



North Carolina Board of Physical Therapy Examiners NEWSLETTER

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One of the benefits of graduating from physical therapy school in 1971 is being able to see and be a part of changes and growth in the profession of physical therapy that have occurred over these past 35 years. Many of these changes have been a direct result of the legislative and regulatory changes and also changes related to actions and positions taken by the North Carolina Board of Physical Therapy Examiners. I have been fortunate and it has been my pleasure to have served on this Board at one time or another during each of the past four decades. It is now time for me to retire from the Board, so I would like to share some of my observations as a member, Chairman, and physical therapist in our state.

First and foremost, our state is fortunate that the North Carolina General Assembly recognizes Licensure Boards as independent quasi-governmental agencies. This gives our Board the authority to oversee the budget, staff, and investigative / disciplinary process. I have heard complaints from Board members around the country who state that there is a revolving door of board administrators, staff, and attorneys (usually assigned by the Office of the Attorney General). I believe that one of the strengths of our Board has been its "consistency" and this has been accomplished primarily because the Board has the authority to hire and retain quality employees.

In 1977, the Board entered into its first and only contract with an attorney, John M. Silverstein, Esquire. Members of the Board under the leadership of Wadsworth

Reflections from a Retiring Board Chairman

By Randall C. Stewart, PT, DPT

Duane (Skip) Roy, III, are to be commended for its selection of Mr. Silverstein as his advice, guidance, and counsel have been invaluable in assisting the Board over these past 28 years. Constance Peake, PT, the Board's first Executive Secretary, served with exemplary performance for twenty six years from 1969 – 1996 and was instrumental in developing the culture, structure, and policies that have served as the foundation for the Board. In 1992, Cynthia Kiely was hired as an assistant. She currently serves as the Administrative / Licensing Manager and has been invaluable to the Board. In 1996, I was Chair when Ben F. Massey, Jr., PT, was offered the position as Executive Director. I have been pleased with direction of the Board since 1996, especially in the areas of communication with the public, licensees, and other stakeholders, computerization, and also with process of addressing complaints and disciplinary actions.

When I first joined the Board in 1979, its office was in Conny's home. Now, we have a well functioning office in Durham. During this time of great change in the profession, there has been one constant: the quality and commitment that my fellow Board members have always given to the Board. We have been fortunate that the Governor has appointed talented and dedicated Board members who take their positions seriously and come to the meetings prepared to meet the challenges. Nothing demonstrates this more than the time and energy that goes into the development of the budget and the financial commitment that the Board has given to communication. Through its telephone and email accessibility, newsletters, web page, visits to PT and PTA programs, and statewide continuing education programs and forums, the Board has strived to be available and to stay in touch. Board members and staff have traveled across the state from the mountains to the coast to provide licensees the opportunity to meet and discuss licensure and regulatory

issues. Our Board and staff are to be commended for their willingness to travel that extra mile to serve you.

Throughout my tenure, I have been most impressed with the ability of the Board to address difficult and complex issues. The Board has served in an advisory role to the Chapter in the rewrite of the **North Carolina Physical Therapy Practice Act** in 1979 and 1985. It has developed and continues to refine Rules for interpretation of the Practice Act that has led to increased protection of the public. The Board has also developed position statements that have clarified the scope and practice of physical therapy. Lastly, it has diligently ensured that minimum practice and education requirements for licensure were established and maintained for all applicants in a fair and equitable manner.

I leave this position as Chair knowing that the Board is in experienced hands and that the citizens of North Carolina have been and will always be served by Board members possessing the highest integrity. I appreciate the opportunity to have served and consider it an honor over the years to have worked with such dedicated individuals.

Election of Officers

At its December 5, 2005 meeting, the Board elected J. Herman Bunch, Jr., PT, to serve as Chairman of the Board for 2006. Mr. Bunch will be serving in the final year of his second term. He is an experienced Board Chair having served in the position as Chairman from 1995 – 1999.

Additionally, Joanna Nicholson, PTA, was elected to serve as Secretary-Treasurer. Ms. Nicholson is also serving in the final year of her second term and has been an active member of the Board serving on numerous task forces and committees.

Anatomy of a Complaint

By John M. Silverstein, Board Attorney



The Investigative Committee of the North Carolina Board of Physical Therapy Examiners consists of the Board's Executive Director and a member appointed by the Board Chair. Each year, the Investigative Committee handles between 50 and 60 complaints. Approximately 10 to 15 are related to the failure of licensees to renew by January 31, while the rest are either reported to the Board by third parties, referred to the Investigative Committee by the Board staff or initiated by the Investigative Committee based on information it obtains during the course of an investigation of a different licensee.

When a complaint is filed by a third party, the Executive Director immediately acknowledges the complaint and advises the complainant that the matter will be placed on the agenda for review at the next scheduled meeting of the Investigative Committee. The Investigative Committee meets eight to ten times each year. If, however, the complaint requires immediate action, the Investigative Committee can conference by telephone to direct its Investigator or Attorney to commence investigative activities before the next scheduled meeting.

When a complaint first appears on an Investigative Committee agenda for review, the initial determination is the appropriate manner in which to proceed. In some instances, the complaint

is immediately dismissed or referred to a different agency because the subject matter of the complaint is not within the jurisdiction of the Physical Therapy Practice Act, or the complaint does not constitute a violation of any of the Practice Act's provisions.

Once the Investigative Committee determines that it does have jurisdiction to investigate the complaint, and that the allegations are sufficient to make out a violation of the Practice Act or of the Board's rules, the Investigative Committee must then determine the most appropriate way to proceed. In some cases, there are factual allegations that the Committee feels can only be resolved by furnishing the licensee with a copy of the complaint, and requesting the licensee to respond. The resolution of these cases can often be difficult when there are no third parties who witnessed an incident, and medical records do not provide assistance in resolving the factual discrepancy. Examples of these types of cases would be allegations of verbal abuse or harassment.

Generally, in order to properly investigate a complaint, the Investigative Committee must interview witnesses and subpoena medical records. Unfortunately, the Investigative Committee sometimes encounters witnesses who simply do not wish to cooperate with the investigation. This obviously makes it more difficult for the Investigative Committee to determine whether a violation of the Practice Act or the Board's rules has occurred. Further, when the Investigative Committee subpoenas medical records, it frequently finds that the records are illegible and incomplete. Licensees who do not take the time and care to produce legible, complete patient notes that provide a comprehensive record of each intervention are inviting disciplinary action.

Finally, there are complaints involving fraud and controlled substance violations that require the Investigative Committee to use resources beyond its staff. These resources range from

procedures as simple as obtaining a criminal background check to enlisting the assistance of professional law enforcement personnel on local, state and federal levels. In recent years, the Investigative Committee has worked with police departments, sheriff's departments, the North Carolina Department of Insurance, the Office of the Inspector General of the Department of Health and Human Services and the FBI. In these cases, the Investigative Committee generally defers its pursuit of disciplinary action against a licensee until criminal proceedings are completed.

Some complaints can be resolved in a matter of months, while others can take more than a year to conclude. The Investigative Committee endeavors to devote the appropriate resources to each complaint, which means that the complaints without merit can be resolved quickly, while those involving fraud and deceit can take a much longer period of time to untangle. The typical complaint is resolved in several months.

In an ideal world, the Investigative Committee would make a recommendation to the Board that it be disbanded for lack of complaints to investigate. Until that time arrives, however, the Investigative Committee will continue its difficult task of analyzing each and every complaint that is presented to the Board, and devoting the appropriate resources necessary to accomplish a just resolution.

Summary of Fees

Renewal (PT & PTA)	\$ 80.00
Revival Fee and Renewal Fee	110.00
Application Fee PT & PTA	135.00
Exam Cost (PT & PTA)*	350.00
Exam Retake Fee	60.00
Verification/Transfer Fee	25.00
Licensee Directory	10.00
License Card	10.00
Labels of Licensees (PT or PTA)	60.00
Certificate Replacement	25.00
*plus PT or PTA Application Fee	

North Carolina Board of Physical Therapy Examiners

Board Orders / Consent Orders / Other Board Actions
July 2005 – December 2005

Sharma, Rajendra C, PT (Revocation)

Location: Kalamazoo, MI

License #: P-1527

Conduct: After determining that Sharma violated G.S. 90-270-.36(1) by falsely stating on applications for renewal in 1999, 2000, and 2004 that he had not been disciplined in another State during the preceding two years at times when his license was suspended in Michigan (1999) and Ohio (2004), the Board voted to revoke Sharma's license.

Discipline: License revoked and reimburse the Board for cost of investigation. (Executed September 29, 2005)

Sutton, Sandra W., PTA (Warning)

Location: Gastonia, NC, Gaston County

License #: A-342

Conduct: Entering misleading information in physical therapy patient records.

Discipline: Warning and reimburse the Board for cost of investigation. (Executed September 29, 2005)

Continuing Education Sessions

On October 7, 2005, the Board presented two continuing education sessions at the Fall Conference of the North Carolina Physical Therapy Association (NCPTA) in Greensboro, NC. The sessions were entitled a **“Mock” Informal Meeting of the Investigative Committee** and **Continuing Competence**.

For the **“Mock” Informal Meeting**, to demonstrate the process that is involved in making a recommendation to the Board regarding disciplinary action, members of the Investigative Committee (*J. Herman Bunch, Jr., PT, and Ben F. Massey, Jr., PT*), the Board's Attorney (*John M. Silverstein*), and the Board's Investigator (*Douglas Kearns*) conducted a **“Mock” Informal Meeting** with two licensees (*role played by Board members Paula Schrum, PT, and Joanna Nicholson, PTA*), who had been accused of violating the North Carolina Physical Therapy Practice Act and Board's rules. The session walked the attendees through the entire process of receiving of the complaint, decisions made by the Investigative Committee as to how it should be handled, interviews of witnesses, review of medical records, the Informal Meeting with the licensees, and the recommendation of the Investigative Committee to the Board. Attendees at the meeting stated that they were able to experience vicariously the stress, tension, and anxiety that licensees go through during an investigation. Because this session received such rave reviews and numerous requests by attendees to repeat the session, the Board has decided to take this process on the road in 2006 to approximately five areas around the state. The Board is currently collaborating with several AHECs to establish cities and dates for the presentation. Stay tuned to our web page (www.ncptboard.org) for further information.

The purpose of the **Continuing Competence** session was to update the attendees on the status of the Continuing Competence legislation that was introduced by the NCPTA in the NC General Assembly, to discuss the evolution of the requirement of continuing competence for health care practitioners, to discuss the process regarding adopting rules related to continuing competence requirements for licensure renewal if the legislation is adopted, and to solicit input from the attendees regarding requirements for continuing competence. A panel comprised of 4 representatives from the NC Board of PT Examiners (*Randall C. Stewart, PT, DPT, Chairman; Paula Schrum, PT, Board Member; John M. Silverstein, Attorney; and Ben F. Massey, Jr., PT, Executive Director*) were the presenters. The Board plans to present similar programs / forums across the state in the future if Continuing Competence legislation is enacted by the General Assembly.

Licensure Statistics *(As of November 16, 2005)*

	Licensed in NC	Reside in NC	Work in NC
PTs	5,382	4,183	3,632
PTAs	2,403	2,096	1,785



Note:

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.]

Addresses can be changed by the licensee on the Licensure Board's web page (www.ncptboard.org) or by 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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Calendar of Events

- Jan. 26, 2006** Investigative Committee Meeting,* (Silverstein Law Office, 900 Ridgefield Dr., Suite 250, Raleigh, NC)
- Jan. 31, 2006** Final deadline for license renewal
- Feb. 1, 2006** Lapse of licenses not renewed
- Mar. 14, 2006** Board Meeting* - (8:30 a.m. – 5:00 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC)
- June 6, 2006** Board Meeting* - (8:30 a.m. – 5:00 p.m., Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC)

*Dates are tentative / please confirm by contacting Board Office (800-800-8982).

Clarification of Position on Iontophoresis and Phonophoresis

In response to numerous questions from licensees and after meetings and dialogue with the North Carolina Board of Pharmacy, the Board published a Position Statement on its web page. The following is an excerpt:

Based on this response from the Pharmacy Board, when physical therapy licensees incorporate iontophoresis or phonophoresis in the treatment, the Physical Therapy Board encourages licensees to consider the following:

- 1. All patients who receive iontophoresis or phonophoresis with prescription medications by a physical therapist or physical therapist assistant must have a signed prescription or written protocol from a physician that indicates specific dosages. A "blanket order" for iontophoresis or phonophoresis is not sufficient. Physical therapy direct access does not allow a physical therapist to administer prescription medications without a physician's order.*
- 2. A patient can obtain an individual prescription from a prescriber for a product, which would then be used by a physical therapist on a specific patient.*
- 3. A prescriber could issue an order for a stock container of a specific concentration of medication (ie, hydrocortisone, dexamethasone) for use within a physical therapy practice. The physical therapist would then use the medications from the stock container on patients from the prescriber in his/her practice according to written procedures developed between the prescriber and the physical therapy practice. With the prescriber's written permission, a physical therapist may use the prescriber's stock container for patients from other referring physicians.*
- 4. The physical therapy practice should maintain accurate records of all patients who receive iontophoresis and phonophoresis that includes the name of the patient, date of treatment, referring physician, type of treatment, and specific dosage of medications.*
- 5. The physical therapist may store iontophoresis and phonophoresis prescription medications (but not controlled substances) in stock containers; however, all expired medications should be properly discarded in a timely manner.*

Licensees who use iontophoresis and phonophoresis should go to the Board's web page for the full text.

7,800 copies of this public document were printed at a cost of \$1,146.00 or .147 cents per copy.

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