

WV BOPT – BOARD NEWS

Fall/Winter 2004

Dear Physical Therapists and Assistants:

(By: Sally B. Oxley PT, CHT, Board Chair)

I hope that most of you read Cynthia Fox and Frankie Cayton's letter to Delegate Rick Staton that was in the Spring/Summer newsletter. He feels strongly that some rural areas of West Virginia are under served with respect to Physical Therapy. Rural areas are not the only regions in the State where practices, hospitals, nursing homes and school systems are seeking qualified candidates for Physical Therapy positions that have not been filled. In recent years it has been communicated to me that there has been difficulty filling Physical Therapy classes in both of our schools. This is a problem.

Most of us have responded favorably when asked to do career fairs at high schools and colleges. We need to become pro-active in this area. We need to seek out opportunities to reach middle school, high school and college students and educate them about Physical Therapy. We must venture out into rural areas, even if they are not close to our homes or places of work. We need to actively recruit students into the profession by offering job shadowing and volunteer opportunities. If we cannot fill the positions that are available with qualified licensed Physical Therapists, we may find ourselves being asked again to lower our standards. We must not lower the standards that we have worked so hard to uphold, for the good of the communities we serve and for the good of the profession we love.

Regards,

Sally Oxley, Board Chair

REGARDING YOUR LICENSURE PRIVILEGES

(By: John F. DeBlasis PT, ATC)

What do 12 % of the Physical Therapists and Physical Therapist Assistants in West Virginia share in common annually??? Failure to renew their licenses in a timely fashion. This represents .06 % of the total number of active licenses (PT/PTA) in the State.

As fall approaches each year, it is very easy to get overwhelmed by the hustle and bustle of the school year.....thoughts of the holiday season.....

However, the WV BOPT wants you to add prompt license renewal to your list of "to dos" for the fall and new year

Consider the consequences of an untimely payment for license renewal:

- You are practicing illegally in this or any other State.
- You put your employer at risk for fraud.
- You put yourself at risk for fraud and potential loss of license.

Please keep in mind that there is no grace period for license renewal, nor is it the job of the Licensing Board to remind you of YOUR obligation for renewal. Medicare fraud is only one example of the consequences of the failure to timely pay your license renewal fees. The "I forgot" mode is similar to not knowing the speed limit in an area after you have the ticket.

Employers are also at bay because they are billing for a service to a consumer and are misleading payers that services are being offered by licensed personnel.

Because I maintain a license in several states - - with none of the renewals due during the same month or year - - I find that it helps me to remember to renew those licenses that will be due by placing a reminder on my calendar ahead of time for October of each year.

I encourage all of you to eliminate the risk of untimely payment by a method of choosing...because, according to Law,

THIS IS YOUR RESPONSIBILITY.

ANOTHER REMINDER RE:

By: Frankie Cayton, Admin.

We moved the Office to a new location effective October 1, 2003 (one year ago). The "Forward Order" on all of our mail via the U. S. Postal Service expired after 12 months. The address that you should be sending your correspondence to has been appearing in our News Letters, on our Web Site, on outgoing voice mail messages and on all outgoing mail that is sent by this Office. We are currently receiving calls regarding renewal forms that are being sent back to the "sender" due to incorrect address information. Please make a note of our current address and utilize it in contacting the Office for services; otherwise, we will not be able to provide service to you in a timely basis. That address is:

**WV BOARD OF PHYSICAL THERAPY
210 OAK DRIVE, SUITE A
CLARKSBURG. WV 26301**

- ✓ When filling out your "Application For Renewal" "Part C" of your license you were issued, remember to;
- ✓ Fill out the front and the back of the form listing both your current residence address information and your current Employer address - - include counties and phone numbers (the county information is utilized in preparing Manpower Studies for various interested parties - - including members of the Legislature).
- ✓ When supplying your "Employer" information, please provide us with your physical location in WV, whenever possible. Many of you work for Contract Companies who place you in WV facilities. We would prefer to receive as primary information the name and address of the facility in WV. The name and address of the Contract Company should only be provided as secondary information - unless you are working in another State and not in WV.

- ✓ You need to "check off" that you have completed the CE requirement of 10 Contact hrs. per calendar year.
- ✓ You need to indicate by the appropriate box (**front OR back** - - **not both**) what your preferred mailing address is -- either residence of employer.
- ✓ You need to supply us with your Social Security Number, sign and date the form; and include the appropriate fee - - \$120.00 for PT's and \$80.00 for PTA's.
- ✓ If you wait and postmark your renewal form on December 31, 2004, there is no way that the Office can process your information, print your 2005-2006 license and return it to you by mail for the first working days of the new year. If you do not have your current license in your possession by the first working day of the new year, **YOU CANNOT WORK!!!!**

In order for the office to be able to meet your needs and provide good and timely service, you should have your Application For Renewal in this Office by December 15, 2004:

- ✓ Applications for Renewal are processed in the order that they arrive into the Office.
- ✓ If there is any information that is missing, or if the amount of money that you send is incorrect, we will return your form and/or money to you in order for you to correct the problem. As you can imagine, this will delay us being able to supply you with a current license for the new year.

ANOTHER REMINDER
RE: CONTINUING EDUCATION AUDIT
By: Frankie Cayton, Administrator

All "Active" Licensees are required by Law to achieve ten (10) Contact Hours of Continuing Education per calendar year. We run a random audit each year in order to check for compliance with this mandate.

It is interesting the number of people who get audited who think that they are immune from such proceedings. We have heard many numerous and interesting stories/excuses for why licensees have not gotten their Continuing Education hours.

Some of what we get told:

- ❖ "Yes, I wanted to go through WV to take the Exam and get a license; however, I never intended to practice there. I am actually working in another State that does not require CE's; therefore, I didn't get any."
- ❖ "Oh, I didn't get any CE's because I only practiced in WV for about one---no maybe three months --- therefore, that requirement does not apply to me."
- ❖ "CE's ?! Why should I be required to get CE's for WV? I moved to "Montana" in June and wasn't even there for a whole year!"
- ❖ "I know we have a two-year license; so I got 10 contact hours the first year. However, I took some time off from working to start my family and didn't get any the second year that I was Actively licensed. I had no idea that I would get audited. Can I please be excused from this Requirement --under the circumstances?"

I could go on an on ... The only people exempt from complying with the requirements to get ten (10) 'Contact Hours of Continuing Education are the following persons:

- ❖ Those persons who finish PT /PT A schooling and get their first license in the same calendar year that their Degree is issued are exempt from getting CE's for that particular year. Because they get issued a two-year license, they will be required to get CE's for the next calendar year.
- ❖ Those licensees who are furthering their Physical Therapy education by taking Masters or DPT Classes.
- ❖ Those persons who have been faced with a life threatening situation or are battling a debilitating illness who can provide medical evidence to those facts,

USE OF SOCIAL SECURITY NUMBERS BY LICENSING AGENCIES

(Information provided at the Annual Meeting of the Federation of State Boards of Physical Therapy)

Overview of Federal Law

No single Federal Law regulates the overall use of or restricts the disclosure of Social Security Numbers (SSNs) by Licensing Agencies; however, a number of laws limit the use in specific circumstances. (1) The U.S. Freedom of Information Act (FOIA) (2) and the Privacy Act (3) limit the use and disclosure of SSNs to protect individuals from unwarranted invasion of their privacy by Federal Agencies and to regulate the manner in which a State Agency may request an individual to disclose a SSN.

(4) An individual does not have constitutional protected privacy interest in a SSN.

(5) The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 passed by Congress on August 22, 1996

(6) requires State Licensing Agencies to collect SSNs in order for State Agencies to deny applications for, and suspend current professional licenses of, any person in default of court ordered child support.

(7) Pursuant to § 7(b) of the Privacy Act, an agency must inform the individual as to whether the disclosure is "mandatory or voluntary, by what Statutory or other authority such number is solicited, and what uses will be made of it."

(8) Mandatory Voluntary Disclosures

Collection and release of SSNs for child support enforcement actions and reporting disciplinary actions to HIPDB are mandatory disclosures.

Unless specifically restricted by State Law, Licensing Agencies can voluntarily disclose SSNs to other State Regulatory Agencies, testing and examination vendors, law enforcement agencies, and various federations and associations for identification purposes. There is no Federal Law that prohibits such disclosure so long as the individual is informed that providing the SSN is voluntary.

Important Note: Even though SSNs are being collected and disclosed for mandatory purposes, it does not allow an Agency to "piggyback" the mandatory disclosure for a voluntary purpose.

(9) Compliance with Federal Law for State Licensing Agencies to Release SSNs

Section 7 of the Privacy Act requires that any Federal, State, or Local Government Agency, when requesting a SSN from an individual that could be disclosed at a later date, provide that individual with the following three key pieces of information:

(10)

- Tell individuals whether disclosing their SSNs is mandatory or voluntary.
- Cite the Statutory or other authority under which the request is being made, and
- State the uses Government will make of the individual's SSN.

The following is a sample disclosure used in the State of Colorado for all Applications and Licensing Renewal Forms that satisfies the Privacy Act:

Section 24-34-107 (1) of the Colorado Revised Statutes requires that every application by an individual for a Physical Therapy License shall require the applicant's Social Security Number. Disclosure of your Social Security Number is mandatory for purposes of establishing, modifying, or enforcing child support under § 14-14-113 and § 26-13-126, C.R.S.; locating an individual who is under an obligation to pay child support as required by § 26-13-107(3)(a)(I)(A), C.R.S.; and reporting disciplinary actions to the Health Integrity and Protection Data Bank as required by 45 CFR §§ 61.1 et seq. Failure to provide your Social Security Number for these mandatory purposes will result in the denial of your licensure application. Disclosure of your Social Security Number is voluntary for disclosure to other State Regulatory Agencies, testing and examination vendors, law enforcement agencies, and other private federations and associations involved in professional regulation. Such disclosure is for identification purposes only. Your Social Security Number will not be released for any other purpose not provided for by Law.

(1) Social Security Numbers: Government Benefits from SSN Use but Could Provide Better Safeguards. U.S.

General Accounting Office, GAO-02-352. Accessible at www.gao.gov/new.items/d02352.pdf.

(2) 5 U.S.C. § 552

(3) 5 U.S.C. § 552a

(4) See Shapiro v. City of New York, 1999 WL 64290, *3 (S.D.N.Y. 1999).

(5) Greater Cleveland Welfare Rights Org. v. Bauer, 462 F. Supp.1313, 1318-19(N.D. Ohio 1978).

(6) Pub.L.No.104-193.

(7) 45 CFR part 61.

(8) Pub.L.No.93-579, §7 (b).

(9) See Russell v. Board of Plumbing Examiners, 74 F.Supp.2d 339, 348 (S.D.N.Y. 1999) (stating that failure

to provide applications with notice that providing SSNs was optional led applicants to believe it was

mandatory for all purposes).

(10) 5 U.S.C. § 552a

**Disciplinary Actions Taken By The Board:
Ann (Monica) Anderson PT A**

The Respondent violated the provisions of WV Code §30-20-1 et seq. and the Legislative Rules promulgated thereunder when she engaged in ""conduct widely regarded as inappropriate in the workplace.""

Ms. Anderson was to receive a public reprimand by having mention of her infraction placed into the Board News Letter; she is required to attend a seminar on "sexual harassment in the workplace" within 12 months of entry of the Consent Order and certify same to the Board; she was also assessed administrative and procedural fees for the cost of investigating and conducting the informal hearing.

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RECENTLY ASKED QUESTIONS

Question:

1. If the work ratio is two (2) support personnel per (1) Physical Therapist, does a student who is out on clinical rotations also figure into that equation?

Answer:

"No", a student on clinical rotations **does not** figure into the two to one work ratio.

Question:

2. I am writing to survey the opinion of the WV Board of PT regarding whether or not a Functional Capacity Evaluation can lawfully be provided in the State of WV without a physician's order?

Answer:

"Yes", a Functional Capacity Evaluation (FCE) can be provided without a physician's order; however, as a PT, you may not get reimbursed from the insurance companies or third party payers. There are those companies who still require the "order" in order to reimburse for the service; please check with the carrier to be sure.....

Question:

3. Where in State Law can it be found that West Virginia allows "direct access" to Physical Therapy Services?

Answer:

WV has had Direct Access since the 1984 Legislative Session. There is no wording in the Law stating that WV is a "Direct Access" State; the wording that previously appeared saying that a PT could only treat with referral was simply deleted from the text of the Law.....

Board Members:

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