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Division of Consumer Affairs
New Jersey State Board of Physical Therapy Examiners
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NEW JERSEY STATE BOARD OF PHYSICAL THERAPY EXAMINERS

PUBLIC SESSION MINUTES

June 26, 2012

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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 June 26, 2012. 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 9:35 A.M. and a roll call was taken and the following attendance was recorded:

BARBARA J. BEHRENS, P.T.A.	Present
DAVID BERTONE, PT	Present
JEAN BICKAL, ESQ	Excused
MARY B. BROWNE, P.T.	Excused
NANCY KIRSCH, P.T.	Present
CINDY MOORE, P.T.	Present
SUSAN M. QUICK	Present
BETH SARFATY, PT	Present
KAREN WILK, P.T.	Present

Also present were: **Carmen Rodriguez, Deputy Attorney General; Lisa Affinito, Executive Director; Gerard Tobia, Administrative Staff and Francis Mateo, legal intern**

Members of the public: Brian Mason, PT, representative of the APTA-NJ; Jessica Fulmino, PT, Earl M. Baker, PhD, representative of Genesis HealthCare and Vincent Buttaci, Esq.

I. PUBLIC COMMENT

Vincent Buttaci commented on permissible business structures.

Jessica Fulmino commented on areas of physical therapy practice.

II. APPROVAL OF THE MINUTES OF MAY 22, 2012 BOARD MEETING

Upon a motion made by Nancy Kirsch and seconded by Barbara J. Behrens, the Board voted to accept the minutes of the May 22, 2012 Board meeting as amended. A vote was taken and the motion carried by a unanimous vote.

III. NEW BUSINESS

A. Continuing Education Course Reviewers' Recommendations

Nancy Kirsch recused herself 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 Cindy Moore and seconded by Beth Sarfaty to accept the course reviewers' recommendations as presented. The 73 approved courses will be posted on the New Jersey State Board of Physical Therapy Examiners' website. The 1 course that was denied 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.

B. Senate Bill No. 1902 (Synopsis - Provides for insurance of certificate of rehabilitation to certain offenders with substance abuse disorders.) - Introduced May 14, 2012

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 supports this Bill 1902 as it provides access to a broader range of the population to the profession. A vote was taken and the motion carried by a unanimous vote.

C. Letter from Brandon C. Goldberg, Esq. RE: Intramuscular Manual Therapy

Mr. Goldberg, Esq. Inquired about the interest in engaging in the practice of intramuscular manual therapy, also known as dry needling.

The New Jersey State Board of Physical Therapy Examiners statutes and regulations do not preclude the use of dry needling techniques for trigger point release by a physical therapist provided the physical therapist is trained and competent in the techniques. The Board of Physical Therapy Examiners does not consider dry needling the practice of acupuncture. The New Jersey Acupuncture Examining Board considers trigger point dry needling by a New Jersey physical therapist to be the unlicensed practice of acupuncture. The unlicensed practice of acupuncture is now a crime of the third degree pursuant to N.J.S.A. 45:2C:21-20.1.

The Division of Consumer Affairs is aware of the views of the New Jersey State Board of Physical Therapy Examiners and the New Jersey Acupuncture Examining Board. The New Jersey State Board of Physical Therapy Examiners is waiting for guidance from the Division of Consumer Affairs concerning this matter.

This matter is still pending with the Division of Consumer Affairs.

- D. Inquiry from Siddharth Dubal, Esq.
RE: Permissible Business Structures

Mr. Dubal, Esq. Wrote the Board concerning permissible forms of physical therapy practice, specifically if a physical therapist and a non physical therapist can own/share profits of a physical therapy practice.

A motion was made by David Bertone and seconded by Cindy Moore to advise Mr. Dubal that the New Jersey State Board of Physical Therapy Examiners' statutes and regulations do not address the professional business structures that 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. Dubal will be advised that 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 including but not limited to N.J.S.A. 45:9-37.21 *Division of fees, payments for referrals* and N.J.S.A. 45:9.37.34(e) *Permitted licensees, natural person; regulations* and N.J.S.A. 14A:17-1 *Professional Service Corporation Act*. A vote was taken and the motion carried by a unanimous vote.

- E. Inquiry from Madeline Ciardi
RE: N.J.A.C. 13:39A-2.4 Delegation by a licensed
Physical therapist to unlicensed persons

Ms. Ciardi wrote the Board and asked for clarification regarding whether it is permissible to delegate to ancillary personnel the administration of hot and cold packs.

A motion was made by David Bertone and seconded by Nancy Kirsch to advise Ms. Ciardi that the administration of hot and cold packs is the administration of a physical modality and cannot be delegated to an unlicensed person. A vote was taken and the motion carried by a unanimous vote.

- F. Inquiry from Marilyn Jones, PT
RE: Patient records

Ms. Jones advised the Board that she provides hippotherapy (physical therapy on horseback) at a local stable. Mr. Jones informed the Board that the stable would like her to charge a "bulk rate" for a specified number of sessions like they do for riding sessions. Ms. Jones also informed the Board that the stable is subject to an inspection from the national association of therapeutic riding instructors which would require that site visitors view the patient records as part of their inspection.

A motion was made by Nancy Kirsch and seconded by Cindy Moore to advise Ms. Jones she must comply with N.J.A.C. 13:39-3.1 *patient records* as well as N.J.A.C. 13:39-3.6 *prohibition on excessive fees*. The Board will also advise Ms. Jones that 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.

- G. Inquiry from Nannette Peaks-Jessie, PT
RE: Physical Therapy Treatment

Ms. Peaks-Jessie, PT inquired if a patient who needs physical therapy can seek treatment from a family member who is a licensed physical therapist.

The Board will advise Ms. Peaks-Jessie that it is the professional judgment of the physical therapist whether they choose to treat a family member.

- H. Letter from Maria Villani, PT
RE: Continuing Education

Ms. Villani informed the Board that she has been living and working as a physical therapist in Brazil for some years now and is interested in activating her New Jersey physical therapy license once she returns to the United States. Ms. Villani, PT asked the Board permission to change the distribution of the credits to 40 credits to be obtained from distance learning courses and 20 credits to be from contact courses.

A motion was made by Nancy Kirsch and seconded by Barbara J. Behrens that the Board will permit her to complete the required continuing education credits through distance learning courses due to her circumstances. The Board will further advise Ms. Villani that if she takes courses that have not been pre-approved by the Board, she will need to obtain a copy of the course outline and Curriculum Vitae of the lecturer in order for the Board to consider those credits at the same time she submits an application to reactivate her license. A vote was taken and the motion carried by a unanimous vote.

- I. Letter from Jeremy Melli, PT
RE: Test of English as a Foreign Language (TOEFL)

Mr. Melli informed the Board that he was born and lived in the United States his entire life and received his physical therapy degree from a university in Prague. Mr. Melli asked the Board if he was required to take the TOEFL (Test of English as a Foreign Language) since he was born and raised in the United States and studied abroad.

A motion was made by Barbara J. Behrens and seconded by David Bertone to advise Mr. Melli, PT that he must take and pass all sections of the TOEFL examination pursuant to N.J.A.C. 13:39A-5.7 as he obtained his entry level physical therapy education at a foreign educational institution. A vote was taken and the motion carried by a unanimous vote.

- J. Letter from Anuya Dukle
RE: Test of English as a Foreign Language (TOEFL)

The Foreign Credentialing Commission on Physical Therapy (FCCPT) provided the Board with a true copy of Anuya Dukle's TOEFL scores from 2005. A motion was made by Nancy Kirsch and seconded by Cindy Moore to advise Ms. Dukle that she will not need to retake and pass the TOEFL examination again as the Board accepted the scores provided by FCCPT as the scores meet the requirements set forth in N.J.A.C. 13:39A-5.7. A vote was taken and the motion carried by a unanimous vote.

- K. Board Discussion
RE: N.J.S.A. 45:9-37.18(8)

The Board discussed the statute, N.J.S.A. 45:9-37.18(8), which states the Board shall maintain a record of every physical therapist and physical therapist assistant licensed in this State, his place of business, his place of residence and the date and number of his license.

IV. OLD BUSINESS

- A. Response from the Hospital for Special Surgery
RE: Rehabilitation Network

Barry Inglett wrote the Board regarding a program offered by the Hospital for Special Surgery Rehabilitation Network and mentioned that the program may be in conflict with N.J.S.A. 45:9-37.21 Division of fees, payments for referrals.

The Board requested that the Hospital for Special Surgery provide the Board with the documentation concerning this program as well as an explanation of how the program works including how the fees are utilized. The Board asked the Hospital for Special Surgery to explain how the program does not conflict with N.J.S.A. 45:9-37.21 Division of fees, payments for referrals. The Board also asked the Hospital for Special Surgery to provide information concerning its application process that prospective physical therapy clinics undergo and statistics regarding acceptance and rejection.

Upon review of the information provided by the Hospital for Special Surgery, A motion was made by Cindy Moore and seconded by Barbara J. Behrens to close this matter. Based on the extensive information provided from the Hospital for Special Surgery, it does not appear that the program is in conflict with N.J.S.A. 45:9-37.21. A vote was taken and the motion carried by a unanimous vote.

- B. Board Discussion
RE: Areas of Physical Therapy Practice

The Board discussed drafting regulations concerning areas of physical therapy practice. The Board will have further discussions concerning this matter with Regulatory Analyst, Charles Manning, at its August 14, 2012 meeting.

Upon a motion made by Nancy Kirsch and seconded by Cindy Moore , 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. Eleven 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.

APPLICATIONS APPROVED BY THE BOARD

1. Nishit Kumar Kaushik
2. Neha Joshi
3. Charisma Abelardo
4. Wendy Cruz
5. Geetika Motwani
6. Philip Abella
7. Urvish Barot
8. Roland Paqueo
9. Hema Mallangi
10. Reka Adil
11. Palak Shah

APPLICATIONS NOT APPROVED BY THE BOARD

1. Pradeep Bansal
2. Rod Mark Delgado

ADJOURNMENT

The Board returned to Public Session and a motion was made by Barbara J. Behrens 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,

Lisa Affinito
Executive Director