivan also inquired whether an ethics course provided by the hospital system in which she practices can be counted towards the required credits in professional ethics.

The Board will advise Ms. Sullivan that N.J.A.C. 13:39A-9.3(b)1 permits three credits for each course credit awarded from a Doctor of Physical Therapy degree. The Board will also advise Ms. Sullivan that the ethics course offered by the hospital system in which she practices would not count towards the continuing education requirement as it is not in compliance with N.J.A.C. 13:39A-9.3(h), "Continuing education courses, programs and seminars shall be offered on a nondiscriminatory basis".

#### K. Letter from Chris Uston, PT RE: Continuing Education

Mr. Uston inquired whether he could obtain continuing education credit for becoming an Orthopaedic Certified Specialist.

The Board will advise Mr. Uston that pursuant to N.J.A.C. 13:38A-9.3(d), "A licensed physical therapist who is certified or re-certified in a clinical specialty by the American Board of Physical Therapy Specialties shall receive 15 continuing education credits for the biennial licensure period in which it takes place", so he can receive 15 continuing education credits for becoming an Orthopaedic Certified Specialist.

L. S-2072 (Synopsis - Concerns access to physical therapy services, and insurance claims handling following access to those services.) - Introduced June 23, 2008

The Board will advise the Division of Consumer Affairs' legislative liaison that it supports aspects of this bill but continues to have some concerns. The Board supports the overall intent of the bill to increase access to physical therapy services by eliminating unnecessary limitations to the access of services and decreasing arbitrary payment decisions by payers. Specifically, the Board supports the following provisions.

Changes which eliminate those provisions of the current law which require a referral from a licensed physician, dentist, podiatrist or chiropractor in order for physical therapy to be reimbursable as a medical expense. This is consistent with the current ability of patients to directly access services provided by physical therapists. It also decreases unnecessary delays and unnecessary costs for consumers to access physical therapy services by eliminating the requirement for a visit to another practitioner before physical therapy services reimbursed by a third party can commence.

Allows a covered person the right to select the physical therapy provider of choice, regardless of whether the provider is a participant in a network or otherwise under contract with the payer, allowing consumers the ability to choose a provider of their choice which best suits their need and may be geographically more accessible in order to obtain these services.

Requires the payer to respond to a request for prior authorization for physical therapy benefits within 3 days. Delays in the initiation of care can have a significant negative impact on outcomes of care and this allows for more timely initiation of physical therapy services which is often critical to achieve optimal physical therapy outcomes.

The identification of physical therapists, for purposes of reimbursement, as specialty physicians, is consistent with the national goal of recognition of physical therapists as specialty physicians under Medicare.

Preventing the arbitrary recalculation of reimbursement to reduce payment levels based on rates negotiated by other providers as well as preventing the retrospective denial of payment for services which were previously authorized.

Inclusion in the definition of physical therapy that peer reviewed, independent examination services are part of the practice of physical therapy and therefore should be performed by a physical therapist. This is consistent with other specialties which require review activities be conducted by a practitioner holding the same license. Physical therapy is a specialty which requires in depth knowledge of, as well as experience in the profession in order to reach reasoned and accurate decisions when the quality of care is being determined. This cannot be achieved when the review is conducted by other practitioners.

However, there are sections of this bill which the Board does not support.

Addition of language in section 13 which Modifies Section 22 of P.L.2003, c.18 (C.45:9-37.34c) should be removed. This language is not a reimbursement issue, which is the intent of the bill. The authority to develop these standards of practice was statutorily granted to the Board of Physical Therapy and is reflected in current Physical Therapy rules. The inclusion of them in statute removes from the Board this statutory right and prohibits the Board from being responsive to changes in current practice by modifying these rules. Also, the language does not include the current Board's rules in their entirety, as it does not include provisions for physical therapists

working in a school system. By omitting this provision, physical therapists practicing in a school system will be required to obtain approvals for treatment in a manner which is inconsistent with current practice and will negatively impact the provision of services to children in this environment.

M. Sponsor - Cross Country Education

RE: Course "Effective Treatment of Upper Thoracic & Pain Condition"

Nancy Kirsch and Dennise Krencicki recused themselves.

The Board will review this matter at its next scheduled Board meeting as it does not have a quorum with Nancy Kirsch and Dennise Krencicki being recused.

N. Listing of Ethics and Jurisprudence courses

The Board will list approved ethics and jurisprudence courses within the New Jersey State Board of Physical Therapy Examiners' course approval list which is posted on its website  
<http://www.state.nj.us/lps/ca/medical/pt.htm>.

O. August 26, 2008 New Jersey State Board of Physical Therapy Examiners meeting

A motion was made by Jean Bickal and seconded by Carolanne Aaron to cancel its August 26, 2008 Board meeting due to lack of a quorum. A vote was taken and the motion carried by a unanimous vote.

## **VI. OLD BUSINESS**

A. Letter from Madhurani Mahajan

RE: Physical Therapy Licensure Requirements

Ms. Mahajan previously wrote and advised the Board that she graduated after January of 2003 and has a bachelor's degree in physical therapy. Ms. Mahajan advised the Board that she noted that transitional-DPT (Doctor in Physical Therapy) programs are not CAPTE (Commission on Accreditation in Physical Therapy Education) accredited programs. Ms. Mahajan inquired what she would need to do to in order to satisfy the educational requirements of N.J.S.A. 45:9-37.22( c), "an applicant must possess at least a master's degree from an accredited college or university in order to be eligible for licensure as a physical therapist in New Jersey, except for an applicant who prior to January 1, 2003 possessed a minimum of a bachelor's degree from an accredited college or university" to become eligible for licensure in New Jersey.

The Board advised Ms. Mahajan that transitional-DPT programs are not CAPTE accredited programs and would not satisfy the education requirements of N.J.S.A. 45:9-37.22( c) or N.J.A.C. 13:39A-4.1(a). The Board further advised Ms. Mahajan that she would need to complete an entry level master's or doctor of physical therapy degree from an accredited college or university physical therapy program in order to satisfy these requirements.

Ms. Mahajan wrote the Board again and asked them to reconsider their decision. Ms. Mahajan advised the Board that the International Consultants of Delaware (ICD) stated that her educational credentials satisfy the New Jersey State requirements.

The Board will advise Ms. Mahajan that she would need to complete an entry level master's or doctor of physical therapy degree from an accredited college or university physical therapy program in order to satisfy the requirements of N.J.S.A. 45:9-37.22 ( c) and N.J.A.C. 13:39A-4.1(a). The Board will also advise Ms. Mahajan that the International Consultants of Delaware states in their Summary of Evaluation of Education Credentials, "Each state licensing agency sets its own standards for eligibility for professional licensure. This assessment is advisory only".

B. Response from Jessica M. Martinez, PT

RE: Continuing Education

The Board previously granted Ms. Martinez an extension to April 1, 2008 to complete the continuing education requirement due to her medical condition.

Ms. Martinez provided the Board with 30 continuing education credits that she took during the Board's granted extension period. The Board now considers this matter to be concluded.

C. Response from Theodore Perry, PTA

RE: Continuing Education

The Board previously granted Mr. Perry an extension to April 1, 2008 to complete the continuing education requirement due to his personal hardship involving an ill family member.

Mr. Perry provided the Board with 28 continuing education credits that he took during the Board's granted extension period. Mr. Perry took two internet courses that awarded three credits each, but the courses could only be counted for two credits each in accordance with N.J.A.C. 13:39A-9.3(c)1. With the two credits not being counted, Mr. Perry's final count came to 28 continuing education credits.

A motion was made by Cindy Moore and seconded by Dennise Krencicki to grant Mr. Perry a 30 day extension to complete the remaining two continuing education credits. A vote was taken and the motion carried by a unanimous vote.

D. Board Review of Draft Frequently Asked Questions and Answers

The Board reviewed a draft copy of frequently asked questions and answers. The Board will review the draft copy with amendments at its next scheduled Board meeting. Once approved, the frequently asked questions and answers will be posted on the New Jersey State Board of Physical Therapy Examiners' website.

## **VII. FOR YOUR INFORMATION**

A. Occupational Therapy Advisory Council's July 10, 2008 Public Session Agenda

The Board reviewed the Occupational Therapy Advisory Council's July 10, 2008 Public Session Agenda and considered it informational.

B. New Jersey State Board of Medical Examiners' July 9, 2008 Open Agenda of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' July 9, 2008 Open Agenda of Disciplinary Matters Pending Conclusion and considered it informational.

C. New Jersey State Board of Medical Examiners'  
July 9, 2008 Open Board Agenda

The Board reviewed the New Jersey State Board of Medical Examiners' July 9, 2008 Open Board Agenda and considered it informational.

D. New Jersey State Board of Medical Examiners' May 21, 2008 Open Board Minutes

The Board reviewed the New Jersey State Board of Medical Examiners' May 21, 2008 Open Board Minutes and considered them informational.

E. New Jersey State Board of Medical Examiners'  
May 21, 2008 Open Minutes of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' May 21, 2008 Open Minutes of Disciplinary Matters Pending Conclusion and considered them informational.

F. Notice from the Federation of State of Boards of Physical Therapy  
RE: Practice Review Tool (PRT)

The Board reviewed a notice from the Federation of State Boards of Physical Therapy concerning the Practice Review Tool and considered it informational.

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

1. Wilysa Bendebel

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

1. Chrystal D'Souza

Upon a motion made by Jean Bickal and seconded by Dennise Krencicki, 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 recommendation with regard to investigations and/or actions.
2. Four 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 Jean Bickal and seconded by Cindy Moore to adjourn the meeting at 3:00 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Nancy Kirsch, PT  
Board President