



CHRIS CHRISTIE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Physical Therapy Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102



PAULA T. DOW
Attorney General

KIM GUADAGNO
Lt. Governor

NEW JERSEY STATE BOARD OF PHYSICAL THERAPY EXAMINERS

THOMAS R. CALCAGNI
Acting Director

PUBLIC SESSION MINUTES

February 22, 2011

Mailing Address:

P.O. Box 45014
Newark, NJ 07101
(973) 504-6455

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 22, 2011. 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 9:50 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	Excused
MARY B. BROWNE, P.T.	Excused
DENNISE KRENCICKI, P.T.	Excused
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 Affinito, Executive Director;**

Members of the public: Cathy Chin, representative of Select Medical, Brian Mason, PT, representative of the APTA-NJ, Kenneth Maily, PT, Robert DeMarino and Jaldip Patel.

Due to a lack of a quorum this meeting was held in committee.

I. PUBLIC COMMENT

Robert DeMarino commented on the Federation of State Boards of Physical Therapy and the State of Georgia Injunction.

II. APPROVAL OF THE MINUTES OF JANUARY 25, 2011 BOARD MEETING

The Committee will recommend to the Board that the Public Session minutes of the January 25, 2011 meeting be accepted as amended.

III. Board Review of New Jersey Administrative Code Title 13, Chapter 39A New Jersey State Board of Physical Therapy Subchapter 6. Temporary Licenses for Visiting Physical Therapists and Physical Therapist Assistants and Subchapter 7. Supervision of Licensed Physical Therapist Assistants

The Board will review Administrative Code Title 13, Chapter 39A New Jersey State Board of Physical Therapy Examiners Subchapter 6. Temporary Licenses for Visiting Physical Therapists and Physical Therapist Assistants, Subchapter 7. Supervision of Licensed Physical Therapist Assistants, Subchapter 8. Advertising and Subchapter 9 Continuing Education its March 22, 2011 meeting.

IV. NEW BUSINESS

- A. Inquiry from Karen Kaufman
RE: Physical Therapy Scope of Practice

Ms. Kaufman inquired if it was within the scope of practice of a physical therapist to “strap wrist, elbow and thorax” as part of therapy.

The Committee will recommend that the Board advise Ms. Kaufman that it is within the scope of practice of a physical therapist to strap a wrist, elbow and thorax as long as the physical therapist is trained and competent in this procedure.

- B. Inquiry from Charles Archbald, PT
RE: Medication

Mr. Archbald inquired whether physical therapy clinics can store Inotophoresis medication for their clients/patients.

The Committee will recommend that the Board advise Mr. Archbald that the patient should obtain a prescription, have the prescription filled and bring the medication with them to therapy. Mr. Archbald will also be advised that securing of medication at a facility is not addressed in the New Jersey State Board of Physical Therapy Examiners’ statutes and regulations.

- C. Letter from Matthew Gindele, Esq.
RE: Business Structure/Arrangement

Mr. Gindele wrote the Board concerning permissible forms of physical therapy practice, specifically if a physical therapist can form a limited liability company and enter into an agreement or form a company with an occupational therapist.

The Committee will recommend that the Board advise Mr. Gindele that the New Jersey State Board of Physical Therapy Examiners’ statutes and regulations do not address the type of business practice 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. Mr. Gindele will be advised 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 his or her fee schedule. A physical therapist must at all times adhere to the statutes and regulations governing his or her practice as a physical therapist in the State of New Jersey.

- D. Inquiry from Danielle Sandermann of Almost Family, Inc.
RE: Continuing Education

Ms. Sandermann inquired if an electronic signature of the course sponsor or coordinator on the completion certification would fulfill the requirement of N.J.A.C. 13:39A-9.4(a)7, "the signature of a course, program or seminar official or other verification of successful completion by the course, program or seminar provider".

The Committee will recommend that the Board advise Ms. Sandermann that an electronic signature on the completion certificate fulfills the requirement of N.J.A.C. 13:39A-9.4(a)7.

- E. Inquiry from Margaret M. McKeon-Fish, PTA
RE: Wellness Program

Ms. McKeon-Fish inquired if a physical therapist assistant can provide a free balance screening provided the physical therapist assistant is directly supervised by a physical therapist.

The Committee will recommend that the Board advise Ms. McKeon-Fish that there was not enough information concerning the specifics of the screening for the Board to answer her question. The Committee will also recommend that the Board advise Ms. McKeon-Fish that the evaluation and final determination must be done by the physical therapist.

- F. Letter from Therapeutic Services, Inc.
RE: Course, "Cervical Spine Management: The Missing Links"

Katie McAloney of Therapeutic Services inquired about the amount of credit approved for the course, "Cervical Spine Management: The Missing Link". The Board approved this course for 7.5 credits. Ms. McAloney provided the Board with the time breakdown of the course and asked the Board to change the amount of approved credits from 7.25 to 7.5.

The Committee will recommend that the Board reaffirm the 7.25 credits approved for this course and deny the extra .25 credit. Credit was not approved for the pre-test section that was prior to the presentation of the course material.

- G. Letter from John Rector, PT
RE: Licensure Requirements

Mr. Rector informed the Board that he was born and lived in the United States his entire life and received a Bachelor of Science degree in Physical Therapy from a school in Holland that was accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) when he attended and graduated. Mr. Rector asked the Board if he was required to take a TOEFL examination since he was born and raised in the United States and studied abroad and if he was required to have a credential evaluation since the school he attended abroad was CAPTE accredited.

The Committee will recommend that the Board advise Mr. Rector that he is not required to take a TOEFL examination or have his credentials evaluated.

- H. Letter from Jaldip Patel
RE: Licensure Requirements

Mr. Patel graduated from a school in India in 2002. Mr. Patel asked the Board to reconsider his application for licensure.

After the Committee reviewed the credential evaluation of Mr. Patel's education and the breakdown of his coursework credits, the Committee agreed to recommend that the Board permit Mr. Patel to proceed with the application process as his education satisfies the requirements of N.J.S.A. 45:9-37.22, N.J.S.A. 45:9-37.23 and N.J.A.C. 13:39A-5.1.

V. OLD BUSINESS

- A. Division of Consumer Affairs
State Board of Medical Examiners
Athletic Training Committee
Proposed Amendments: N.J.A.C. 13:35-10.2, 10.3 and 10.4
Proposed New Rules: N.J.A.C. 13:35-10.5 through 10.17
Proposed Repeal: N.J.A.C. 13:35-10.5
From the January 3, 2011 New Jersey Register

The Committee will recommend to the Board that it submit the following comment to the Board of Medical Examiners and the Athletic Training Committee:

The Board of Physical Therapy Examiners appreciates the importance of promulgating the rules and regulations for the licensed athletic trainer, but has concerns about the clarity of the proposed regulations.

The legislative changes that occurred April 12, 2008 expanded the type of individuals that could potentially be treated by licensed athletic trainers and the venues where they can be seen. While we understand that this permits greater access to the services that licensed athletic trainers provide and we recognize the importance of that access, it also opens practice to a wider spectrum of individuals whose care is not within the scope of the licensed athletic trainer but could be misinterpreted by some as being appropriate. This is a public protection issue and the Board of Physical Therapy Examiners is recommending that appropriate rule language be adopted that protects the consumer from potentially inappropriate treatment and therefore harmful treatment.

The change in statutory language now defines an "athlete" as "an individual who engages in strenuous physical exercise, physical conditioning or a sport." Strenuous is defined by word.com as "requiring or involving the use of great energy or effort." Merriam Webster defines strenuous as "calling for energy or stamina." Clearly this definition can in its broadest interpretation be inclusive for almost anybody. For example an individual with a degenerative neurological disease could classify most activities as strenuous and an exercise program designed for this patient must be based on an in depth knowledge of neurology, the pathology of the disease and an understanding of the effect of exercise on the four primary systems with ramifications of damage to one or more systems.

The educational program standards available through the accrediting body, the Commission on Accreditation of Athletic Training Education, does not list courses that would prepare the licensed Athletic Trainer to safely meet the needs of most patient populations. While we certainly understand that it was not the intent for licensed athletic trainers to treat these vulnerable patient populations, the language in the statute and the fact that the rules do not provide definitive guidance make this harmful situation a possibility. In addition to the patient not getting the care they need, the possibility of harm as a result of inappropriate care is significant.

The Board of Physical Therapy Examiners suggests three ways in which to provide greater clarity to the licensees and the public regarding the role of the licensed athletic trainer in the care of individuals.

- 1) Define strenuous physical exercise and physical conditioning in a way that differentiates these activities in the general population vs. the population with pathology that is the underlying reason that the activity is defined as strenuous for this population. The same activity performed by an otherwise healthy individual would not be strenuous.
- 2) Clarify Plan of Care as used in these rules. It appears to be a general plan that is not related to the needs of a specific patient or population., This is also very broad permitting the healthy population and the population with underlying pathology to be evaluated and treated under a large and perhaps inappropriate plan of care. The athletic trainer and supervising physician only have to meet once a year to review this broad and all inclusive plan of care.
- 3) Clarify supervision "A supervising physician must be available in person or through voice communication whenever an athletic trainer is practicing". This supervision model is similar to what was in place when the venues the athletic trainer worked in were restricted to schools and professional teams. This is not an inappropriate model for the treatment of athletes in other settings but it is very broad for the wider range of individuals and settings these proposed rules permit.

While we appreciate the importance of promulgating these rules and support most of the rules proposed, we are very concerned that unintended consequences may result because of a lack of understanding of the educational preparation of the athletic trainer and related scope of practice. The licensed athletic trainer may be asked to provide therapeutic modalities and exercise for individuals requiring rehabilitation who are not athletes but have sustained an injury perhaps secondary to their primary condition. Appropriate treatment for these individuals must take the pathology of their condition into account to provide appropriate and adequate care.

These regulations as proposed will not provide adequate protection for the consumers of the State of New Jersey.

B. Charles Manning, Regulatory Analyst
RE: Draft Regulations
- Permissible Business Structures

The Committee will recommend that the Board approve the amended draft regulations concerning permissible business structures.

VI. FOR YOUR INFORMATION

- A. Federation of State Boards of Physical Therapy
February 14, 2011 Newsflash

The Committee reviewed the Federation of State Boards of Physical Therapy's February 14, 2011 Newsflash and considered it informational.

- B. Federation of State Boards of Physical Therapy
January 2011 News Brief

The Committee reviewed the Federation of State Boards of Physical Therapy January 2011 News Brief and considered it informational.

- C. Information from Robert DeMarino, President of TGS Healthcare Solutions, LLC RE: Federation of State Boards of Physical Therapy and the State of Georgia Injunction

Nancy Kirsch recused herself from this matter as she is the Vice President of the Federation of State Boards of Physical Therapy.

The Committee reviewed the Federation of State Boards of Physical Therapy and the State of Georgia Injunction.

- D. Maryland Board of Physical Therapy
Winter 2011 PT News

The Committee reviewed the Maryland Board of Physical Therapy's Winter 2011 Newsletter and considered it informational.

- E. National Physical Therapy Examination
Candidate Satisfaction Survey Report

The Committee reviewed the National Physical Therapy Examination Candidate Satisfaction Survey Report and considered it informational.

- F. Board of Chiropractic Examiners
January 27, 2011 Public Session Agenda

The Committee reviewed the Board of Chiropractic Examiners January 27, 2011 Public Session Agenda and considered it informational.

- G. Board of Chiropractic Examiners
October 28, 2010 Public Session Minutes

The Committee reviewed the Board of Chiropractic Examiners October 28, 2010 Public Session Minutes and considered it informational.

- H. Division of Consumer Affairs
Office of the Director Legislative Affairs
Fourth Quarter Legislation Report to the Board of Physical Therapy

The Committee reviewed the fourth quarter legislation report and considered it informational.

The Committee moved 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. Three 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 Committee adjourned the meeting at 2:30 P.M.

Respectfully submitted,

Lisa Affinito
Executive Director