



North Carolina Board of Physical Therapy Examiners NEWSLETTER

ISSUE 29

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The "Federation"

By Judy A. White, PT, Chair



Although "Beam me up, Scotty" is a plea I often mutter during moments of distress, the type of "Federation" I am referring to is

not for *Star Trek* fans only. This Federation is actually the Federation of State Boards of Physical Therapy (FSBPT), the organization whose membership is comprised of the physical therapy regulatory agencies (such as the NCBPTE) in each of the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. FSBPT is a young organization, having been formed in 1986 to provide physical therapy licensing authorities a support structure through which the health, welfare, and safety of the public might be promoted and protected. The focus areas of the Federation have evolved as a result of membership surveys and two strategic planning summits, and were recently approved by the 2002 Delegate Assembly. The *primary* focus, and the one requiring the most FSBPT resources, is the National Physical Therapy Examination, (NPTE), the *only* physical therapist and physical therapist assistant examinations accepted for licensure in the United States. FSBPT, in collaboration with Princeton Examination Services (PES) and Prometric, is responsible for all components of the development and administration of the licensure examination. In addition, the Federation has developed a Practice Examination and Assessment Tool for candidates to purchase. These examination activities are awesome responsibilities and the FSBPT takes its commitment to

"ongoing excellence, reliability, defensibility, and validity of the NPTE" very seriously.¹

Other approved focus areas include support activities for the member boards, such as the NCBPTE. While the Federation has no authority to make regulatory decisions given that each state or district is mandated by its own legislated practice acts and rules/regulations, the FSBPT does provide education, guidelines, and resources (personnel and documents) for all aspects required in the regulation of physical therapy. Resources include the **Model Practice Act**; annual meetings for education presentations and FSBPT delegate assembly functions; the Foreign Credentialing Commission on Physical Therapy (FCCPT); and the tracking of information and guidelines about such current issues as continuing competence, telehealth, and the Healthcare Integrity and Protections Data Bank (HIPDB). This organization is an incredibly valuable resource for regulatory bodies of the practice of physical therapy. The Federation strives to promote effective licensure, regulation, and enforcement in the practice of physical therapy through its member boards.¹

The NC Licensure Board has been very actively involved with the Federation for many years. Ben Massey (Executive Director) and Cindy Kiely (Administrative Assistant) have served in leadership and committee roles. North Carolina has also been fortunate to be able to send several board members to the educational meetings, thus enabling our licensure board to be current on the issues of and strategies for effective regulation. My experiences with the national examination and the education committee have hopefully enhanced my role and participation with the NC Board. I know that I have

personally benefited from these opportunities with the Federation.

In closing, I have just a few words to say about the North Carolina Board of Physical Therapy Examiners. The words are "few" because I don't think there is a way to express in words what my feelings want to say. I am completing seven wonderful years as a NCBPTE board member. It is time to be replaced with new perspectives, fresh ideas, and another leadership style. There is no doubt that I will miss being a part of the NC Board. I will miss the staff and board members whom I admire and respect so very much. I consider each one a dear friend. They are very capable and dedicated individuals who steadfastly serve the public with dedication and commitment. I will miss the incredible sense of service and accomplishment that comes with struggling over issues and decisions. It is without a doubt one of the most selfish volunteer jobs I have ever had as the rewards are just that...totally rewarding.

Anna Quindlen states so well what I feel: "If your success is not on your own terms, if it looks good to the world but does not feel good in your heart, it is not success at all." My heart is full. It is time to go. So, now I can truly say "Beam *me* up, Scotty"!

1. FSBPT Web site - www.fsbpt.org

Behavior Modifications

By John M. Silverstein, Board Attorney



NCGS 90-270.26 lists the general powers and duties of the North Carolina Board of Physical Therapy Examiners. The Board's most important responsibilities are contained in the first three enumerated subparagraphs. These statutory provisions provide the basic rationale for entrusting a Board with authority to police a profession: to make the determination whether applicants are qualified to become

licensed, and to ensure that continuing practice is consistent with public health, safety and welfare. If licensee conduct violates statutes or rules designed to protect the public, disciplinary action ensues.

All applicants learn what information must be submitted to the Board to apply for licensure, and the passing score that must be obtained on the examination to become licensed. Likewise, all licensees should know that engaging in prohibited conduct will result in the imposition of disciplinary measures. What is not as well known is how the Board determines what disciplinary action is appropriate for conduct that violates the provisions of the Practice Act or the Board's Rules. It is the purpose of this message to offer insight into how the Board determines what disciplinary action is appropriate for prohibited behavior.

NCGS 90-270.36 lists grounds for disciplinary action, and includes nine separate subparagraphs. Additionally, Board Rule 21 NCAC 48 G.0601(a) lists 26 separate behaviors and activities that may result in disciplinary action by the Board pursuant to NCGS 90-270.36. When a complaint is submitted to the Board, the Board has established an Investigative Committee, consisting of one Board Member and the Board's Executive Director, to determine whether there is probable cause to believe that a Practice Act or Rule violation has occurred. The Investigative Committee generally conducts an investigation by interviewing witnesses with pertinent information and reviewing relevant documentary evidence to determine whether probable cause exists. The Committee is assisted by the Board's Investigator and the Board's Attorney.

Over the course of time, the Investigative Committee has noticed that prohibited conduct frequently can be placed in broad categories, and the Committee attempts to keep its recommendations for punishment consistent with other cases that arise in the same categories. Extenuating circumstances are taken into consideration by the Investigative Committee, but it is the sole function of the Board to make a final determination as to what type of discipline, if any, is warranted in each specific case.

If the prohibited conduct involves fraud, the Investigative Committee always recommends a period of active license suspension. For cases involving "phantom visits", i.e. either billing or documenting for treatment that is not performed, the standard recommendation is a one-year suspension, six months of which is active and the other six months inactive, during which time restrictions on the license are common. There have been cases, however, in

which the Investigative Committee has recommended either a shorter or longer suspension when specific circumstances have warranted deviation from the standard recommendation.

When conduct involves inadequate documentation in a patient record, absent any findings of impact on the patient, the Investigative Committee generally recommends discipline no stronger than a warning in order to attempt to assist the licensee in adopting the standards required by the Practice Act and the Board's Rules. On the other hand, when the prohibited conduct occurs during patient intervention, whether by the licensee or one working without appropriate supervision from the licensee, the Investigative Committee has recommended stronger discipline. Supervision issues are difficult to categorize, but, in general, if there is a pattern of inadequate supervision, the Investigative Committee is less sympathetic than in instances in which there is a violation due to an isolated communication failure. The Investigative Committee is receiving more complaints involving billing practices, and licensees are not insulated from disciplinary sanctions even if statements of charges are the responsibility of some other person or entity. If a patient is billed for treatment that varies from what is actually performed, mild to severe discipline can be recommended, depending on the extent and intent of the inappropriate billing.

Licensees should not reach the conclusion that the sole function of the Investigative Committee is to recommend disciplinary action to the Board. The Investigative Committee has dismissed many complaints when there is either no evidence that prohibited conduct occurred, or when the conduct did not constitute a Practice Act violation. In a small number of cases, the Investigative Committee has actually made recommendations to licensees to alter personal behavior that did not constitute prohibited conduct. Such recommendations would not be considered disciplinary action. When a complaint is dismissed, or a recommendation is made that does not involve prohibited conduct, no report or recommendation is made to the Board, nor is any information published in the Board's newsletter or on its Web site as is the case when disciplinary action is taken.

The members of the North Carolina Board of Physical Therapy Examiners take no pleasure in imposing disciplinary action against licensees for engaging in conduct prohibited either by NCGS 90-270.36 or 21 NCAC 48G.0601(a). Nevertheless, each Board Member understands that agreeing to serve as a member of the Board carries with it the responsibility to ensure the protection of the public health, safety and welfare, and to uphold the credibility and integrity of the physical therapy profession. Unfortunately, the imposition of disciplinary sanctions is a necessary element of fulfilling that statutory obligation. The Board depends on the Investigative Committee to conduct its investigations and make its recommendations in a fair and impartial manner, but the Board always reserves the right to entertain factors not considered by the Investigative Committee, or even to reject the Investigative Committee's recommendations. It is important to remember that it is much easier to temper justice with mercy when the violation is relatively minor. If prohibited conduct involves fraud, harm to a patient, or supervision issues that jeopardize patient welfare, an active license suspension is warranted.

North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions
July 2002 – Nov. 2002

Snodgrass, Susan D., PTA (Warning)

Location: Burlington, NC, Alamance County
License #: A-1335
Conduct: Entering false information regarding patient treatment dates.
Discipline: Warning. (executed June 19, 2002)

Aram, Richard H., PT (Warning)

Location: Nashville, NC, Nash County
License #: P-7281
Conduct: Violation of Board's rule regarding prohibited actions [21 NCAC 48G .0601 (a) (6) "harassing, abusing, or intimidating a patient, either physically or verbally."]
Discipline: Warning. (executed Sept. 12, 2002)

Griscti, Anthony P., PTA (Warning)

Location: New Bern, NC, Craven County
License #: A-2671
Conduct: Violation of Board's rule regarding prohibited actions [21 NCAC 48G .0601 (a) (6) "harassing, abusing, or intimidating a patient, either physically or verbally."].
Discipline: Warning. (executed Sept. 12, 2002)

Feo, Anthony, PTA (Suspension)

Location: Candler, NC, Buncombe County
License #: A-2713
Conduct: Documenting and billing for treatments that were not performed.
Discipline: 6 months suspension, 1 month active and the remaining period stayed with conditions. (imposed Sept. 12, 2002)

Award Winners

By Ben F. Massey, Jr., PT, Executive Director

The NC Board of PT Examiners has cause to celebrate as the Board's Chair (Judy A. White) and Attorney (John M. Silverstein) have recently been recognized by their peers for their outstanding accomplishments and service.

At the Federation of State Boards of Physical Therapy (FSBPT) Annual Conference in September, Ms. White was selected to receive the prestigious **President's Award**. This award is presented to a deserving board member of a jurisdiction who has made significant and outstanding contributions to the Federation. Since her appointment to the PT Board in 1995 and election as the NC Board Chair in 2000, Ms. White has served in several voluntary committee and leadership positions in the FSBPT including serving on the Education Committee and member / chair of the Exam Development Committee.

In addition to receiving the **President's Award**, Ms. White was elected to serve a three-year term as a member of the FSBPT Board of Directors. This is quite an honor as the Federation Board only has two director positions on their eight-member Board. Ms. White is the first North Carolina Board Member ever to be elected to serve on the Federation Board. "The mission of the FSBPT is to protect the public by providing service and leadership that promote safe and competent physical therapy practice." The primary role of the Federation is development and administration of a reliable, valid, and legally defensible examination for licensure. Other activities include development of a Model Practice Act, assisting jurisdictions with continuing competence requirements, and providing education for Board members in

areas of regulation and discipline. Ms. White's final term of office for the NC Board is scheduled to end on December 31, 2002; however, she will continue to serve until the Governor appoints her replacement.

At the Wake County Bar Association Meeting on November 5, 2002, John M. Silverstein was presented with the **2002 Joseph Branch Professionalism Award**. This recipient is chosen from all Wake County attorneys for the individual who "exhibits the highest ideals of professionalism, ethical, and moral code." According to the Selection Committee, Mr. Silverstein is a "pillar of professionalism" who has tirelessly served the Wake County Bar Association on numerous committees and leadership positions including serving on the Executive Committee, Grievance Committee, Local Bar Services Committee, and also served as President of the Wake County Bar Association. The list of previous recipients of the Award is an elite, highly select group of esteemed and distinguished colleagues representing the "Who's Who" of Wake County attorneys. The NC PT Board is most fortunate to have had someone of Mr. Silverstein's caliber serving as its legal counsel since 1977. His legal and institutional knowledge of physical therapy practice and regulation have been invaluable to the Board and Investigative Committee over the years.

In closing, we salute our two Award Winners, Judy White and John Silverstein. They have brought the spirit of dedication, commitment, and quality to our Board and have enriched us all through their service to our Board and the citizens of North Carolina. Our hats are off to Judy and John!



NEW BOARD REQUIREMENT **21 NCAC 48F .0105 CHANGE OF NAME AND ADDRESS**

Each licensee must notify the Board within 30 days of a change of name or work or home address.

History Note: Authority G.S. 90-270.27; Eff. August 1, 2002.

This can now be done by the licensee on the Licensure Board's Web page (www.ncptboard.org), letter, fax (919-490-5106), or call the Board's office @ 919-490-6393 or 800-800-8982.

North Carolina Board of Physical Therapy Examiners

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Summary of Fees

	<u>Current Fees</u>	<u>Effective Feb.1, 2003</u>
Renewal (PT & PTA)	\$60.00	\$80.00
Revival Fee and Renewal Fee	90.00	110.00
Application Fee PT & PTA	120.00	135.00
Exam Cost (PT & PTA)**	285.00	285.00
Exam Retake Fee	50.00	60.00
Verification/Transfer Fee	25.00	25.00
Licensee Directory	10.00	10.00
License Card	10.00	10.00
Labels of Licensees (PT or PTA)	60.00	60.00
Certificate Replacement	20.00	25.00

**Plus PT or PTA Application Fee

Calendar of Events

Jan. 31, 2003..... Final deadline for license renewal
 Feb. 1, 2003 Licenses not renewed lapse
 Mar. 6, 2003 Board Meeting* - (8:30 AM - 4:00 PM, Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC)
 *Dates are tentative / please confirm by contacting Board Office (800-800-8982)

Licensure Statistics (As of Dec. 4, 2002)

	Licensed in NC	Reside in NC	Work in NC
PTs	4,888	3,793	3,163
PTAs	2,173	1,913	1,556



North Carolina Board of Physical Therapy Examiners - 2002

Back Row, Left to Right: Randall Stewart, Herman Bunch, J.C. Harvell, Ben Massey (ED), John Silverstein (Attorney)
 Front Row, Left to Right: Judy White, Gloria Lewis, Joanna Nicholson, Patricia Hodson, Eric Smith

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