



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

March 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 March 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 9:30 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.	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; 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.

I. PUBLIC COMMENT

II. APPROVAL OF PUBLIC SESSION MINUTES

1. January 25, 2011

Upon a motion made by Barbara J. Behrens and seconded by Nancy Kirsch, the Board voted to accept the minutes of the January 25, 2011 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

2. February 22, 2011

Upon a motion made by Nancy Kirsch and seconded by Jean Bickal, the Board voted to accept the minutes of the February 22, 2011 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

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, Subchapter 7. Supervision of Licensed Physical Therapist Assistants, Subchapter 8. Advertising and Subchapter 9. Continuing Education

The Board completed its review of 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.

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.

A motion was made by Nancy Kirsch and seconded by Mary Browne to 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. A vote was taken and the motion carried by a unanimous vote.

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

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

A motion was made by Nancy Kirsch and seconded by Mary Browne to advise Mr. Archbald that the patient should obtain a prescription, have the prescription filled and bring the medication with him or her to therapy. Mr. Archbald will also be advised that storing of medication for a specific patient at a facility is not addressed in the New Jersey State Board of Physical Therapy Examiners’ statutes and regulations. A vote was taken and the motion carried by a unanimous vote.

- 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.

A motion was made by Nancy Kirsch and seconded by Mary Browne to 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. A vote was taken and the motion carried by a unanimous vote.

- 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".

A motion was made by Nancy Kirsch and seconded by Mary Browne to 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. A vote was taken and the motion carried by a unanimous vote.

- 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.

A motion was made by Nancy Kirsch and seconded by Mary Browne to advise Ms. McKeon-Fish that there was not enough information concerning the specifics of the screening for the Board to answer her question. The Board will also advise Ms. McKeon-Fish that the evaluation and final determination must be done by the physical therapist. A vote was taken and the motion carried by a unanimous vote.

- 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 7.25 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.

A motion was made by Nancy Kirsch and seconded by Mary Browne to 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. A vote was taken and the motion carried by a unanimous vote.

- 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) at the time 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.

A motion was made by Nancy Kirsch and seconded by Mary Browne to advise Mr. Rector that he is not required to take a TOEFL examination or have his credentials evaluated. A vote was taken and the motion carried by a unanimous vote.

- 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 Board reviewed the credential evaluation of Mr. Patel's education and the breakdown of his coursework credits, a motion was made by Nancy Kirsch and seconded by Mary Browne to 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. A vote was taken and the motion carried by a unanimous vote.

- I. Inquiry from Alicia John, PTA
RE: Business Structure/Arrangement

Ms. John inquired if the owner of a staffing health care agency is a physical therapist assistant, does the owner need to employ a physical therapist or a consultant in order to "staff" physical therapists, occupational therapists and speech therapists. Ms. John also inquired if the physical therapist, occupational therapist or speech therapist needs to be supervised when the staffing agency sends them to provide home care.

A motion was made by Nancy Kirsch and seconded by Cindy Moore to advise Ms. John that the Board cannot answer her questions that concern occupational therapists and speech therapists. The Board will advise Ms. John that the owner of the staffing health care agency does not need to employ a physical therapist or a consultant to "staff" physical therapists. The Board will also advise Ms. John that a physical therapist does not need to be supervised in a home care setting. A vote was taken and the motion carried by a unanimous vote.

- J. Inquiry from Mark Kuiper
RE: Aides

Mr. Kuiper inquired if guidelines have been published to define the tasks of a physical therapist aide in New Jersey.

A motion was made by Nancy Kirsch and seconded by Barbara J. Behrens to advise Mr. Kuiper that in accordance with N.J.S.A. 45:9-37.34a and N.J.A.C. 13:39A-2.4 unlicensed personnel are limited to assisting the physical therapist and physical therapist assistant with routine tasks relating to the cleanliness and maintenance of equipment and the physical plant and the management of the business aspects of the practice. A vote was taken and the motion carried by a unanimous vote.

- K. Letter from Kriste Kubasko of Pride Mobility Products, Corp
RE: Continuing Education Provider

Ms. Kubasko of Pride Mobility Products, Corp provided the Board with information regarding the course review process and criteria process that they utilized and asked the Board to consider them as a continuing education approved provider.

A motion was made by Nancy Kirsch and seconded by Mary Browne to inform Ms. Kubasko that based on the information provided, it appears that the review process and criteria process that Pride Mobility Products, Corp utilizes does not meet all of the requirements of the New Jersey State Board of Physical Therapy Examiners continuing education statute N.J.S.A. 45:9-37.34f and regulation N.J.A.C. 13:39A-9.6. A vote was taken and the motion carried by a unanimous vote.

- M. Letter from Joseph McGurrin of Informed Continuing Medical Education
RE: Continuing Education Provider

Mr. McGurrin of Informed Continuing Medical Education provided the Board with information regarding the course review process and criteria process that they utilized and asked the Board to consider them as a continuing education approved provider.

A motion was made by Nancy Kirsch and seconded by Mary Browne to advise Mr. McGurrin that based on information provided, it appears that the review process and criteria process that Informed Continuing Medical Education utilizes does not meet all of the requirements of the New Jersey State Board of Physical Therapy Examiners continuing education statute N.J.S.A. 45:9-37.34f and regulation N.J.A.C. 13:39A-9.6. A vote was taken and the motion carried by a unanimous vote.

- N. Inquiry from Kelly Gray, PT
RE: Prescriptions

Karen Wilk recused herself and did not participate in the discussion.

Ms. Gray inquired if orders for physical therapy evaluation and treatment from a nurse practitioner are recognized in the State of New Jersey.

A motion was made by Nancy Kirsch and seconded by Cindy Moore to advise Ms. Gray that the language requiring physician referral for physical therapy treatment has been removed from the statute, therefore, a prescription or referral is not required for providing physical therapy intervention. The Board will also advise Ms. Gray that there may be circumstances that a referral is needed for reimbursement purposes. A vote was taken and the motion carried by a unanimous vote.

- O. Inquiry from James Szabatura, PT
RE: Out-patient services

Mr. Szabatura inquired if a facility requires an out-patient business license to see patients in an assisted living facility.

A motion was made by Nancy Kirsch and seconded by Jean Bickal to advise Mr. Szabatura that the Board cannot answer his question as the Board does not license facilities. A vote was taken and the motion carried by a unanimous vote.

- P. Inquiry from Brian Bourne, PT
RE: Medication

Mr. Bourne wrote the Board concerning medication and physical therapy treatment.

A motion was made by Dennise Krencicki and seconded by Barbara J. Behrens to advise Mr. Bourne that a physical therapist may educate patients concerning their medications as long as it relates to the practice of physical therapy. The Board will also advise Mr. Bourne that the global education on medications is beyond the scope of practice of physical therapy. The Board will further advise that any questions that are beyond how medication may affect the course of physical therapy should be referred to a physician or another appropriate health care provider. A vote was taken and the motion carried by a unanimous vote.

- Q. Assembly, No. 3851
(Synopsis - Requires information concerning certain public employees be made public) Introduced February 22, 2011

A motion was made by Dennise Krencicki and seconded by Jean Bickal to advise the Division of Consumer Affairs legislative liaison that the Board opposes this bill as it is too broad and vague. A vote was taken and the motion carried by a unanimous vote.

- R. Senate, No. 617
(Synopsis - Limits DEP regulation of medical diagnostic x-ray equipment in facilities performing 750 or fewer x-rays per year) Introduced 2010 Session

A motion was made by Jean Bickal and seconded by Nancy Kirsch to advise the Division of Consumer Affairs legislative liaison that the Board opposes this bill. The exception to testing granted to facilities with a smaller volume of diagnostic x-rays is not in the best interest of the public. The standard for using chemicals that have not expired and a processor that is properly calibrated and accurate should be applied to all facilities so patients can be confident that they are receiving a safe and accurate diagnostic assessment. A vote was taken and the motion carried by a unanimous vote.

- S. Letter from Patricia Durkin, PT
RE: Continuing Education

Ms. Durkin wrote the Board and asked for a waiver of the continuing education requirement due to financial hardship.

A motion was made by Nancy Kirsch and seconded by Mary Browne to deny Ms. Durkin's request for a waiver of the continuing education requirement. According to N.J.A.C. 13:39A-9.5(a) the Board may waive the continuing education requirement on an individual basis for reasons of hardship, such as illness, disability or active service in the military. The Board determined that a request for a waiver or extension based on financial hardship does not qualify. A vote was taken and the motion carried by a unanimous vote.

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

A motion was made by Nancy Kirsch and seconded by Barbara J. Behrens to 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.

A vote was taken and the motion carried by a unanimous vote.

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

A motion was made by Nancy Kirsch and seconded by Dennise Krencicki to approve the amended draft language concerning permissible business structures. The draft regulation will be forwarded to the Regulatory Department for promulgation. A vote was taken and the motion carried by a unanimous vote.

VI. FOR YOUR INFORMATION

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

The Board 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 Board reviewed the Federation of State Boards of Physical Therapy's 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 Board reviewed the Federation of State Boards of Physical Therapy and the State of Georgia Injunction and considered it informational.

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

The Board reviewed the Maryland Board of Physical Therapy Winter 2011 PT News and considered it informational.

- E. National Physical Therapy Examination
Candidate Satisfaction Survey Report

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

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

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

- I. Interim Consent Order filed February 4, 2011
In the matter of Jon Pallouras, PTA

The Board is in receipt of an Interim Consent Order filed February 4, 2011 in the matter of Jon Pallouras, PTA. Mr. Pallouras agreed to cease and desist from engaging in practice as a physical therapist assistant and providing any treatment, direct or indirect to patients in the State of New Jersey until further order of the Board upon review of the resolution of criminal charges.

- J. Signed Settlement letter - Louis Campasano, PT

The Board is in receipt of a signed Settlement letter from Louis Campasano, PT. The Board found the physical therapist violated N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39A-2.4(b) 1 and 6. The physical therapist was issued a \$500.00 civil penalty. The Board considers this matter to be concluded.

- K. Board of Chiropractic Examiners
February 24, 2011 Public Session Agenda

The Board reviewed the Board of Chiropractic Examiners February 24, 2011 Public Session Agenda and considered it informational.

- L. Federation of State Boards of Physical Therapy
March 8, 2011 Newsflash

The Board reviewed the Federation of State Boards of Physical Therapy March 8, 2011 Newsflash and considered it informational.

- M. Letter from Hammond Law Group
RE: Federation of State Boards of Physical Therapy
and the State of Georgia Injunction

The Board reviewed a letter from Hammond Law Group concerning the Federation of State Boards of Physical Therapy and the State of Georgia Injunction and considered it informational.

- N. Division of Consumer Affairs
Uniform Regulations; Licensee Duty to Cooperate
and Comply with Board Orders
Proposed Readoption: N.J.A.C. 13:45C

The Board reviewed the proposed readoption: N.J.A.C. 13:45C and considered it informational.

O. Signed Settlement letter - Kishwar Nisar, PT

The Board is in receipt of a signed Settlement letter from Kishwar Nisar, PT. The Board found the physical therapist violated N.J.A.C. 13:39A-3.1(a) and N.J.A.C. 13:39A-3.1(c)8. The physical therapist was issued a \$250.00 civil penalty. The Board considers this matter to be concluded.

P. Letter from the Federation of State Boards of Physical Therapy
RE: Exam Fee Increase Effective January 1, 2013

The Board reviewed a letter from the Federation of State Boards of Physical Therapy concerning the exam fee increase (\$370.00 to \$400.00) of which becomes effective January 1, 2013 and considered it informational.

Q. Division of Consumer Affairs
Office of the Director
Disposition of Consumer Complaints
Adopted New Rules: N.J.A.C. 13:45G
- from the March 21, 2011 New Jersey Register

The Board reviewed the adopted new rules: N.J.A.C. 13:45G and considered them informational.

APPLICATIONS APPROVED BY THE BOARD

1. Marvin D. Antonio
2. Harold Cacao
3. Jinal Shah
4. Nick Onguco
5. Mary Almedilla

APPLICATIONS NOT APPROVED BY THE BOARD

1. Amruta DeVendra Inamdar
2. Rovel Sol
3. Noelle Flores

Upon a motion made by Nancy Kirsch and seconded by Mary Browne, 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. Five matters filed with the Board, which require review and additional recommendations with regard to investigations and/or actions.
2. Eleven 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 Dennise Krencicki and seconded by Mary Browne to adjourn the meeting at 2:30 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Lisa Affinito
Executive Director