WV BOPT - BOARD NEWS

Fall/Winter 2007

Dear Physical Therapists and Physical Therapist Assistants
(by: Lesleigh B. Sprouse, PT, DPT, Board Chair)

Introduction, Farewell, and Welcome

I am very excited and honored to be the new Chair of the WV PT Board. I am looking forward to this challenging position and plan to work hard to continue the progressive changes and continuity the previous Board had established. I am a native of Charleston, WV but soon after graduation moved to South Carolina to work. Due to my love of the mountains and family, I returned in 2002 and have since worked at a hospital-based outpatient clinic. It is my sincere hope new graduating PT's and PTA's share this love for WV and stay here to find employment. It is my dedication for the profession that led me to be involved in advocacy, organizing the screenings for the public and speaking to legislators at the WV PT Association's annual lobby day held at the State Capitol. I would encourage all Therapists to become involved in promoting and protecting our profession.

I would like to say farewell to our previous Board Chair, Sally, Oxley, and would like to thank her for all her years of dedicated service to the PT Board. Unfortunately, I did not get to serve with her long on the Board, but know she was a very dedicated Member and Chair. I would also like to welcome Shannon Snodgrass, PT to the Board. I am very excited about our new Members and think we have a diverse group with many settings represented. We plan to continue our current goals which include online renewals of licenses, providing information to Therapists throughout the State on our website, and working to protect the public.

Let me assure you we will work hard to uphold our duties on the Board. Please feel free to submit any questions for the Board through the office and we will address them at our quarterly meetings.

Are We "Active Listeners?"

(By: Lesleigh B. Sprouse, PT, DPT, Board Chair)

As Physical Therapists, we wear many hats: teacher, coach, cheerleader, and friend. We are often one of the first professionals patients come into contact with as they make their way through the health care process. With our busy schedules and lives, we may find we are distracted, going through the motions, and not really listening to our patients. It is during these times we need to stop and evaluate whether we are "actively listening". We typically spend the most time with the patient and can often find the solution in their recovery if we are paying attention.

Wikepedia defines "active listening" as "a structured way of listening and responding to others". It involves assessing the speaker's body language and behaviors, repeating information given for proper understanding, having good eye contact and asking appropriate questions. Active listening is important to gain the trust of the patient, avoid conflict or misunderstandings during their care, and allowing the patient to open up to us. A key to becoming an active listener also involves understanding our own style of communication, feelings, and opinions. Although this sounds easy it does take practice and requires us to be actively involved. How many times when evaluating or treating a patient do we tend to rush through

Are We "Active Listeners?"

(By: Lesleigh B. Sprouse, PT, DPT, Board Chair)
(continued)

the session because we are running behind or feel we have heard "their story" before? A patient can reveal how to treat them, but it takes our skills as a listener not just as a Therapist to find out.

Some tips to being an active listener include:

1. **Use nonverbal communication such as maintaining eye contact, nodding head, and facing/leaning towards the sender.** This can create a climate of genuine concern and acceptance.

2. **Paraphrasing.** Restate what you hear with fewer words and try to get more to the point.

3. **Hearing what the patient is feeling.** For example: You feel frustrated because you still have pain after two (2) years.

4. **Ask follow up questions by getting underlying information.** For example: Tell me more about.... Or, what happened when...?

5. **Summarize.** Going over all the information reassures the patient you heard what they said and you understand.

The next time you feel rushed or hurried through a session, remember it can save you time in the future if you actively listen. This will not only allow your treatments to be more effective and efficient, but also help your relationship with your patients.

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Board Member Training

By: Melanie Taylor PT, Vice Chair

I recently had the opportunity to attend two programs sponsored by the Federation of State Boards of Physical Therapy (FSBPT). In July, I had the pleasure of attending a Jurisdictional Board Training Program designed specifically for Board Members which was held in Alexandria, Virginia. The purpose of this program was to educate Board Members on their rights and responsibilities and to also discuss and acquaint Members with the role of the Federation of State Boards of Physical Therapy. During the month of September, Frankie Cayton as Administrator, and I as the Board's Delegate attended the FSBPT Annual Meeting and Delegate Assembly held in Memphis, Tennessee.

The first training in July was an educational session for Board Members. There were Board Members from several different States ranging from Alaska to the Virgin Islands. Those in attendance had various years of service on their respective Boards. The focus of this training was the role of the State Physical Therapy Board Member. The Board Member's responsibility is to protect the safety of the general population, or public, for which they serve. As a Board Member our responsibilities include, but

Board Member Training (Cont.)

By: Melanie Taylor PT, Vice Chair

are not limited to, reviewing continuing education courses for License renewal, receiving and reviewing complaints about any Licensee, and working to uphold and enforce the Practice Act (Statutory and Regulatory Law) , while respecting the rights and responsibilities of the Licensee. We will also be involved in the Sunset Review of our State Practice Act. In addition, I learned how our State's Practice Act may authorize the Board to take actions to protect the public. Some of these actions include issuing subpoenas during investigations, issuing "cease and desist" letters to anyone that practices Physical Therapy without a current License, and investigating complaints, holding hearings, and levying fines and sanctions to any Licensee practicing outside our Scope of Practice.

I would also like to take a moment to provide some information about the responsibilities of the Federation of State Boards of Physical Therapy (FSBPT). The FSBPT serves Licensing Boards by providing information and/or education to each State Board about new and upcoming issues. They currently produce, administer (through Prometric Testing Centers), and score the Physical Therapy and Physical Therapist Assistant Licensure Exams for each State. They help Jurisdictions by performing research on several topics and reporting back to the State Boards. There are a couple of issues that are now being researched by the FSBPT. The first project which began in 2005 was the issue of referral for profit; two that are slated to begin in 2007 are ways to assess and help ensure continued competence within the profession.The FSBPT develops and houses the current Physical Therapy Licensure Exams. The FSBPT has Item Writers to produce questions to be put into the Question Bank to be used on the Licensure Examination. The Exams are housed in a data base in a securely locked room. The FSBPT also has developed a data base that allows each State Board to input information about Licensure and Disciplinary actions against Licensees. This information is available to all States.

The FSBPT receives their funds through Licensure Exam Fees and also through Membership Dues from the Member Jusisdictions (State Boards). The FSBPT has Committees to undertake and complete research; and a Board to govern programs to ensure that the organization is fulfilling its Mission and following the direction that the Member Boards have authorized.

I learned a tremendous amount at both the training session and the Annual Meeting. I hope to use what I have learned, from both the educators and the attendees from other States from both sessions and that it will be of benefit to us when our Practice Act comes under Sunset Review in 2011.

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Reminder: The WV Board of Physical Therapy MOVED effective March 1, 2006. Our new address is:
642 Davisson Run Road
Clarksburg, WV 26301
Phone and Fax Numbers remain the same
wvbopt@yahoo.com - email
www.wvbopt.com - web site

Open Letter to:
Centers for Medicare and Medicaid Services
RE: CMS - 1385-P
Therapy Standards and Requirements

August 20, 2007

Administrator
Centers for Medicare and Medicaid Services
Dept. Of Health and Human Services
Attention: CMS-1385-P
P. O. Box 8018
Baltimore, MD 21244-1850

Dear Sir or Madam:

The **West Virginia State Board of Physical Therapy** submits the following comments on the proposed rules changing the definition of "physical therapist" in Section 484, Title 42 of the Code of Federal Regulations. The proposed rules are part of the 2008 Proposed Revisions to Payment Policies Under the Physician Fee Schedule and Other Part B Payment Policies for Calendar Year 2008, found in Volume 72 of the Federal Register, published on July 12, 2007.

Under subsection (i)(B) and (ii)(B) of the proposed definition of "physical therapist" an applicant would need to have "passed the National Examination approved by the American Physical Therapy Association." We strongly suggest that CMS rely on State licensure and that the additional examination requirements contained in subsections (i)(B) and (ii)(B) of the definition of "physical therapist" be deleted from the final rule. At the very least, the Centers for Medicare and Medicaid Services ("CMS") should delay promulgation of the proposed rule until CMS has had an opportunity to understand the examination, credentialing, and licensing processes currently in place.

We, along with ALL of the other State Boards of Physical Therapy Examiners, have already adopted a National qualifying Exam for Physical Therapists - - the National Physical Therapy Examination ("NPTE"). The Federation of State Boards of Physical Therapy ("FSBPT") develops and administers the NPTE in close collaboration with the State Boards. Working together, we have developed a National passing score. The FSBPT has done an outstanding job of meeting our needs. Likewise, the NPTE has been a valuable tool in screening Physical Therapist applicants. Through the NPTE, we have been able to successfully filter applicants. In turn, we, as a policing body, have been able to protect the public by ensuring that only qualified Therapists are licensed to care for our citizens.

CMS should not usurp the States' function of licensing Physical Therapists and other professionals. Healthcare professional credentialing and licensing is classically a State function. Licensing and credentialing are the within the domain of the States. CMS' proposal would inappropriately transform a State function into a Federal function. There is no justification for this action, and CMS should prevent it by removing the proposed rule.

Open Letter to:
Centers for Medicare and Medicaid Services
RE: CMS - 1385-P
Therapy Standards and Requirements
(Cont.)

CMS respects States' rights and State licensure for other healthcare professions, and it should continue to do so with respect to Physical Therapists. For example, CMS' regulations define a physician as a "doctor of medicine...legally authorized to practice medicine and surgery by the State in which such function or action is performed." 42 C.F.R. §484.4 (2006). Likewise, a registered nurse is defined as "a graduate of an approved school of professional nursing, who is licensed as a registered nurse by the State in which practicing." 42 C.F.R. §484.4 establishing requirements that are different than what the States require for licensing PTs would be inconsistent with not only the rights of the States, but also CMS' own standards.

Moreover, the Federal Government should not impose an additional burden on the States, particularly since its stated desire for a National examination is already satisfied and its other stated goals would not be better met by the burden it proposes to impose. The proposed unfunded mandate could result in the development of a second exam, which would create confusion and more work for the States - - without benefit. Our resources are already limited and stretched.

In the preamble to the proposed regulations, CMS says that it is seeking uniformity. The fact of the matter is that uniformity and consistency across the nation and across provider settings already exists. State licensing requirements apply to Physical Therapists without regard to where they practice. All States accept CAPTE accreditation. All States accept the NPTE and have adopted the same passing score. No Federal regulation is required or needed.

In fact, the proposed regulations would likely defeat CMS' own goal of uniformity. If, for the example, the APTA were to approve a different exam than the NPTE, which the regulations would permit it to do, Physical Therapists, Patients - - including Medicare and Medicaid beneficiaries and recipients, - - and others could face substantial confusion and interruption of service. As a State Board of Physical Therapy Examiners, we would continue to have authority to select an exam of our choice for licensing purposes. However, under the proposed rule, a Physical Therapist would have to pass a second exam approved by the APTA to qualify for Medicare reimbursement. Thus, patients might be forced to change Physical Therapists as they become Medicare or Medicaid eligible, and the current uniformity and continuity of standards across the country would be lost. Thus, the proposed rules undermine CMS' ambition for uniformity of standards.

CMS and the Federal Government should not empower an advocacy group, like the APTA, to establish an examination or any qualifications for professionals to provide healthcare services to patients. The APTA's mission is to advocate and promote the profession. As a licensing body, our mission is to ensure the APTA to qualify for Medicare reimbursement. Thus, patients might be forced to change Physical Therapists as they become Medicare or Medicaid eligible, and the current uniformity and continuity of standards across the country would be lost. Thus, the proposed rules undermine CMS' ambition for uniformity of standards.

Open Letter to:
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(Cont.)

CMS and the Federal Government should not empower an advocacy group, like the APTA, to establish an examination or any qualifications for professionals to provide healthcare services to patients. The APTA's mission is to advocate and promote the profession. As a licensing body, our mission is to ensure that Physical Therapists are qualified to provide Physical Therapy services and are authorized to do the work for which they are trained. The FSBPT, the organization to which we look for the National licensing exam, was created to eliminate, protect against, and prevent the inherent conflict of interest that the APTA would have if it were to have authority over the examination and credentialing processes. Even the APTA recognized this conflict of interest problem two decades ago when it created the Federation of State Boards of Physical Therapy. CMS must not allow this conflict of interest to become a rule.

The West Virginia State Board of Physical Therapy Examiners strongly urges CMS to require only State licensure. Most importantly, CMS should remove the additional examination requirements contained in subsections (i)(B) and (ii)(B) of the definition of "physical therapist." At a minimum, CMS should delay promulgation of the proposed rule until CMS has had an opportunity to understand the examination, credentialing, and licensing processes currently in place.

We appreciate the opportunity to comment on the proposed rules regarding Physical Therapist and Physical Therapist Assistant qualification requirements.

Respectfully Yours,
The WV State Board of Physical Therapy

Signed By: Lesleigh B. Sprouse, Board Chair
and: Frankie S. Cayton, Administrator

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Disciplinary Actions Taken By The Board:

William J. Betkoski PT

After due investigation of a written complaint, the Board determined that there was Probable Cause to believe that Respondent did exhibit unprofessional and unethical conduct in the practice of Physical Therapy in violation of the provisions of WV Code §30-20-1 et sea. And the Rules of the Board, 16 C.S.R. § 1 et seq. In lieu of a hearing, the parties reached an agreement for the resolution of the matter by entering into a Consent Agreement and Order. Respondent received a Reprimand and was required to get additional CE Credits plus reimburse the Board for all administrative, procedural and legal costs associated with this Case.

Recently Asked Question

Question:

1. It is my understanding that should a PTA have a day off, the covering PTA must first have a co-visit with the supervising Therapist before seeing the patients. Is this true? If so, I have some issues that affect patient care.

   (a) First of all, if a PTA has an emergency on a Fri....and the therapist cannot be there till Monday, the patients would miss a treatment despite the fact that a covering PTA could be there on that Friday or Saturday.

   (b) This also presents issues with medicare compliance and covering Dr.'s orders for treatment five days/week.

   (c) It is my feeling and belief that any licensed PTA can carry out treatment for a day in coverage for another. That is why our profession is so good about documentation; so that treatments can be repeated.

2. Can a PT supervise a PTA in a skilled nursing facility even though they may be directly supervising 2 other PTA's in an outpatient setting? The Law states only 2 PTA's can be supervised. Most PT's work in outpatient settings, and most are not willing to moonlight. This can also present problems with patient care if a PT cannot be found that can fall into these guidelines. With the guidelines for nursing home supervision and outpatient therapy being different, my feeling is that this guideline needs to adapt to be more in line with the requirement with the difference between settings.

Answer:

These questions were generally discussed by the Board Members in regards to what the wording in the Regulatory Law states in regards to "direct" and "indirect supervision" of PTA's and the work settings that could be involved. According to Law, §16-1-9.3. a.-h., describes and defines the work ratio between the PT and PTA as the PT being limited to supervising only two support personnel at any one time. The only time a third PTA could be utilized would be if that PTA was not directly involved in patient care. Any time the supervising PT or the PTA changes, then a joint on-site visit must be made on the PTA's first visit to the patient.

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